to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1442. Mr. MENENDEZ (for himself, Mr. DURBIN, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1443. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1444. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1445. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1446. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1447. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1448. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1449. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1450. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1451. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1452. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1453. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1454. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1455. Mr. LAUTENBERG (for himself, Mr. BROWNBACK, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1456. Mrs. FEINSTEIN (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1457. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1458. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1459. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1460. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1461. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1462. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1463. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1464. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1465. Mr. GRAHAM (for himself, Mr. KYL, Mr. MCCAIN, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1466. Mr. BIDEN (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1467. Mr. SCHMUER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1468. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1469. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1470. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1471. Mr. DURBIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1473. Mr. COLEMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1474. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1475. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 1409 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1334. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (a) of section 218A of the Immigration and Nationality Act (as added by section 402(a)), add the following:

''(5) REQUIREMENT.—

''(A) IN GENERAL.—For each calendar year in which Y nonimmigrant visas are made available under this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, shall reserve not less than 25 percent of the quantity of Y nonimmigrant visas available for the calendar year for use by business concerns, in accordance with this paragraph.

''(B) TIMELINE.—Of the Y nonimmigrant visas reserved under subparagraph (A), the Secretary shall ensure that—

''(i) for the period beginning on January 1 of the applicable calendar year and ending on June 30 of that calendar year, the visas are provided only to entities that qualify as small businesses under the Small Business Act (15 U.S.C. 631 et seq.) (including regulations promulgated pursuant to that Act); and

''(ii) for the period beginning on July 1 of the applicable calendar year and ending on December 31 of that calendar year, any remaining visas are provided to business concerns, regardless of whether the business concerns qualify as small businesses.''.

SA 1335. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INCREASE IN FEDERAL JUDGESHIPS IN DISTRICTS WITH LARGE NUMBERS OF CRIMINAL IMMIGRATION CASES.

(a) FINDINGS.—Based on the recommendations made by the 2007 Judicial Conference and the statistical data provided by the 2006 Federal Court Management Statistics (issued by the Administrative Office of the United States Courts), the Congress finds the following:

(1) Federal courts along the southwest border of the United States have a greater percentage of their criminal caseload affected by immigration cases than other Federal courts.

(2) The percentage of criminal immigration cases in most southwest border district courts totals more than 49 percent of the total criminal caseloads of those districts.

(3) The current number of judges authorized for those courts is inadequate to handle the current caseload.

(4) Such an increase in the caseload of criminal immigration filings requires a corresponding increase in the number of Federal judgeships.

(5) The 2007 Judicial Conference recommended the addition of judgeships to meet this growing burden.

(6) The Congress should authorize the additional district court judges necessary to carry out the 2007 recommendations of the Judicial Conference for district courts in which the criminal immigration filings represented more than 49 percent of all criminal filings for the 12-month period ending September 30, 2006.

(b) PURPOSE.—The purpose of this section is to increase the number of Federal judgeships, in accordance with the recommendations of the 2007 Judicial Conference, in district courts that have an extraordinarily high criminal immigration caseload.

(c) ADDITIONAL DISTRICT COURT JUDGESHIPS.—

(1) PERMANENT JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 4 additional district judges for the district of Arizona;

(ii) 1 additional district judge for the district of New Mexico;

(iii) 2 additional district judges for the southern district of Texas; and

(iv) 1 additional district judge for the western district of Texas.

(B) CONFORMING AMENDMENTS.—In order that the table contained in section 133(a) of

title 28, United States Code, reflect the number of additional judges authorized under paragraph (1), such table is amended—

(i) by striking the item relating to Arizona and inserting the following:

''Arizona ..... 16'';

(ii) by striking the item relating New Mexico and inserting the following:

''New Mexico ..... 7''; and

(iii) by striking the item relating to Texas and inserting the following:

''Texas:

Northern	12
Southern	21
Eastern	7
Western	14''.

(2) TEMPORARY JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 1 additional district judge for the district of Arizona; and

(ii) 1 additional district judge for the district of New Mexico.

(B) VACANCY.—For each of the judicial districts named in this paragraph, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this paragraph shall not be filled.

(d) FUNDING.—To carry out this section, the Director of the Administrative Office of the United States Courts shall, for each of fiscal years 2008 through 2012, allocate $2,000,000 from the Administrative Office of the United States Courts Salary & Expenses (Administrative Expenses) account.

SA 1336. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 242, between lines 39 and 40, insert the following:

(e) DOCUMENTATION REQUIREMENT; PROHIBITION OF OUTPLACEMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)), as amended by this section, is further amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B nonimmigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(2) by adding at the end the following:

''(L) An H–1B nonimmigrant may not be stationed at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent if the alien will be controlled and supervised principally by such unaffiliated employer or if the placement of the alien at the worksite of the affiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(f) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

SA 1337. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 711. USE OF PRIVATE LAND BY BORDER PATROL.

(a) PURPOSE.—The purpose of this section is to encourage land owners to make land and water areas on their property available to agents of the Federal Government to enforce the immigration laws of the United States by limiting the liability of land owners toward persons entering their property for such purposes.

(b) DEFINITIONS.—In this section:

(1) LAND.—The term ''land'' includes roads, water, watercourses, and private ways, and buildings, structures, machinery and equipment that is attached to real property.

(2) OWNER.—The term ''owner'' includes the possessor of a fee interest, a tenant, lessee, occupant, the possessor of any other interest in land, or any person having a right to grant permission to use the land.

(c) POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES.—Section 287(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(3)) is amended by striking ''twenty-five miles'' and inserting ''100 miles''.

(d) LIABILITY LIMITED FOR ACTIONS OF LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an owner of land shall not liable for damages arising from an act or omission of an officer of the Federal Government, or any State or Federal law enforcement officer, who enters the owner's property with or without the permission of the owner.

(2) EXCEPTION.—Paragraph (1) shall not apply to any act or omission of the owner of land that results in damages if the act or omission is not attributable to a law enforcement officer.

SA 1338. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1348, to provider for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike page 10, line 32 through page 11, line 11 and insert the following:

''Section 236(a)(2) (8 USC 1226(a)(2)) is amended—

(1) by adding '', and'' at the end of subsection (a)(3), and

(2) by adding a new subsection (a)(4) that reads ''may not provide the alien with release on bond or with conditional parole if the alien is a national of a noncontiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the secretary of Homeland Security.''

SA 1339. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 3, line 25 insert the following new subsection:

(6) The U.S. Visit System: The integrated entry and exit data system required by 8 U.S.C. 1365a (Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), which is already 17 months past its required implementation date of December 21, 2005, has been fully implemented and is functioning at every land, sea, and air port of entry.

SA 1340. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 167, after line 2, insert the following:

''(E) documenting that for a period of not less than 90 days before the date an application is filed under subsection (a)(1), and for a period of 1 year after the date that such application is filed, every comparable job opportunity (including those in the same occupation for which an application for a Y-1 worker is made, and all other job opportunities for which comparable education, training, or experience are required), that becomes available at the employer is posted to the designated State employment service agency, including a description of the wages and other terms and conditions of employment and the minimum education, training, experience and other requirements of the job, and the designated State agency has been authorized—

''(i) to post all such job opportunities on the Internet website established under section 414 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, with local job banks, and with unemployment agencies and other referral and recruitment sources pertinent to the job involved; and

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

The failure of an employer to document compliance with subparagraph (E) shall result in the employer's ineligibility to make a subsequent application under subsection (a)(1) during the 1-year period following the initial application. The Secretary of Labor shall routinely publicize the requirement under subparagraph (E) in communications with employers, and encourage State agencies to do so as well, to help employers become aware of and comply with such requirement in a timely manner.''.

SA 1341. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 66, between lines 9 and 10, insert the following:

(3) CHANGED COUNTRY CONDITIONS.—Section 208(b) (8 U.S.C. 1158(b)) is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—The Attorney General shall accept and grant a motion filed not later than 6 months after the date of the enactment of this paragraph for a rehearing before an immigration judge for an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq or an ethnic Albanian who fled Albania or the former Yugoslavia (Kosovo, Montenegro, and Macedonia) whose claim was denied by an immigration judge in whole or in part on the basis of changed country conditions on or after March 1, 2003; and

''(B) remained in the United States as of the date of the enactment of this paragraph.''.

SA 1342. Mr. LEVIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 173, line 38, insert ''In this paragraph, the county unemployment rate shall be determined, for seasonal businesses, during the period in the preceding year when the Y nonimmigrant would have been employed.'' after ''7 percent.''.

SA 1343. Mr. LEVIN (for himself, Mrs. CLINTON, Mr. TESTER, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

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

(c) SENSE OF CONGRESS.—It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase by 1,722 the number of full time border patrol agents, immigration inspectors, and customs inspectors at the northern border pursuant to authorizations under—

(1) section 402 of the USA PATRIOT Act of 2002 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), as amended by subsection (b) of this section.

SA 1344. Mr. BYRD (for himself, Mr. GREGG, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. SUPPLEMENTAL IMMIGRATION FEE.

(a) AUTHORIZATION OF FEE.—

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

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

(b) DEPOSIT AND EXPENDITURE OF FEES.—

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

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

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

(C) to acquire border sensor and surveillance technology;

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

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

(F) to train Federal law enforcement personnel; and

(G) for employment eligibility verification.

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

SA 1345. Mrs. DOLE (for herself, Mr. BURR, and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 303, between lines 19 and 20, insert the following:

(s) DEFINITION OF AGGRAVATED FELONY AND ADDITIONAL GROUNDS FOR INELIGIBILITY FOR Z NONIMMIGRANT STATUS.—

(1) AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(A) by striking ''and'' at the end of subparagraph (T);

(B) by striking the period at the end of subparagraph (U) and inserting ''; and'' and

(C) by adding at the end the following:

''(V) a second conviction for drunk driving, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under State law.''.

(2) GROUNDS FOR INELIGIBILITY.—In addition to the grounds of ineligibility described in subsection (d)(1)(F), an alien shall be ineligible for Z nonimmigrant status if the alien has been convicted of drunk driving, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under State law.

SA 1346. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 711. INTERNATIONAL REGISTERED TRAVELER PROGRAM.

Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

''(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the US-VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

''(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the international registered traveler program. Amounts so credited shall remain available until expended.

''(C) RULEMAKING.—Within 180 days after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

''(D) IMPLEMENTATION.—Not later than 1 year after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US-VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

''(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

''(i) establishing a reasonable cost of enrollment;

''(ii) making program enrollment convenient and easily accessible; and

''(iii) providing applicants with clear and consistent eligibility guidelines.

''(F) TECHNOLOGIES.—The Secretary shall coordinate with the Secretary of State to define a schedule for their respective departments for the deployment of appropriate technologies to begin capturing applicable and sufficient biometrics from visa applicants and individuals seeking admission to the United States, if such visa applicant or individual has not previously provided such information, at each consular location and port of entry. The Secretary of Homeland Security shall also coordinate with the Secretary of State regarding the feasibility of allowing visa applicants or individuals to enroll in the International Registered Traveler program at consular offices.''.

SA 1347. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF AN ADDITIONAL UNITED STATES ATTORNEY OFFICE AND AN ADDITIONAL IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.

(a) ESTABLISHMENT OF A SATELLITE UNITED STATES ATTORNEY OFFICE IN ST. GEORGE, UTAH.—The Attorney General, acting through the United States Attorney for the District of Utah, shall establish a satellite office under the jurisdiction of the United States Attorney for the District of Utah in St. George, Utah. One of the primary functions of the satellite office shall be to prosecute and deter criminal activities commonly involving illegal immigrants.

(b) IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.—

(1) ESTABLISHMENT.—The Secretary, acting through the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, shall establish an office under the jurisdiction of the Assistant Secretary within the vicinity of the intersection U.S. Highway 191 and U.S. Highway 491 to reduce the flow of illegal immigrants into the interior of the United States.

(2) STAFFING.—The office established under paragraph (1) shall be staffed by 5 full-time employees, of whom—

(A) 3 shall work for the Office of Investigations; and

(B) 2 shall work for the Office of Detention and Removal Operations.

(3) OTHER RESOURCES.—The Assistant Secretary shall provide the office established

under paragraph (1) with the resources necessary to accomplish the purposes of this subsection, including office space, detention beds, and vehicles.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $1,100,000 for fiscal year 2008; and

(B) such sums as may be necessary for each of the fiscal years 2009 through 2012.

SA 1348. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike line 1 and insert the following:

(e) ADDITIONAL CONSULTATION.—Notwithstanding subsection (a), the certification by the Secretary of Homeland Security under subsection (a) shall be prepared in consultation with the Comptroller General, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives.

TITLE I—BORDER ENFORCEMENT

SA 1349. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike line 1 and insert the following:

(e) ADDITIONAL CONSULTATION.—Notwithstanding subsection (a), the certification by the Secretary of Homeland Security under subsection (a) shall be prepared—

(1) based on analysis by the Comptroller General; and

(2) in consultation with the Comptroller General, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives.

TITLE I—BORDER ENFORCEMENT

SA 1350. Mr. SPECTER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—BOARD OF IMMIGRATION APPEALS AND IMMIGRATION JUDGES

SEC. ___01. BOARD OF IMMIGRATION APPEALS.

(a) COMPOSITION AND APPOINTMENT.—Notwithstanding any other provision of law, the Board of Immigration Appeals of the Department of Justice (referred to in this title as the ''Board''), shall be composed of a Chair and 22 other immigration appeals judges, who shall be appointed by the Attorney General. Upon the expiration of a term of office, a Board member may continue to act until a successor has been appointed and qualified.

(b) QUALIFICATIONS.—Each member of the Board, including the Chair, shall—

(1) be an attorney in good standing of a bar of a State or the District of Columbia;

(2) have at least—

(A) 7 years of professional, legal expertise; or

(B) 5 years of professional, legal expertise in immigration and nationality law; and

(3) meet the minimum appointment requirements of an administrative law judge under title 5, United States Code.

(c) DUTIES OF THE CHAIR.—The Chair of the Board, subject to the supervision of the Director of the Executive Office for Immigration Review, shall—

(1) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(2) direct, supervise, and establish internal operating procedures and policies of the Board;

(3) designate a member of the Board to act as Chair if the Chair is absent or unavailable;

(4) adjudicate cases as a member of the Board;

(5) form 3-member panels as provided by subsection (g);

(6) direct that a case be heard en banc as provided by subsection (h); and

(7) exercise such other authorities as the Director may provide.

(d) BOARD MEMBER DUTIES.—In deciding a case before the Board, the Board—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with the authority provided in this section and any regulations established in accordance with this section.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have jurisdiction to hear appeals described in section 1003.1(b) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(2) LIMITATION.—The Board shall not have jurisdiction to hear an appeal of a decision of an immigration judge for an order of removal entered in absentia.

(f) SCOPE OF REVIEW.—

(1) FINDINGS OF FACT.—The Board shall—

(A) accept findings of fact determined by an immigration judge, including findings as to the credibility of testimony, unless the findings are clearly erroneous; and

(B) give due deference to an immigration judge's application of the law to the facts.

(2) QUESTIONS OF LAW.—The Board shall review de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of immigration judges.

(3) APPEALS FROM OFFICER'S DECISIONS.—

(A) STANDARDS OF REVIEW.—The Board shall review de novo all questions arising in appeals from decisions issued by officers of the Department.

(B) PROHIBITION OF FACT FINDING.—Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board may not engage in fact-finding in the course of deciding appeals.

(C) REMAND.—A party asserting that the Board cannot properly resolve an appeal without further fact-finding shall file a motion for remand. If further fact-finding is needed in a case, the Board shall remand the proceeding to the immigration judge or, as appropriate, to the Secretary.

(g) PANELS.—

(1) IN GENERAL.—Except as provided in paragraph (5) all cases shall be subject to review by a 3-member panel. The Chair shall divide the Board into 3-member panels and designate a presiding member.

(2) AUTHORITY.—Each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before the Board.

(3) QUORUM.—Two members appointed to a panel shall constitute a quorum for such panel.

(4) CHANGES IN COMPOSITION.—The Chair may from time to time make changes in the composition of a panel and of the presiding member of a panel.

(5) PRESIDING MEMBER DECISIONS.—The presiding member of a panel may act alone on any motion as provided in paragraphs (2) and (3) of subsection (i) and may not otherwise dismiss or determine an appeal as a single Board member.

(h) EN BANC PROCESS.—

(1) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chair—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(2) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(i) DECISIONS OF THE BOARD.—

(1) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if—

(A) the decision of the immigration judge resolved all issues in the case;

(B) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(C) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(D) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(2) SUMMARY DISMISSAL OF APPEALS.—The 3-member panel or the presiding member acting alone may summarily dismiss any appeal or portion of any appeal in any case which—

(A) the party seeking the appeal fails to specify the reasons for the appeal;

(B) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(C) the appeal is from an order that granted such party the relief that had been requested;

(D) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(E) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law.

(3) UNOPPOSED DISPOSITIONS.—The 3-member panel or the presiding member acting alone may—

(A) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(B) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(4) NOTICE OF RIGHT TO APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in a United States Court of Appeals

not later than 30 days after the date of the decision.

SEC. ___02. IMMIGRATION JUDGES.

(a) APPOINTMENT OF IMMIGRATION JUDGES.—

(1) IN GENERAL.—The Chief Immigration Judge (as described in section 1003.9 of title 8, Code of Federal Regulations, or any corresponding similar regulation) and other immigration judges shall be appointed by the Attorney General. Upon the expiration of a term of office, the immigration judge may continue to act until a successor has been appointed and qualified.

(2) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 5 years of professional, legal expertise or at least 3 years professional or legal expertise in immigration and nationality law.

(b) JURISDICTION.—An Immigration judge shall have the authority to hear matters related to any removal proceeding pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) described in section 1240.1(a) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(c) DUTIES OF IMMIGRATION JUDGES.—In deciding a case, an immigration judge—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with their authorities under this section and regulations established in accordance with this section.

(d) REVIEW.—Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction.

SEC. ___03. REMOVAL AND REVIEW OF JUDGES.

No immigration judge or member of the Board may be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by this title.

SEC. ___04. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this title.

SEC. ___05. SENIOR JUDGE PARTICIPATION.

(a) IN GENERAL.—Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: ''However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.''.

(b) SENIOR JUDGES.—Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SA 1351. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 277, line 25, strike ''$1,000'' and insert ''$2,500''.

SA 1352. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 286, beginning on line 4, strike all through line 10, and insert the following:

(iii) for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest, the Secretary may, in the Secretary's discretion, waive the application of paragraphs (1)(C), (2)(D)(i) (when the alien demonstrates that such actions or activities were committed involuntarily), (5)(A), (6)(A) (with respect to entries occurring before January 1, 2007), (6)(C)(ii), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I), and (10)(B) of section 212(a) of the Immigration and Nationality Act; and

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SA 1353. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 274, beginning on line 8, strike ''or the beneficiary that cannot be relieved by temporary visits as a nonimmigrant''.

SA 1354. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 100, line 24, strike ''may'' and insert ''shall''.

SA 1355. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 269, line 18, strike ''child or''.

SA 1356. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 89, line 33, insert ''documents described in section 218A(m) of the Immigration and Nationality Act, as added by section 402 of this Act, and 601(j) of this Act,'' after ''permanent resident card,''

SA 1357. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 154, strike line 23 and all that follows through page 155, line 8, and insert the following:

''(2) EXCEPTION.—The Secretary of Homeland Security may waive the termination of the period of authorized admission of an alien who is a Y nonimmigrant for unemployment under paragraph (1)(D) if the alien submits to the Secretary an attestation under penalty of perjury in a form prescribed by the Secretary, with supporting documentation, that establishes that such unemployment was the result of—

''(A) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(B) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by Federal or State law or by a policy of the alien's employer; or

''(C) any other period of temporary unemployment that is the direct result of a force majeure event.

''(3) RETURN TO FOREIGN RESIDENCE.—An alien who is a Y nonimmigrant whose period of authorized admission terminates under paragraph (1) shall depart the United States immediately.

''(k) REGISTRATION OF DEPARTURE.—

''(1) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure in a manner to be prescribed by the Secretary of Homeland Security.

''(2) EFFECT OF FAILURE TO DEPART.—In the event an alien described in paragraph (1) fails to depart the United States or to register such departure as required by subsection (j)(3), the Secretary of Homeland Security shall take immediate action to determine the location of the alien and, if the alien is located in the United States, to remove the alien from the United States.

''(3) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in paragraph (1) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates.''.

SA 1358. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 262, strike line 34 and all that follows through page 264, line 24, and insert the following:

''(A) The merit-based evaluation system shall consist of the following criteria and weights:

Category	Description	Maximum points
''Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)—**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)—**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year—**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or (2) attests for a current employee—**6 pts**	
Experience	Years of work for U.S. firm—**2 pts/year** (max 10 points)	
Age of worker	Worker's age: 25-39—**3 pts**	

Category	Description	Maximum points
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.—**20 pts** Bachelor's Degree—**16 pts** Associate's Degree—**10 pts** High school diploma or GED—**6 pts** Completed certified Perkins Vocational Education program—**5 pts** Completed Department of Labor Registered Apprenticeship—**8 pts** STEM, associates and above—**8 pts**	**28**
"English and civics	Native speaker of English or TOEFL score of 75 or higher—**15 pts** TOEFL score of 60–74—**10 pts** Pass USCIS Citizenship Tests in English & Civics—**6 pts**	**15**
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen—**8 pts** Adult (21 or older) son or daughter of a legal permanent resident—**6 pts** Sibling of United States citizen or LPR—**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005—**2 pts**	**10**
"Total Supplemental schedule for Zs		**100**
Agriculture National Interest	Worked in agriculture for 3 years, 150 days per year–**21 pts** Worked in agriculture for 4 years (150 days for 3 years, 100 days for 1 year)–**23 pts** Worked in agriculture for 5 years, 100 days per year–**25 pts**	**25**
U.S. employment experience	Year of lawful employment–**1 pt**	**15**
Home ownership	Own place of residence–**1 pt/year owned**	**5**
Medical insurance	Current medical insurance for entire family	**5**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets, established pursuant to section 412 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, shall submit recommendations to Congress to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.''.

SA 1359. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 246, between lines 15 and 16, at the following:

''(G) As used in this section, all references to Test of English as a Foreign Language (TOEFL) scores are based on the TOEFL internet-based test scoring scale of 0–120. Applicants using a TOEFL computer-based test or paper-based test, both of which have different scoring scales, must achieve comparable test scores as follows:

''(i) To be awarded 10 points on the merit-based evaluation system, an applicant must achieve a TOEFL internet-based test score of 60 to 74, a TOEFL computer-based test score of 170 to 203, or a TOEFL paper-based test score of 497 to 537.

''(ii) To be awarded 15 points on the merit-based evaluation system, an applicant must achieve a TOEFL internet-based test score of 75 or higher, a TOEFL computer-based test score greater than 203, or a TOEFL paper-based test score greater than 537.''.

SA 1360. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (f) of section 218A of the Immigration and Nationality Act, as added by section 402.

SA 1361. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 12 through 26, and insert the following:

(2) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(A) SMUGGLING PERSONNEL.—During each of the fiscal years 2008 through 2012, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(B) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—

(i) IN GENERAL.—In each of the fiscal years 2008 through 2011, the Secretary of Homeland Security shall increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in the United States Immigration and Customs Enforcement to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States, to investigate immigration fraud, and to enforce workplace violations.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subparagraph.

(C) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

On page 140, beginning on line 4, strike ''In each of the five years beginning on the date of the enactment of this Act, the appropriations necessary to increase to a level not less than 4500'' and insert the following: ''In each of the two years beginning on the date of the enactment of this Act, the appropriations necessary to hire not less than 2500 a year''.

SA 1362. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 310, line 27, insert ''within 2 years of the date of such denial, termination, or rescission of status, and only'' after ''only''.

SA 1363. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ACCESS TO IMMIGRATION SERVICES IN AREAS THAT ARE NOT ACCESSIBLE BY ROAD.

Notwithstanding any other provision of law, the Secretary shall permit an employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement who carries out the functions of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement in a geographic area that is not accessible by road to carry out any function that was performed by an employee of the Immigration and Naturalization Service in such area prior to the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SA 1364. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF A CITIZENSHIP AND IMMIGRATION SERVICES OFFICE IN FAIRBANKS, ALASKA.

(a) IN GENERAL.—The Secretary, acting through the Director for United States Citizenship and Immigration Services, shall establish an office under the jurisdiction of the Director in Fairbanks, Alaska, to provide citizenship and immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal such sums as may be necessary to carry out this section.

SA 1365. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1, insert the following:

(e) AGREEMENT OF BORDER GOVERNORS.—The programs described in subsection (a) shall not become effective until at least 3 of the 4 governors of the States that share a land border with Mexico agree that the border security and other measures described in subsection (a) are established, funded, and operational.

(f) DEFINED TERM.—In this section, the term ''operational control'' means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

SA 1366. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform

and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ENGLISH PROFICIENCY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(1) the needs of citizens and lawful permanent residents of the United States whose native language is not English to obtain English language and literacy proficiency;

(2) the estimated costs to the public and private sector resulting from those residents of the United States who lack English language proficiency; and

(3) the estimated costs of operating English language acquisition programs in the public and private sector for those residents of the United States who lack English language proficiency.

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall include—

(1) an inventory of all existing Federal programs designed to improve English language and literacy acquisition for adult citizens and lawful permanent residents of the United States, including—

(A) a description of the purpose of each such program;

(B) a summary of the Federal expenditures for each such program during fiscal years 2002 through 2006;

(C) data on the participation rates of individuals within each such program and those who have expressed an interest in obtaining English instruction but have been unable to participate in existing programs;

(D) a summary of evaluations and performance reviews of the effectiveness and sustainability of each such program; and

(E) a description of the coordination of Federal programs with private and nonprofit programs;

(2) the identification of model programs at the Federal, State, and local level with demonstrated effectiveness in helping adult citizens and lawful permanent residents of the United States gain English language and literacy proficiency;

(3) a summary of funding for State and local programs that support improving the English language proficiency and literacy of citizens and lawful permanent residents of the United States;

(4) a summary of the costs incurred and benefits received by Federal, State, and local governments in serving citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for foreign language translators;

(B) the production of documents in multiple languages; and

(C) compliance with Executive Order 13166;

(5) an analysis of the costs incurred by businesses that employ citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for English training and foreign language translation;

(B) an estimate of lost productivity; and

(C) costs for providing English training to employees;

(6) the number of lawful permanent residents who are eligible to naturalize as citizens of the United States; and

(7) recommendations regarding the most cost-effective actions the Federal government could take to assist citizens and lawful permanent residents of the United States to quickly learn English.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under this section to—

(1) the Committee on Health, Education, Labor, and Pensions of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Education and Labor of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2008 and 2009 to carry out this section.

SA 1367. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title 1, insert the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding subsection (a), the programs established under title VI that grant legal status to any individual or that adjust the current status of any individual who is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence shall become effective on the earlier of—

(A) the date on which the Secretary submits a written certification to the President and Congress in accordance with subsection (a); or

(B) the date that is 3 years after the date of the enactment of this Act.

(2) PRESIDENTIAL WAIVER.—The President may waive the application of paragraph (1) for national security purposes.

SA 1368. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Section 601(m)(1)(B) is amended—

(1) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and indenting the subclauses appropriately; and

(2) by striking the matter preceding subclause (I) (as so redesignated) and inserting the following:

''(B) PERIOD OF EMPLOYMENT REQUIRED.—

''(i) APPLICABILITY.—Any requirement of this title relating to employment or the seeking of employment by an alien shall not apply to any alien who is—

''(I) under the age of 16 years; or

''(II) over the age of 65 years.

''(ii) REQUIREMENT.—Subject to clause (i), each Z–1 or Z–3 nonimmigrant shall remain employed for not less than 150 total days during each applicable calendar year, except in a case in which—''.

SA 1369. Mr. GRASSLEY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the subsection (a) of section 1, add the following:

(6) STAFF ENHANCEMENTS FOR CITIZENSHIP AND IMMIGRATION SERVICES: The United States Citizenship and Immigration Services has hired and trained 300 additional adjudicators.

On page 3, line 33, strike ''(5)'' and insert ''(6)''.

SA 1370. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15)(C), as added by section 713 of this Act, is amended to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.38 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account 14.38 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1371. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 602(a), strike paragraph (6).

SA 1372. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 602(a), strike paragraph (6).

In section 214A(h) of the Immigration and Nationality Act, as added by section 622(b), strike paragraph (2).

SA 1373. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 214A(h) of the Immigration and Nationality Act, as added by section 622(b), strike paragraph (2).

SA 1374. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

Beginning on page 262, strike line 36 and all that follows through page 264, line 1, and insert the following:

Category	Description	Maximum points
Employment Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**35 pts** Honorable Service within any branch of the United States Armed Services for (1) 4 years with an honorable discharge, or (2) any period of time pursuant to a medical discharge–**35 pts** U.S. employment in STEM or health occupation, current for at least 1 year (extraordinary or ordinary)–**35 pts**	**66**
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**23 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**21 pts**	
U.S. employment experience	Years of lawful employment for a U.S. employer (in the case of agricultural employment, 100 days of work per year constitutes 1 year)–**5 pts/year** (max 30 pts)	
Age of worker	Worker's age: 25-39–**18 pts**	
Education (terminal degree)	Graduate degree in a STEM field (including the health sciences).–**50 pts** Graduate degree in a non-STEM field–**34 pts** Bachelor's degree in a STEM field (including the health sciences)–**40 pts** Bachelor's degree in a non-STEM field–**32 pts** Associate's degree in a STEM field (including health sciences)–**30 pts** Associate's degree in a non-STEM field–**25 pts** Completed certified Department of Labor registered apprenticeship–**23 pts** High school diploma or GED–**21 pts** Completed certified Perkins vocational education program–**20 pts**	**50**
English and civics	Native speaker of English or TOEFL score of 100 or higher–**30 pts** TOEFL score of 90-99–**25 pts** Pass USCIS Citizenship Tests in English & Civics–**21 pts**	**30**
Home ownership	Sole owner of place of residence–**8 pts per year of ownership**	**24**
Medical insurance	Current private medical insurance for entire family–**10 pts per year held**	**30**
Total		**200**

SA 1375. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 261, strike line 26 and all that follows through page 262, line 8.

On page 264, in the table preceding line 1, strike the items relating to supplemental schedule for Zs.

On page 272, strike lines 16 through 39.

SA 1376. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 272, strike lines 16 through 39.

SA 1377. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 261, strike line 26 and all that follows through page 262, line 8.

SA 1378. Mr. ENSIGN (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 302, line 34, strike ''(r) Definitions-'' and insert the following:

(r) ELIGIBILITY TO ENLIST IN THE UNITED STATES ARMED FORCES.—Notwithstanding section 504(b) of title 10, United States Code, an alien who receives Z nonimmigrant status shall be eligible to enlist in the United States Armed Forces.

(s) DEFINITIONS.—

SA 1379. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 218E of the Immigration and Nationality Act, as added by section 404, insert the following:

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS OR GOAT HERDERS.—Notwithstanding any other provision of this Act, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder or goat herder—

''(1) may be admitted for a period of up to 3 years;

''(2) shall be subject to readmission; and

''(3) shall not be subject to the requirements of subsection (h)(4).''.

SA 1380. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (a) of section 1, add the following:

(6) STAFF ENHANCEMENTS FOR INTERIOR ENFORCEMENT.—The Assistant Secretary for Immigration and Customs Enforcement has hired not less than 2,000 additional special agents to do investigations, to include work enforcement.

On page 3, line 33, strike ''(5)'' and insert ''(6)''.

SA 1381. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RELIEF FOR WIDOWS AND ORPHANS.

(a) TRANSITION PERIOD.—

(1) IN GENERAL.—In applying section 201(b)(2)(B) of the Immigration and Nationality Act, as amended by this Act, to an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may file a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after the date of the enactment of this Act.

(2) PAROLE; ADJUSTMENT OF STATUS.—If the alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act based solely upon the alien's lack of classification as an immediate relative due to the citizen relative's death—

(A) such alien may be paroled into the United States pursuant to section 212(d)(5); and

(B) notwithstanding section 212(a)(9) of such Act, such alien's application for adjustment of status shall be considered by the Secretary.

(b) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—Any alien described in paragraph (2) who applied for adjustment of status before the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

''(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsections (a) and (d) of subsection 203); or

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b).''.

(c) TRANSITION PERIOD.—

(1) IN GENERAL.—Notwithstanding a denial of an application for adjustment of status, such application may be renewed by an alien whose qualifying relative died before the date of the enactment of this Act if a motion to reopen is filed, without a fee, not later than 2 years after the date of the enactment of this Act.

(2) PAROLE; ADJUSTMENT OF STATUS.—If the alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act—

(A) such alien may be paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); and

(B) notwithstanding section 212(a)(9) of such Act, such alien's application for adjustment of status shall be considered by the Secretary.

(d) PROCESSING OF IMMIGRANT VISAS BY THE DEPARTMENT OF STATE .—Section 204(b) (8 U.S.C. 1154(b)) is amended—

(1) by inserting ''(1)'' before ''After an investigation''; and

(2) by adding at the end the following:

''(2) Any alien described in paragraph (3) whose qualifying relative died prior to completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred, and any immigrant visa issued before the death of the qualifying relative shall remain valid.

''(3) An alien described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsections (a) and (d) of section 203); or

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b).''.

(e) NATURALIZATION.—Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting ''or, if the spouse is deceased, was the spouse of a citizen of the United States at the time of such death,'' after ''citizen of the United States,''.

SA 1382. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15), as added by section 713 of this Act, is amended—

(1) in subparagraph (A), by striking ''In each instance where'' and inserting ''Except as provided under subparagraph (D), if an employer seeks to hire a merit-based employer-sponsored immigrant described in section 203(b)(5) or if'';

(2) by amending subparagraph (C) to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.28 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''; and

(3) by adding at the end the following:

''(D) Public hospitals, which are owned and operated by a State or a political subdivision of a State shall not be subject to the supplemental fee imposed under this paragraph.''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. There shall be deposited as offsetting receipts into the account 14.28 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1383. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15), as added by section 713 of this Act, is amended—

(1) in subparagraph (A), by striking ''In each instance where'' and inserting ''Except as provided under subparagraph (D), if'';

(2) by amending subparagraph (C) to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.28 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''; and

(3) by adding at the end the following:

''(D) Public hospitals, which are owned and operated by a State or a political subdivision of a State shall not be subject to the supplemental fee imposed under this paragraph.''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. There shall be deposited as offsetting receipts into the account 14.28 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1384. Mr. SALAZAR (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 1151 proposed by Mr. INHOFE (for himself, Mr. ALEXANDER, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, Mr. BURR, Mr. ISAKSON, Mr. BUNNING, and Mr. COLEMAN) to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. 702A. DECLARATION OF ENGLISH AS LANGUAGE.

(a) IN GENERAL.—English is the common language of the United States.

(b) PRESERVING AND ENHANCING THE ROLE OF THE ENGLISH LANGUAGE.—The Government of the United States shall preserve and enhance the role of English as the language of the United States. Nothing in this Act shall diminish or expand any existing rights under the laws of the United States relative to services or materials provided by the Government of the United States in any language other than English

(c) DEFINITION OF LAW.—For purposes of this section, the term ''laws of the United States'' includes the Constitution of the United States, any provision of Federal statute, or any rule or regulation issued under such statute, any judicial decisions interpreting such statute, or any Executive Order of the President.

SA 1385. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 2 and 3, insert the following:

(iv) NONAPPLICABILITY TO CERTAIN ALIENS.—Clauses (i) through (iii) shall not apply to any alien who qualifies for a Z nonimmigrant visa and a subsequent adjustment of status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a).

On page 304, line 36, strike ''must'' and insert ''(except an alien granted legal status under section 244) shall''.

SA 1386. Mr. LEAHY (for himself, Mr. SALAZAR, Mr. CARDIN, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROTECTION FOR SCHOLARS.

(a) NONIMMIGRANT CATEGORY.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking subparagraph (W), as added by section 401(a)(4), and inserting the following:

''(W) subject to subsection (s) of section 214, an alien—

''(i) who the Secretary of Homeland Security determines—

''(I) is a scholar; and

''(II) is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity; or

''(ii) who is the spouse or child of an alien described in clause (i) who is accompanying or following to join such alien;''.

(b) CONDITIONS.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

''(s) REQUIREMENTS APPLICABLE TO PERSECUTED SCHOLARS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—An alien is eligible for nonimmigrant status under section 101(a)(15)(W)(i) if the alien is able to demonstrate that the alien is a scholar in any field who is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity.

''(B) CONSULTATION.—In determining eligibility of aliens under subparagraph (A), the Secretary of Homeland Security shall consult with nationally recognized organizations that have not less than 5 years of experience in assisting and funding scholars needing to escape dangerous conditions.

''(2) NUMERICAL MINIMUMS.—The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101(a)(15)(W) in any fiscal year may not be less than 2,000, unless the Secretary determines that less than 2,000 aliens who are qualified for such status are seeking such status during the fiscal year.

''(3) CREDIBLE EVIDENCE CONSIDERED.—In acting on any application filed under this subsection, the consular officer or the Secretary of Homeland Security, as appropriate, shall consider any credible evidence relevant to the application, including information received in connection with the consultation required under paragraph (1)(B).

''(4) NONEXCLUSIVE RELIEF.—Nothing in this subsection limits the ability of an alien who qualifies for status under section 101(a)(15)(W) to seek any other immigration benefit or status for which the alien may be eligible.

''(5) DURATION OF STATUS.—

''(A) INITIAL PERIOD.—The initial period of admission of an alien granted status as a nonimmigrant under section 101(a)(15)(W) shall be not more than 2 years.

''(B) EXTENSION OF PERIOD.—The period of admission described in subparagraph (A) may be extended for 1 additional 2-year period.''.

SA 1387. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 292, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless such credit reduces such alien's income taxes for any such preceding taxable year.

SA 1388. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 292, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless such credit reduces such alien's income taxes or self-employment taxes for any such preceding taxable year.

SA 1389. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 292, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless 100 percent of such credit reduces such alien's income taxes for any such preceding taxable year.

SA 1390. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 292, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless 100 percent of such credit reduces such alien's income taxes or self-employment taxes for any such preceding taxable year.

SA 1391. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 303, after line 19, insert the following:

(s) PERJURY AND FALSE STATEMENTS.—All application forms for immigration benefits, relief, or status under this Act (including application forms for Z non-immigrant status) shall bear a warning to the applicant and to any other person involved in the preparation of the application that the making of any false statement or misrepresentation on the application form (or any supporting documentation) will subject the applicant or other person to prosecution for false statement, fraud, or perjury under the applicable laws of the United States, including sections 1001, 1546, and 1621 of title 18, United States Code.

(t) FRAUD PREVENTION PROGRAM.—The head of each department responsible for the administration of a program or authority to confer an immigration benefit, relief, or status under this Act shall develop an administrative program to prevent fraud within or upon such program or authority. Subject to such modifications the head of the department may direct, the program required by this subsection shall provide for fraud prevention training for the relevant administrative adjudicators within the department.

SA 1392. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 287, strike line 12 and all that follows through line 35 on page 296, and insert the following:

(6) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,500 for a Z–1 nonimmigrant.

(ii) An alien applying for extension of the alien's Z–1 nonimmigrant status shall be required to pay a processing fee in an amount sufficient to cover administrative and other expenses associated with processing the extension application, but no more than $1,000 for a Z–1 nonimmigrant.

(B) PENALTIES.—

(i) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 nonimmigrants.

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, a Z–1 nonimmigrant making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $500.

(D) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by sections 286(m) and (n).

(E) DEPOSIT, ALLOCATION, AND SPENDING OF PENALTIES.—

(i) DEPOSIT OF PENALTIES.—The penalty under subparagraph (B) shall be deposited and remain available as provided by section 286(w).

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The funds under subparagraph (C) shall be deposited and remain available as provided by section 286(x).

(7) INTERVIEW.—An applicant for Z nonimmigrant status must appear to be interviewed.

(8) 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.

(f) APPLICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall prescribe by notice in the Federal Register, in accordance with the procedures described in section 610 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and the procedures for an alien in the United States to apply for Z nonimmigrant status and the evidence required to demonstrate eligibility for such status.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security, or such other entities as are authorized by the Secretary to accept applications under the procedures established under this subsection, shall accept applications from aliens for Z nonimmigrant status for a period of 1 year starting the first day of the first month beginning no more than 180 days after the date of enactment of this section. If, during the 1-year initial period for the receipt of applications for Z nonimmigrant status, the Secretary of Homeland Security determines that additional time is required to register applicants for Z nonimmigrant status, the Secretary may in his discretion extend the period for accepting applications by up to 12 months.

(3) BIOMETRIC DATA.—Each alien applying for Z nonimmigrant status must submit biometric data in accordance with procedures established by the Secretary of Homeland Security.

(g) CONTENT OF APPLICATION FILED BY ALIEN.—

(1) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Z nonimmigrant status.

(2) APPLICATION INFORMATION.—The application form shall request such information as the Secretary deems necessary and appropriate, including but not limited to, information concerning the alien's physical and mental health; complete criminal history, including all arrests and dispositions; gang membership, renunciation of gang affiliation; immigration history; employment history; and claims to United States citizenship.

(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

(A) SUBMISSION OF FINGERPRINTS.—The Secretary may not accord Z nonimmigrant status unless the alien submits fingerprints and other biometric data in accordance with procedures established by the Secretary.

(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints and other biometric data provided by the alien to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under this section.

(h) TREATMENT OF APPLICANTS.—

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under subsections (f) and (g) and after the

Secretary has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible—

(A) be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

(B) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner.

(3) CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under paragraph (4).

(4) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in subsection (h)(1). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed. All documentary evidence of probationary benefits shall expire no later than 6 months after the date on which the Secretary begins to approve applications for Z nonimmigrant status.

(5) BEFORE APPLICATION PERIOD.—If an alien is apprehended between the date of enactment and the date on which the period for initial registration closes under subsection (f)(2), and the alien can establish prima facie eligibility for Z nonimmigrant status, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section after such regulations are promulgated.

(6) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Act, if the Secretary determines that an alien who is in removal proceedings is prima facie eligible for Z nonimmigrant status, then the Secretary shall affirmatively communicate such determination to the immigration judge. The immigration judge shall then terminate or administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

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

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of—

(I) presence or employment required under this section; or

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

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

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

(v) remittance records; and

(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(I) the name, address, and telephone number of the affiant;

(II) the nature and duration of the relationship between the affiant and the alien; and

(III) other verification or information.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

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

(ii) set such terms and conditions on the use of affidavits as is necessary to verify and confirm the identity of any affiant or otherwise prevent fraudulent submissions.

(3) BURDEN OF PROOF.—An alien who is applying for a Z nonimmigrant visa under this section shall prove, by a preponderance of the evidence, that the alien has satisfied the requirements of this section.

(4) DENIAL OF APPLICATION.—

(A) An alien who fails to satisfy the eligibility requirements for a Z nonimmigrant visa shall have his application denied and may not file additional applications.

(B) An alien who fails to submit requested initial evidence, including requested biometric data, and requested additional evidence by the date required by the Secretary shall, except where the alien demonstrates to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful, have his application considered abandoned. Such application shall be denied and the alien may not file additional applications.

(j) EVIDENCE OF NONIMMIGRANT STATUS.—

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

(2) FEATURES OF DOCUMENTATION.—Documentary evidence of Z nonimmigrant status—

(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

(B) shall be designed in consultation with United States Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a valid travel and entry document for the purpose of applying for admission to the United States where the alien is applying for admission at a Port of Entry;

(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

(E) shall be issued to the Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's application for Z nonimmigrant status, except that an alien may not be granted permanent Z nonimmigrant status until all appropriate background checks on the alien are completed to the satisfaction of the Secretary of Homeland Security.

(k) PERIOD OF AUTHORIZED ADMISSION.—

(1) INITIAL PERIOD.—The initial period of authorized admission as a Z nonimmigrant shall be 4 years.

(2) EXTENSIONS.—

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

(B) REQUIREMENTS.—In order to be eligible for an extension of the initial or any subsequent period of authorized admission under this paragraph, an alien must satisfy the following requirements:

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

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in sections 312(a)(1) and (2) by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in sections 312(a)(1) and (2). The alien may make up to 3 attempts to demonstrate such understanding and knowledge but must satisfy this requirement prior to the expiration of the second extension of Z nonimmigrant status.

(III) EXCEPTION.—The requirement of subclauses (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

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

(cc) is over 55 years of age and has been living in the United States for periods totaling at least 15 years.

(iii) EMPLOYMENT.—With respect to an extension of Z–1 or Z–3 nonimmigrant status an alien must demonstrate satisfaction of the employment or study requirements provided in subsection (m) during the alien's most recent authorized period of stay as of the date of application; and

(iv) FEES.—The alien must pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application,

but no more than $1,000 for a Z–1 nonimmigrant.

SA 1393. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 238, line 21, strike ''in the first sentence'' and insert ''and inserting '(other than a nonimmigrant described in subparagraph (E)(iii), (H)(i) (except subclause (b1)), (J) (if coming to the United States to receive graduate medical education or training described in section 212(j)(1) or to take examinations required to receive such graduate medical education or training), (L), or (V) of section 101(a)(15))' ''.

SA 1394. Mr. CONRAD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 425, add at the end the following:

(j) FEDERAL PHYSICIAN WAIVER PROGRAM.—Section 214(l) (8 U.S.C. 1184(l)), as amended by this section, is further amended by adding at the end the following:

''(5) In administering the Federal physician waiver program authorized under paragraph (1)(C), the Secretary of Health and Human Services shall accept applications from—

''(A) primary care physicians and physicians practicing specialty medicine; and

''(B) hospitals and health care facilities of any type located in an area that the Secretary has designated as having a shortage of physicians, including—

''(i) a Health Professional Shortage Area (as defined in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)));

''(ii) a Mental Health Professional Shortage Area;

''(iii) a Medically Underserved Area (as defined in section 330I(a)(4) of the Public Health Service Act (42 U.S.C. 254c–14(a)(4)));

''(iv) a Medically Underserved Population (as defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3))); or

''(v) a Physician Scarcity Areas (as identified under section 1833(u)(4) of the Social Security Act (42 U.S.C. 13951(u)(4))).

''(6) Any employer shall be deemed to have met the requirements under paragraph (1)(D)(iii) if the facility of the employer is located in an area listed in paragraph (5)(B).''.

(k) RETAINING AMERICAN-TRAINED PHYSICIANS IN PHYSICIAN SHORTAGE COMMUNITIES.—Section 201(b)(1) (8 U.S.C. 1151(b)) is amended by adding at the end the following:

''(F) Alien physicians who have completed service requirements under section 214(l).''.

SA 1395. Mr. GRASSLEY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Section 419(a) (relating to numerical limitations on H-1B nonimmigrants), is amended to read as follows:

(a) H–1B AMENDMENTS.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1), by amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed 200,000 for each fiscal year; or'';

(2) by striking paragraphs (6), (7), and (8); as redesignated by section 409(2) and

(3) in paragraph (9), as redesignated by section 409(2)—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numeric limitations described in clause (i) shall not exceed'' and inserting the following: ''Without respect to the annual numeric limitation described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

SA 1396. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 1(a), add at the end the following:

(6) USCIS ADJUDICATORS.—The Citizenship and Immigration Service has hired 300 additional adjudicators.

SA 1397. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (a) of section 1, add the following:

(7) STAFF ENHANCEMENTS FOR INTERIOR ENFORCEMENT.—The Assistant Secretary for Immigration and Customs Enforcement has hired not less than 2,000 additional special agents to conduct investigations, including worksite enforcement.

SA 1398. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 339, line 38, strike ''not''.

SA 1399. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 288, at line 36, strike ''renunciation of gang affiliation;''

SA 1400. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 711. ADJUSTMENT OF STATE IMPACT ASSISTANCE FEES.

Notwithstanding section 218A(e)(3)(B) of the Immigration and Nationality Act, as added by section 402, or section 601(e)(6)(C), an alien making an application for a Y–1 nonimmigrant visa or an alien making an initial application for Z–1 nonimmigrant status shall pay a State impact assistance fee of $750 and an additional $100 fee for each dependent accompanying or following to join the alien.

SA 1401. Mr. COLEMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1, add the following new subsection:

(e) INFORMATION SHARING BETWEEN FEDERAL AND LOCAL LAW ENFORCEMENT OFFICERS.—

(1) REQUIREMENT FOR INFORMATION SHARING.—No person or agency may prohibit a Federal, State, or local government entity from acquiring information regarding the immigration status of any individual if the entity seeking such information has probable cause to believe that the individual is not lawfully present in the United States. Such probable cause includes the individual's failure to possess an identification document issued by the United States or a State.

(2) REQUIREMENT PRIOR TO IMPLEMENTATION.—Subject to subsection (a), with the exception of the probationary benefits conferred by section 601(h) of this Act, the provisions of subtitle C of title IV, and the admission of aliens under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that adjust the current status of any individual who is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence, may not become effective until the date that the Secretary submits a written certification to the President and Congress that the requirement set out in paragraph (1) is being carried out.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed—

(A) to limit the acquisition of information as otherwise provided by law; or

(B) to require a person to disclose information regarding an individual's immigration status prior to the provision of emergency medical or law enforcement assistance.

SA 1402. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 23, insert '', including the lease of 6 additional aircraft and 12 busses'' before the period at the end.

On page 36, after line 17, insert the following:

SEC. 139. SOUTHWEST BORDER EASEMENT FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Commissioner of the United States Section, International Boundary and Water Commission, shall conduct a study of the desirability of, and need for, border enforcement easements between the ports of entry along the international border between the United States and Mexico to facilitate the patrolling of such border to deter and detect illegal entry into the United States.

(b) IDENTIFICATION OF SPECIFIC LOCATIONS.—The study conducted under this section shall identify—

(1) the specific locations where agents of the United States Border Patrol lack immediate access to or control of the border, including any location where authorization by a third party is required to patrol the border or carry out the activities described in subsection (c); and

(2) for each such location—

(A) the actions required to create a border enforcement easement;

(B) the optimal distance from the border to which such easement should extend and the geographic size of the easement;

(C) the estimated costs of acquiring the easement and making the improvements described in subsection (c); and

(D) the changes to existing law that would be required to carry out such acquisitions and improvements.

(c) SCOPE AND USE OF EASEMENT.—Easements studied under this section shall be considered to provide the United States Border Patrol with access to and control of land immediately adjacent to the border described in subsection (a) for—

(1) installing detection equipment;

(2) constructing or improving roads;

(3) controlling vegetation;

(4) installing fences or other obstacles; and

(5) carrying out such other activities as may be required to patrol the border and deter or detect illegal entry.

(d) REPORT.—Not later than December 1, 2008, the Secretary shall submit a report containing the results of the study conducted under this section to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Homeland Security of the House of Representatives;

(5) the Committee on the Judiciary of the House of Representatives; and

(6) the Committee on Appropriations of the House of Representatives.

At the appropriate place, insert the following:

SEC. ___. REGISTRATION OF ALIENS; NOTICES OF CHANGE OF ADDRESS.

(a) REGISTRATION REQUIRED FOR WORK AUTHORIZATION.—Section 262 (8 U.S.C. 1302) is amended by adding at the end the following:

''(d) The Secretary of Homeland Security shall verify that each alien applying for work authorization under this Act has registered under this section and has complied with the requirements under subsections (a)(1), (a)(2), and (b) of section 265 before approving such application.''.

(b) ANNUAL NOTIFICATION.—Section 265(a) (8 U.S.C. 1305(a)) is amended by striking ''(a) Each alien'' and inserting the following:

''(a) IN GENERAL.—

''(1) ANNUAL NOTIFICATION.—Each alien required to be registered under this title who is within the United States on the first day of January of any year shall, not later than 30 days following such date, notify the Secretary of Homeland Security in writing of the current address of the alien and furnish such additional information as the Secretary may prescribe by regulation. Failure to comply with this paragraph shall disqualify an alien from being approved for work authorization under this Act.

''(2) NOTIFICATION IF ABSENT ON JANUARY 1.—Each alien required to be registered under this title who is temporarily absent from the United States on the first day of January of any year shall, not later than 10 days after date on which the alien returns to the United States, provide the Secretary of Homeland Security with the information described in paragraph (1).

''(3) NEW ADDRESS.—Each alien''.

(c) TREATMENT OF CHANGE OF ADDRESS FORM AS REGISTRATION DOCUMENT.—Section 265 (8 U.S.C. 1305), as amended by subsection (b), is further amended by adding at the end the following:

''(d) TREATMENT AS REGISTRATION DOCUMENT.—For purposes of this chapter, any notice of change of address submitted by an alien under this section shall be treated as a registration document under section 262.''.

(d) TECHNICAL AMENDMENTS.—Section 266 (8 U.S.C. 1306) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) by striking subsection (b); and

(3) by redesignating subsection (c) and (d) as subsections (b) and (c), respectively.

SA 1403. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 238, beginning with line 13, strike all through page 265, line 25, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION.

(a) H–1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended—

(A) in subparagraph (B), by striking ''or'' after the semicolon;

(B) in subparagraph (C), by striking '', until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.'' and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

(c) PROVISION OF W–2 FORMS.—Section 214(g)(5), as redesignated by section 409, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b)—

''(A) the period of authorized admission as such a nonimmigrant may not exceed 6 years (except for a nonimmigrant who has filed a petition for an immigrant visa under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence);

''(B) if the alien is granted an initial period of admission less than 6 years, any subsequent application for an extension of stay for such alien shall include the Form W–2 Wage and Tax Statement filed by the employer for such employee, and such other form or information relating to such employment as the Secretary of Homeland Security, in the discretion of the Secretary, may specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien; and

''(C) notwithstanding section 6103 of the Internal Revenue Code of 1986, or any other law, the Commissioner of Internal Revenue or the Commissioner of the Social Security Administration shall upon request of the Secretary confirm whether the Form W–2 Wage and Tax Statement filed by the employer under subparagraph (B) matches a Form W–2 Wage and Tax Statement filed with the Internal Revenue Service or the Social Security Administration, as the case may be.''.

(d) EXTENSION OF H–1B STATUS FOR MERIT-BASED ADJUSTMENT APPLICANTS.—

(1) IN GENERAL.—Section 214(g)(4), as redesignated by section 409, is amended—

(A) by inserting ''(A)'' after ''(4)'';

(B) by striking ''If an alien'' and inserting the following:

''(B) If an alien''; and

(C) by adding at the end the following:

''(D) Subparagraph (B) shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa accompanied by a qualifying employer recommendation under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence.''.

(2) REPEAL.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended by striking subsections (a) and (b).

SEC. 420. H–1B EMPLOYER REQUIREMENTS.

(a) APPLICATION OF NONDISPLACEMENT AND GOOD FAITH RECRUITMENT REQUIREMENTS TO ALL H–1B EMPLOYERS.—

(1) AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E)—

(I) in clause (i), by striking ''(E)(i) In the case of an application described in clause (ii), the'' and inserting ''(E) The''; and

(II) by striking clause (ii);

(ii) in subparagraph (F), by striking ''In the case of'' and all that follows through ''where—'' and inserting ''The employer will not place the nonimmigrant with another employer if—''; and

(iii) in subparagraph (G), by striking ''In the case of an application described in subparagraph (E)(ii), subject'' and inserting ''Subject'';

(B) in paragraph (2)—

(i) in subparagraph (E), by striking ''If an H–1B-dependent employer'' and inserting ''If an employer that employs H–1B nonimmigrants''; and

(ii) in subparagraph (F), by striking ''The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer.''; and

(C) by striking paragraph (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to applications filed on or after the date of the enactment of this Act.

(b) NONDISPLACEMENT REQUIREMENT.—

(1) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n), as amended by subsection (a), is further amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''90 days'' each place it appears and inserting ''180 days'';

(ii) in subparagraph (F)(ii), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(B) in paragraph (2)(C)(iii), by striking ''90 days'' each place it appears and inserting ''180 days''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall apply to applications filed on or after the date of the enactment of this Act; and

(B) shall not apply to displacements for periods occurring more than 90 days before such date.

(c) H–1B NONIMMIGRANTS NOT ADMITTED FOR JOBS ADVERTISED OR OFFERED ONLY TO H–1B NONIMMIGRANTS.—Section 212(n)(1), as amended by this section, is further amended—

(1) by inserting after subparagraph (G) the following:

''(H)(i) The employer has not advertised the available jobs specified in the application in an advertisement that states or indicates that—

''(I) the job or jobs are only available to persons who are or who may become H–1B nonimmigrants; or

''(II) persons who are or who may become H–1B nonimmigrants shall receive priority or a preference in the hiring process.

''(ii) The employer has not only recruited persons who are, or who may become, H–1B nonimmigrants to fill the job or jobs.''; and

(2) in the undesignated paragraph at the end, by striking ''The employer'' and inserting the following:

''(K) The employer''.

(d) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES.—Section 212(n)(1), as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (c)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H–1B nonimmigrants.''.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K), as redesignated by section 420(c)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by inserting '', clear indicators of fraud, misrepresentation of material fact,'' after ''completeness'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2).''

(b) INVESTIGATIONS BY DEPARTMENT OF LABOR.—Section 212(n)(2) is amended—

(1) in subparagraph (A)—

(A) by striking ''12 months'' and inserting ''24 months''; and

(B) by striking ''The Secretary shall conduct'' and all that follows and inserting ''Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.'';

(2) in subparagraph (C)(i)—

(A) by striking ''a condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)''; and

(B) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)'';

(3) in subparagraph (G)—

(A) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(B) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employer's compliance with the requirements of this subsection.'';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.'';

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2), as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A), as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H–1B nonimmigrants during the applicable calendar year.''

(e) PENALTIES.—Section 212(n)(2)(C), as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n), as amended by this section, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers rights.''.

SEC. 422. L–1 VISA FRAUD AND ABUSE PROTECTIONS.

(a) IN GENERAL.—Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended by inserting after subsection (F) the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) is amended by inserting after subparagraph (G), as added by subsection (a), the following:

''(H)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish a procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(H), as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.''.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) is amended by inserting after subparagraph (H), as added by subsection (b), the following:

''(I)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

SEC. 423. WHISTLEBLOWER PROTECTIONS.

(a) H–1B WHISTLEBLOWER PROTECTIONS.—Section 212(n)(2)(C)(iv) (8 U.S.C. 1182(n)(2)(C)(iv)) is amended—

(1) by inserting ''take, fail to take, or threaten to take or fail to take, a personnel action, or'' before ''to intimidate''; and

(2) by adding at the end the following: ''An employer that violates this clause shall be liable to the employees harmed by such violation for lost compensation, including back pay.''.

(b) L–1 WHISTLEBLOWER PROTECTIONS.—Section 214(c)(2) is amended by inserting after subparagraph (I), as added by section 423, the following:

''(J)(i) It is a violation of this subparagraph for an employer who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L) to take, fail to take, or threaten to take or fail to take, a personnel action, or to intimidate, threaten, restrain, coerce, blacklist, discharge, or discriminate in any other manner against an employee because the employee—

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

''(II) cooperates or seeks to cooperate with the requirements of this subsection, or any rule or regulation pertaining to this subsection.

''(ii) An employer that violates this subparagraph shall be liable to the employees harmed by such violation for lost wages and benefits.

''(iii) In this subparagraph, the term 'employee' includes—

''(I) a current employee;

''(II) a former employee; and

''(III) an applicant for employment.''.

SEC. 424. LIMITATIONS ON APPROVAL OF L–1 PETITIONS FOR START-UP COMPANIES.

Section 214(c)(2), as amended by sections 422 and 423, is further amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (L), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(K)(i) If the beneficiary of a petition under this subsection is coming to the United States to be employed in a new office, the petition may be approved for a period not to exceed 12 months only if the alien has

not been the beneficiary of 2 or more petitions under this subparagraph within the immediately preceding 2 years and only if the employer operating the new office has—

''(I) an adequate business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has substantially complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition if requested by the Secretary;

''(VI) evidence that the importing employer, from the date of petition approval under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods or services;

''(VII) a statement of the duties the beneficiary has performed at the new office during the approval period under clause (i) and the duties the beneficiary will perform at the new office during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new office, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new office; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) A new office employing the beneficiary of an L–1 petition approved under this subparagraph shall do business through regular, systematic, and continuous provision of goods or services for the entire period of petition approval.

''(iv) Notwithstanding clause (iii) or subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security, in the discretion of the Secretary, may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the office described in this subsection for a period beyond the initially granted 12-month period if the importing employer has been doing business at the new office through regular, systematic, and continuous provision of goods or services for the 6 months immediately preceding the date of extension petition filing and demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances, as determined by the Secretary, in the discretion of the Secretary.

''(L)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (K), to engage in employment in the United States during the initial 12-month period described in subparagraph (K)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (K)(ii).

''(M) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall establish procedures with the Department of State to verify a company or office's existence in the United States and abroad.''.

SEC. 425. MEDICAL SERVICES IN UNDERSERVED AREAS.

(a) PERMANENT AUTHORIZATION OF THE CONRAD PROGRAM.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 1(a) of Public Law 108–441 and section 2 of Public Law 109–477) is amended by striking ''and before June 1, 2008.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on June 1, 2007.

(b) PILOT PROGRAM REQUIREMENTS.—Section 214(l) (8 U.S.C. 1184(l)) is amended by adding at the end the following:

''(4)(A) Notwithstanding paragraph (1)(B), the Secretary of Homeland Security may grant up to a total of 50 waivers for a State under section 212(e) in a fiscal year if, after the first 30 such waivers for the State are granted in that fiscal year—

''(i) an interested State agency requests a waiver; and

''(ii) the requirements under subparagraph (B) are met.

''(B) The requirements under this subparagraph are met if—

''(i) fewer than 20 percent of the physician vacancies in the health professional shortage areas of the State, as designated by the Secretary of Health and Human Services, were filled in the most recent fiscal year;

''(ii) all of the waivers allotted for the State under paragraph (1)(B)) were used in the most recent fiscal year; and

''(iii) all underserved highly rural States—

''(I) used the minimum guaranteed number of waivers under section 212(e) in health professional shortage areas in the most recent fiscal year; or

''(II) all agreed to waive the right to receive the minimum guaranteed number of such waivers.

''(C) In this paragraph:

''(i) The term 'health professional shortage area' has the meaning given the term in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)).

''(ii) The term 'underserved highly rural State' means a State with at least 30 counties with a population density of not more than 10 people per square mile, based on the latest available decennial census conducted by the Bureau of Census.

''(iii) The term 'minimum guaranteed number' means—

''(I) for the first fiscal year of the pilot program, 15;

''(II) for each subsequent fiscal year, the sum of—

''(aa) the minimum guaranteed number for the second fiscal year; and

''(bb) if any State received additional waivers under this paragraph in the first fiscal year;

''(III) for the third fiscal year, the sum of—

''(aa) the minimum guaranteed number for the second fiscal year; and

''(bb) if any State received additional waivers under this paragraph in the first fiscal year.''.

(c) TERMINATION DATE.—Section 214(l)(4) of the Immigration and Nationality Act, as added by subsection (b), is repealed on September 30, 2011.

(d) MEDICAL PROFESSIONALS.—Section 212(j) (8 U.S.C. 1182(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

''(2)(A) An alien who is coming to the United States to receive graduate medical education or training (or seeks to acquire status as a nonimmigrant under section 1101(a)(15)(J) to receive graduate medical education or training) may not change status under section 1258 to a nonimmigrant under section 1101(a)(15)(H)(i)(b) until the alien graduates from the medical education or training program and meets the requirements of paragraph (3)(B).

''(B) Any occupation that an alien described in paragraph (2)(A) may be employed in while receiving graduate medical education or training shall not be deemed a 'specialty occupation' within the meaning of section 1184(i) for purposes of section 1101(a)(15)(H)(i)(b).''; and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking the matter preceding subparagraph (A) and inserting the following:

''(3) An alien who has graduated from a medical school and who is coming to the United States to practice primary care or specialty medicine as a member of the medical profession may not be admitted as a nonimmigrant under section 1101(a)(15)(H)(i)(b) of this title unless—'';

(e) DEFINITION.—Section 101(a)(15)(J) is amended by inserting ''(except an alien coming to the United States to receive graduate medical education or training)'' after ''abandoning''.

(f) INTENTION TO ABANDON FOREIGN RESIDENCE.—Section 214(h) (8 U.S.C. 1184(h)) is amended by inserting ''(E), (J) (if the alien is coming to the United States to receive graduate medical education or training),'' after ''described in subparagraph''.

(g) MEDICAL RESIDENTS INELIGIBLE FOR H–1B NONIMMIGRANT STATUS.—Section 214(i)(1) (8 U.S.C. 1184(i)) is amended to read as follows:

''(1) Except as provided in paragraph (3), for purposes of section 101(a)(15)(H)(i)(b), section 101(a)(15)(E)(iii), and paragraph (2), the term 'specialty occupation'—

''(A) means an occupation that requires—

''(i) theoretical and practical application of a body of highly specialized knowledge; and

''(ii) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States; and

''(B) shall not include graduate medical education or training.''.

(h) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 214(l) (8 U.S.C. 1184(l)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C)—

(i) in clause (i), by striking ''Attorney General to be in the public interest; and'' and inserting ''Secretary of Homeland Security to be in the public interest;'';

(ii) by striking subclause (ii) and inserting the following:

''(ii) the alien has accepted employment with the health facility or health care organization and agrees to continue to work for a total of not less than 3 years; and

''(iii) the alien begins employment not later than 90 days after the later of the date on which the alien—

''(I) received such waiver; or

''(II) received nonimmigrant status or employment authorization pursuant to an application filed under paragraph (2)(A) (if such application is filed not later than 90 days after eligibility of completing graduate medical education or training under a program approved pursuant to section 212(j)(1));'';

(B) by striking the period at the end and inserting the following: ''; or

''(E) in the case of a request by an interested State agency, the alien agrees to practice primary care or specialty medicine care, for a continuous period of 2 years, only at a federally qualified health facility, health care organization or center, or in a rural health clinic that is located in—

''(i) a geographic area which is designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

''(ii) a State that utilized less than 10 of the total allotted waivers for the State under paragraph (1)(B) (excluding the number of waivers available pursuant to paragraph (1)(D)(ii)) in the most recent fiscal year.'';

(2) in paragraph (2), by amending subparagraph (A) to read as follows:

''(A) Notwithstanding section 248(a)(2), upon submission of a request to an interested Federal agency or an interested State agency for recommendation of a waiver under this section by a physician who is maintaining valid nonimmigrant status under section 101(a)(15)(J), the Secretary of Homeland Security may accept as properly filed an application to change the status of such physician to [any applicable nonimmigrant status]. Upon favorable recommendation by the Secretary of State of such request, and approval by the Secretary of Homeland Security the waiver under this section, the Secretary of Homeland Security may change the status of such physician to that of [an appropriate nonimmigrant status.]''.

(3) in paragraph (3)(A), by inserting ''requirement of or'' before ''agreement entered into''.

(i) PERIOD OF AUTHORIZED ADMISSION FOR PHYSICIANS ON H–1B VISAS WHO WORK IN MEDICALLY UNDERSERVED COMMUNITIES.—Section 214(g)(5), as renumbered by section 409 and amended by section 719(c), is further amended by adding at the end the following:

''(D) The period of authorized admission under subparagraph (A) shall not apply to an alien physician who fulfills the requirements under subsection (l)(1)(E) and who has practiced primary or specialty care in a medically underserved community for a continuous period of 5 years.''.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, and the amendments made by this title.

TITLE V—IMMIGRATION BENEFITS

SEC. 501. REBALANCING OF IMMIGRANT VISA ALLOCATION.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) For each fiscal year until visas needed for petitions described in section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 become available, the worldwide level of family-sponsored immigrants under this subsection is 567,000 for petitions for classifications under section 203(a), plus any immigrant visas not required for the class specified in subsection (d).

''(2) Except as provided in paragraph (1), the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 127,000, plus any immigrant visas not required for the class specified in subsection (d).''.

(b) MERIT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—

''(1) IN GENERAL.—The worldwide level of merit-based, special, and employment creation immigrants under this subsection—

''(A) for the first 5 fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) for fiscal year 2005, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(ii) 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(B) starting in the sixth fiscal year, shall be equal to 140,000 for each fiscal year until aliens described in section 101(a)(15)(Z) first become eligible for an immigrant visa, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(ii) not more than 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007; and

''(C)(i) 380,000, for each fiscal year starting in the first fiscal year in which aliens described in section 101(a)(15)(Z) become eligible for an immigrant visa, of which at least 10,000 will be for exceptional aliens of nonimmigrant status under section 101(a)(15)(Y), plus any immigrant visas not required for the class specified in subsection (c), plus

''(ii) the temporary supplemental allocation of additional visas described in paragraph (2) for nonimmigrants described in section 101(a)(15)(Z).

''(2) TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in this paragraph is as follows:

''(A) For the first 5 fiscal years in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(B) In the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(3) of Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(C) Starting in the seventh fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number equal to the number of aliens described in section 101(a)(15)(Z) who became aliens admitted for permanent residence based on the merit-based evaluation system in the prior fiscal year until no further aliens described in section 101(a)(15)(Z) adjust status.

''(3) TERMINATION OF TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in paragraph (2) shall terminate when the number of visas calculated pursuant to paragraph (2)(C) is zero.

''(4) LIMITATION.—The temporary supplemental visas described in paragraph (2) shall not be awarded to any individual other than an individual described in section 101(a)(15)(Z).''.

(c) PROVIDING EXEMPTIONS FROM MERIT-BASED LEVELS FOR VERY HIGHLY SKILLED IMMIGRANTS.—Section 201(b)(1) of the Immigration and Nationality Act (as amended by section 503(a)) (8 U.S.C. 1151(b)(1)) is further amended by inserting after subparagraph (G) the following:

''(H) Aliens who have earned a master's or higher degree from a United States institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(I) Aliens who have earned a master's degree or higher degree in science, technology, engineering, or mathematics and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(J) Aliens who—

''(i) have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation; and

''(ii) seek to enter the United States to continue work in the area of extraordinary ability.

''(K) Aliens who—

''(i) are recognized internationally as outstanding in a specific academic area;

''(ii) have at least 3 years of experience in teaching or research in the academic area; and

''(iii) who seek to enter the United States for—

''(I) a tenured position (or tenure-track position) within an institution of higher education to teach in the academic area;

''(II) a comparable position with an institution of higher education to conduct research in the area; or

''(III) a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(L) The immediate relatives of an alien who is admitted as a merit-based employer-sponsored immigrant under subsection 203(b)(5).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

SEC. 502. INCREASING AMERICAN COMPETITIVENESS THROUGH A MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States benefits from a workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) MERIT-BASED IMMIGRANTS.—Visas shall first be made available in a number not to exceed 95 percent of such worldwide level, plus any visas not required for the classes in paragraphs (2) and (3), to qualified immigrants selected through a merit-based evaluation system.

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

"Category	Description	Maximum points
"Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**6 pts**	
Experience	Years of work for U.S. firm–**2 pts/year** (max 10 points)	
Age of worker	Worker's age: 25-39–**3 points**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** Bachelor's Degree–**16 pts** Associate's Degree–**10 pts** High school diploma or GED–**6 pts** Completed certified Perkins Vocational Education program–**5 pts** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
"English and civics	Native speaker of English or TOEFL score of 75 or higher–**15 pts** TOEFL score of 60-74–**10 pts** Pass USCIS Citizenship Tests in English & Civics–**6 pts**	**15**
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

"Category	Description	Maximum points
"Supplemental schedule for Zs		
Agriculture National Interest	Worked in agriculture for 3 years, 150 days per year–**21 pts** Worked in agriculture for 4 years (150 days for 3 years, 100 days for 1 year)–**23 pts** Worked in agriculture for 5 years, 100 days per year–**25 pts**	**25**
U.S. employment experience	Year of lawful employment–**1 pt**	**15**
Home ownership	Own place of residence–**1 pt/year owned**	**5**
Medical insurance	Current medical insurance for entire family	**5**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets established pursuant to section 407 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

''(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa.

''(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

''(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).'';

''(G) Notwithstanding any other provision of this paragraph, the requirements of this paragraph shall apply only to merit-based, self-sponsored immigrants and not to merit-based, employer-sponsored immigrants described in paragraph (5).

''(H) Notwithstanding any other provision of this paragraph, any reference in this paragraph to a worldwide level of visas refers to the worldwide level specified in section 201(d)(1).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) in paragraph (2), as redesignated by paragraph (3)—

(A) by striking ''7.1 percent of such worldwide level'' and inserting ''4,200 of the worldwide level specified in section 201(d)(1)''; and

(B) by striking ''5,000'' and inserting ''2,500'';

(4) in paragraph (3), as redesignated by paragraph (3)—

(A) in subparagraph (A), by striking ''7.1 percent of such worldwide level'' and inserting ''2,800 of the worldwide level specified in section 201(d)(1)''; and

(B) in subparagraph (B)(i), by striking ''3,000'' and inserting ''1,500''; and

(5) by adding at the end the following

''(5) MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), to qualified immigrants who are aliens described in any of clauses (i) through (iii):

''(i) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this clause if—

''(I) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation;

''(II) the alien seeks to enter the United States to continue work in the area of extraordinary ability; and

''(III) the alien's entry into the United States will substantially benefit prospectively the United States.

''(ii) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this clause if—

''(I) the alien is recognized internationally as outstanding in a specific academic area;

''(II) the alien has at least 3 years of experience in teaching or research in the academic area; and

''(III) the alien seeks to enter the United States—

''(aa) for a tenured position (or tenure-track position) within an institution of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) to teach in the academic area;

''(bb) for a comparable position with an institution of higher education to conduct research in the area, or

''(cc) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 individuals full-time in research activities and has achieved documented accomplishments in an academic field.

''(iii) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this clause if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this paragraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

''(i) IN GENERAL.—Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraph (A), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

''(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

''(C) PROFESSIONALS.—

''(i) Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraphs (A) and (B), to qualified immigrants who hold baccalaureate degrees and who are members of the professions and who are not described in subparagraph (B).

''(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (B) or (C) until there has been a determination made by the Secretary of Labor that—

''(i) there are not sufficient workers who are able, willing, qualified and available at the time such determination is made and at the place where the alien, or a substitute is to perform such skilled or unskilled labor; and

''(ii) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

An employer may not substitute another qualified alien for the beneficiary of such determination unless an application to do so is made to and approved by the Secretary of Homeland Security.''.

(c) WORLDWIDE LEVEL OF MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)), as amended by section 501(b), is further amended by adding at the end the following:

''(5) WORLDWIDE LEVEL FOR MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) IN GENERAL.—The worldwide level of merit-based employer-sponsored immigrants under this paragraph for a fiscal year is equal to—

''(i) 140,000, plus

''(ii) the number computed under subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) FISCAL YEAR 2007.—The number computed under this subparagraph for fiscal year 2007 is zero.

''(ii) FISCAL YEAR 2008.—The number computed under this subparagraph for fiscal year 2008 is the difference (if any) between the worldwide level established under subparagraph (A) for the previous fiscal year and the number of visas issued under section 203(b)(2) during that fiscal year.''.

SA 1404. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 238, beginning with line 13, strike all through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H-1B STREAMLINING AND SIMPLIFICATION.

(a) H-1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended—

(A) in subparagraph (B), by striking ''or'' after the semicolon;

(B) in subparagraph (C), by striking '', until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.'' and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

SA 1405. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 262, beginning with line 10, strike all through page 265, line 25, and insert the following:

(c) PROVIDING EXEMPTIONS FROM MERIT-BASED LEVELS FOR VERY HIGHLY SKILLED IMMIGRANTS.—Section 201(b)(1) of the Immigration and Nationality Act (as amended by section 503(a)) (8 U.S.C. 1151(b)(1)) is further amended by inserting after subparagraph (G) the following:

''(H) Aliens who have earned a master's or higher degree from a United States institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(I) Aliens who have earned a master's degree or higher degree in science, technology, engineering, or mathematics and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(J) Aliens who—

''(i) have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation; and

''(ii) seek to enter the United States to continue work in the area of extraordinary ability.

''(K) Aliens who—

''(i) are recognized internationally as outstanding in a specific academic area;

''(ii) have at least 3 years of experience in teaching or research in the academic area; and

''(iii) who seek to enter the United States for—

''(I) a tenured position (or tenure-track position) within an institution of higher education to teach in the academic area;

''(II) a comparable position with an institution of higher education to conduct research in the area; or

''(III) a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(M) The immediate relatives of an alien who is admitted as a merit-based employer-sponsored immigrant under subsection 203(b)(5).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

SEC. 502. INCREASING AMERICAN COMPETITIVENESS THROUGH A MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States benefits from a workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) MERIT-BASED IMMIGRANTS.—Visas shall first be made available in a number not to exceed 95 percent of such worldwide level, plus any visas not required for the classes in paragraphs (2) and (3), to qualified immigrants selected through a merit-based evaluation system.

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

"Category	Description	Maximum points
"Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**6 pts**	

"Category	Description	Maximum points
Experience Age of worker	Years of work for U.S. firm–**2 pts/year** (max 10 points) Worker's age: 25-39–**3 points**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** Bachelor's Degree–**16 pts** Associate's Degree–**10 pts** High school diploma or GED–**6 pts** Completed certified Perkins Vocational Education program–**5 pts** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
"English and civics	Native speaker of English or TOEFL score of 75 or higher–**15 pts** TOEFL score of 60-74–**10 pts** Pass USCIS Citizenship Tests in English & Civics–**6 pts**	**15**
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

"Category	Description	Maximum points
"Supplemental schedule for Zs		
Agriculture National Interest	Worked in agriculture for 3 years, 150 days per year–**21 pts** Worked in agriculture for 4 years (150 days for 3 years, 100 days for 1 year)–**23 pts** Worked in agriculture for 5 years, 100 days per year–**25 pts**	**25**
U.S. employment experience	Year of lawful employment–**1 pt**	**15**
Home ownership	Own place of residence–**1 pt/year owned**	**5**
Medical insurance	Current medical insurance for entire family	**5**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets established pursuant to section 407 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

''(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa.

''(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

''(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).'';

''(G) Notwithstanding any other provision of this paragraph, the requirements of this paragraph shall apply only to merit-based, self-sponsored immigrants and not to merit-based, employer-sponsored immigrants described in paragraph (5).

''(H) Notwithstanding any other provision of this paragraph, any reference in this paragraph to a worldwide level of visas refers to the worldwide level specified in section 201(d)(1).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) in paragraph (2), as redesignated by paragraph (3)—

(A) by striking ''7.1 percent of such worldwide level'' and inserting ''4,200 of the worldwide level specified in section 201(d)(1)''; and

(B) by striking ''5,000'' and inserting ''2,500'';

(4) in paragraph (3), as redesignated by paragraph (3)—

(A) in subparagraph (A), by striking ''7.1 percent of such worldwide level'' and inserting ''2,800 of the worldwide level specified in section 201(d)(1)''; and

(B) in subparagraph (B)(i), by striking ''3,000'' and inserting ''1,500''; and

(5) by adding at the end the following

''(5) MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), to qualified immigrants who are aliens described in any of clauses (i) through (iii):

''(i) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this clause if—

''(I) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation;

''(II) the alien seeks to enter the United States to continue work in the area of extraordinary ability; and

''(III) the alien's entry into the United States will substantially benefit prospectively the United States.

''(ii) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this clause if—

''(I) the alien is recognized internationally as outstanding in a specific academic area;

''(II) the alien has at least 3 years of experience in teaching or research in the academic area; and

''(III) the alien seeks to enter the United States—

''(aa) for a tenured position (or tenure-track position) within an institution of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) to teach in the academic area;

''(bb) for a comparable position with an institution of higher education to conduct research in the area, or

''(cc) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 individuals full-time in research activities and has achieved documented accomplishments in an academic field.

''(iii) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this clause if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this paragraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

''(i) IN GENERAL.—Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraph (A), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

''(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

''(C) PROFESSIONALS.—

''(i) Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraphs (A) and (B), to qualified immigrants who hold baccalaureate degrees and who are members of the professions and who are not described in subparagraph (B).

''(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (B) or (C) until there has been a determination made by the Secretary of Labor that—

''(i) there are not sufficient workers who are able, willing, qualified and available at

the time such determination is made and at the place where the alien, or a substitute is to perform such skilled or unskilled labor; and

''(ii) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

An employer may not substitute another qualified alien for the beneficiary of such determination unless an application to do so is made to and approved by the Secretary of Homeland Security.''.

(c) WORLDWIDE LEVEL OF MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)), as amended by section 501(b), is further amended by adding at the end the following:

''(5) WORLDWIDE LEVEL FOR MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) IN GENERAL.—The worldwide level of merit-based employer-sponsored immigrants under this paragraph for a fiscal year is equal to—

''(i) 140,000, plus

''(ii) the number computed under subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) FISCAL YEAR 2007.—The number computed under this subparagraph for fiscal year 2007 is zero.

''(ii) FISCAL YEAR 2008.—The number computed under this subparagraph for fiscal year 2008 is the difference (if any) between the worldwide level established under subparagraph (A) for the previous fiscal year and the number of visas issued under section 203(b)(2) during that fiscal year.''.

SA 1406. Mr. DURBIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 242, strike line 37 and all that follows through line 24, on page 250, and insert the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H-1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

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

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

(h) PUBLIC AVAILABILITY AND RECORDS RETENTION.—Section 212(n) of such Act, as amended by this section, is further amended, by adding at the end the following:

''(7) For each application filed under paragraph (1), the employer who filed the application shall—

''(A) upon request, provide a copy of the application and supporting documentation to every nonimmigrant employed by the employer under the application;

''(B) upon request, make available for public examination at the employer's place of business or worksite a copy of the application and supporting documentation;

''(C) upon request, make available a copy of the application and supporting documentation to the Secretary of Labor; and

''(D) retain a copy of the application and supporting documentation for at least 5 years after the date on which the application is filed.''.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K) of the Immigration and Nationality Act, as redesignated by section 2(d)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by inserting '', clear indicators of fraud, misrepresentation of material fact,'' after ''completeness'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2)''.

(b) INVESTIGATIONS BY DEPARTMENT OF LABOR.—Section 212(n)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ''12 months'' and inserting ''24 months''; and

(B) by striking ''The Secretary shall conduct'' and all that follows and inserting ''Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.'';

(2) in subparagraph (C)(i)—

(A) by striking `'' condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)''; and

(B) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)'';

(3) in subparagraph (G)—

(A) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(B) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employers compliance with the requirements of this subsection.'';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.'';

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2) of such Act, as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A) of such Act, as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H-1B nonimmigrants during the applicable calendar year.''

(e) PENALTIES.—Section 212(n)(2)(C) of such Act, as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n) of such Act, as amended by this section, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers' rights.''.

(g) ADDITIONAL DEPARTMENT OF LABOR EMPLOYEES.—

(1) IN GENERAL.—The Secretary of Labor shall increase by not less than 200 the number of positions to administer, oversee, investigate, and enforce programs involving H–1B nonimmigrant workers.

(2) FUNDING.—Notwithstanding any other provision of law, the Secretary of Labor may use amounts in the Fraud Prevention and Detection Account made available to the Secretary pursuant to section 286(v)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(C)) to carry out paragraph (1).

SEC. 422. L-1 VISA FRAUD AND ABUSE PROTECTIONS.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (H), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish a procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of

Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.''.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

(d) DEPARTMENT OF HOMELAND SECURITY PROCESSING OF BLANKET PETITION L VISAS.—

(1) IN GENERAL.—Paragraph (2)(A) of section 214(c) of such Act is amended to read as follows:

''(2)(A) The Secretary of Homeland Security shall provide for a procedure under which an importing employer which meets the requirements established by the Secretary of Homeland Security may file a blanket petition to import aliens as nonimmigrants described in section 101(a)(15)(L) instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited adjudication by the Secretary of Homeland Security of individual petitions covered under such blanket petitions. Adjudication of blanket petitions or individual petitions covered under such blanket petitions may not be delegated by the Secretary of Homeland Security to the Secretary of State.''.

(2) FRAUD PREVENTION DETECTION FEES.—Paragraph (12)(B) of section 214(c) of such Act is amended to read as follows:

''(B) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing an individual petition covered under a blanket petition described in paragraph (2)(A) initially to grant an alien nonimmigrant status described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather

than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

SA 1407. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 238, strike lines 41 and all that follows through line 21 on page 239, and insert the following:

(2) in paragraph (1), by amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed 200,000 for each fiscal year; or'';

(3) by striking paragraphs (6), (7), and (8), as redesignated by section 409(2);

(4) in paragraph (9), as redesignated by section 409(2)—

(A) in subparagraph (B), by striking clause (iv); and

(B) by striking subparagraph (D).

SA 1408. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. LABOR CONDITION APPLICATION.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended—

(1) in subparagraph (D)—

(A) by striking ''(D) The application'' and inserting the following:

''(D) SPECIFICATIONS.—

''(i) IN GENERAL.—The application''; and

(B) by adding at the end the following:

''(ii) VERIFICATION OF EMPLOYER ID NUMBER.—The application shall be denied unless the Secretary of Labor verifies that the employer identification number provided on the application is valid and accurate.''; and

(2) in subparagraph (G)(i)—

(A) by striking ''In the case of an application described in subparagraph (E)(ii), subject'' and inserting ''Subject'';

(B) in subclause (I), by striking ''and'' at the end;

(C) in subclause (II), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(III) has posted, for a period of not less than 30 days, the available position on a public job bank website that—

''(aa) is accessible through the Internet;

''(bb) is national in scope;

''(cc) has been in operation on the Internet for at least the 18-month period ending on the date on which the position is posted;

''(dd) does not require a registration fee or membership fee to search the job postings of the website; and

''(ee) has a valid Federal or State employer identification number.''.

SA 1409. Mr. SCHUMER (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 281, after line 27, insert the following:

SEC. 509. INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2008, the Secretary of Health and Human Services shall submit to Congress a report on the shortage of nurses and physical therapists educated in the United States.

(2) CONTENTS.—The report required by paragraph (1) shall—

(A) include information from the most recent 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify the nurses and physical therapists receiving initial licenses in each State and the nurses and physical therapists licensed by endorsement from other States;

(D) identify, from among the nurses and physical therapists receiving initial licenses in each year, the number of such nurses and physical therapists who received professional educations in the United States and the number of such nurses and physical therapists who received professional educations outside the United States;

(E) to the extent possible, identify, by State of residence and the country in which each nurse or physical therapist received a professional education, the number of nurses and physical therapists who received professional educations in any of the 5 countries from which the highest number of nurses and physical therapists emigrated to the United States;

(F) identify the barriers to increasing the supply of nursing faculty in the United States, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies for Federal and State governments to reduce such barriers, including strategies that address barriers that prevent health care workers, such as home health aides and nurse's assistants, from advancing to become registered nurses;

(H) recommend amendments to Federal law to reduce the barriers identified in subparagraph (F);

(I) recommend Federal grants, loans, and other incentives that would increase the supply of nursing faculty and training facilities for nurses in the United States, and recommend other steps to increase the number of nurses and physical therapists who receive professional educations in the United States;

(J) identify the effects of emigration by nurses on the health care systems in the countries of origin of such nurses;

(K) recommend amendments to Federal law to minimize the effects of shortages of nurses in the countries of origin of nurses who immigrate to the United States; and

(L) report on the level of Federal investment determined under subsection (b)(1) to be necessary to eliminate the shortage of nurses and physical therapists in the United States.

(b) CONSULTATION.—The Secretary of Health and Human Services shall—

(1) enter into a contract with the Institute of Medicine of the National Academies to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292 et seq.) that would be necessary to eliminate the shortage of nurses and physical therapists in the United States by January 1, 2015; and

(2) consult with other agencies in working with ministers of health or other appropriate officials of the 5 countries from which the highest number of nurses and physical therapists emigrated, as reported under subsection (a)(2)(E), to—

(A) address shortages of nurses and physical therapists in such countries caused by emigration; and

(B) provide the technical assistance needed to reduce further shortages of nurses and physical therapists in such countries.

(c) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(A) in paragraph (1)—

(i) by inserting ''1996, 1997,'' after ''available in fiscal year''; and

(ii) by inserting ''group I,'' after ''schedule A,'';

(B) in paragraph (2)(A), by inserting ''1996, 1997, and'' after ''available in fiscal years''; and

(C) by adding at the end the following:

''(4) PETITIONS.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in schedule A not later than 30 days after the date on which a completed petition has been filed.''.

(2) APPLICABILITY.—Notwithstanding any provision of this Act or any amendment made by this Act, section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by paragraph (1), shall apply to petitions filed on or before the effective date set forth in section 502(d) of this Act for classification under paragraph (1), (2), or (3) of subsection (b), or subsection (d), of section 203 of the the Immigration and Nationality Act (as such section was in effect on the day before the date of the enactment of this Act).

SA 1410. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 308, strike line 35 and all that follows through page 314, line 10, and insert the following:

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

(1) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(A) AGGRAVATED FELONS.—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under section 601(d)(1)(F)(ii) because the alien has been convicted of an aggravated felony (as that term is defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), may be placed forthwith in proceedings pursuant to section 238(b) of the Immigration and Nationality Act (8 U.S.C. 1228(b)).

(B) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (i), (iii), or (iv) of section 601(d)(1)(F) may be placed forthwith in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(C) FINAL DENIAL, TERMINATION OR RESCISSION.—The Secretary's denial, termination, or rescission of the status of any alien described in subparagraph (A) or (B) shall represent the exhaustion of all review procedures for purposes of sections 601(h) (relating to treatment of applicants) and 601(o) (relating to termination of proceedings) of this Act, notwithstanding subsection (a)(2) of this section.

(2) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection an alien may file not more than 1 motion to reopen or to reconsider. The decision of the Secretary or Attorney General regarding whether to consider any such motion is committed to the discretion of the Secretary or the Attorney General, as the case may be.

(c) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

''(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINATIONS RELATING TO STATUS UNDER TITLE VI OF THE SECURE BORDERS, ECONOMIC OPPORTUNITY, AND IMMIGRATION REFORM ACT OF 2007.—

''(1) EXCLUSIVE REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, (or any other habeas corpus provision) and sections 1361 and 1651 of such title, and except as provided in this subsection, no court shall have jurisdiction to review a determination respecting an application for status under title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, including, a denial, termination, or rescission of such status.

''(2) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS.—

''(A) DIRECT REVIEW.—

''(i) IN GENERAL.—A denial, termination, or rescission of status under section 601 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall be subject to judicial review 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, if the petition for review is filed not later than 30 days after the later of the date of the denial, termination, or rescission and the date of the mailing thereof.

''(ii) REVIEW.—For any petition filed under clause (i)—

''(I) the court shall review the challenge to the denial, termination, or rescission of status on the administrative record on which the denial, termination, or rescission by the Secretary of Homeland Security was based; and

''(II) an alien may file not more than 1 motion to reopen or reconsider proceedings brought under this section.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—A denial, termination, or rescission of status under section 601 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 may be subject to judicial review in conjunction with judicial review of an order of removal, deportation, or exclusion if the validity of the denial, termination, or rescission of status has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard of review of such a denial, termination, or rescission of status shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of the denial, termination, or rescission of status by the Secretary of Homeland Security under title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, relating to any alien shall be based on the administrative record before the Secretary when the Secretary enters a final denial, termination, or rescission. The court may reverse or remand any final decision that is found to be arbitrary, capricious, unsupported by substantial evidence, or otherwise not in accordance with law.

''(D) STAY OF REMOVAL.—An alien seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered on the appeal of that alien.

''(E) CONFIDENTIALITY.—Information furnished or otherwise developed in judicial review proceedings shall be subject to the terms of section 604 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, relating to confidentiality. Appropriate measures shall be taken to ensure the confidentiality of this information, such as redacting identifying information from filings or, where necessary, filing documents under seal.

''(3) CHALLENGES ON VALIDITY OF THE SYSTEM.——

''(A) IN GENERAL.—Any claim that title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, or any regulation, written policy, or written directive issued or unwritten policy or practice initiated by or under the authority of the Secretary of Homeland Security to implement that title, violates the Constitution of the United States or is otherwise in violation of law may be made exclusively in an action instituted in an appropriate United States district court in accordance with the procedures under this paragraph. Nothing in this subparagraph shall preclude an applicant for status under title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 from asserting that an action taken or decision made by the Secretary with respect to the status of the applicant under that title was contrary to law in a proceeding under section 603 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted by a person or entity under this paragraph—

''(i) if it asserts a claim that title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, or any regulation, written policy, or written directive issued by or under the authority of the Secretary of Homeland Security to implement that title, violates the Constitution of the United States or is otherwise unlawful, shall be filed not later than 1 year after the date of the publication or promulgation of the challenged regulation, policy, or directive or, in cases challenging the validity of that Act, not later than 1 year after the date of the initial application of the provision being challenged; and

''(ii) if it asserts a claim that an unwritten policy or practice initiated by or under the authority of the Secretary violates the Constitution of the United States or is otherwise unlawful, be filed not later than 1 year after the date that plaintiff knew or reasonably should have known of the unwritten policy or practice.

''(C) CLASS ACTIONS.—Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with the Class Action Fairness Act of 2005 (Public Law 109–2; 119 Stat. 4), the amendments made by that Act, and the Federal Rules of Civil Procedure.

''(D) PRECLUSIVE EFFECT.—The final disposition of any claim brought under subparagraph (A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under section 603 the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(E) EXHAUSTION AND STAY OF PROCEEDINGS.—No claim brought under this paragraph shall require the plaintiff to exhaust administrative remedies under section 603 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.''.

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal department or agency, nor any officer, employee, or contractor of such department or agency, may—

(1) use the information furnished by an applicant under section 601, 602, or 603 or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, or any subsequent application, to extend such status under section 601, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602;

(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

(3) permit any person, other than an officer, employee, or contractor of such department or agency, or other entity approved by the Secretary of Homeland Security, to examine individual applications that have been filed under section 601, 602, or 603.

(b) EXCEPTIONS TO CONFIDENTIALITY.—

(1) IN GENERAL.—Subsection (a) shall not apply with respect to—

(A) an alien whose application has been denied, terminated, or revoked based on a finding by the Secretary of Homeland Security that the alien—

(i) is inadmissible under paragraph (2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of this Act), or (6)(E) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) is deportable under paragraph (1)(E), (1)(G), (2), or (4) of the section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)); or

(iii) was physically removed and is subject to reinstatement pursuant to section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5));

(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or revoked under section 601(d)(1)(F);

(C) an alien whom the Secretary determines has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(D) an alien whom the Secretary determines has, in connection with the application of that alien under section 601 or 602, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document; or

(E) an order from a court of competent jurisdiction.

SA 1411. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 202 and insert the following:

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1)—

(A) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—

''(i) IN GENERAL.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during

such extended period if, during the removal period, the alien—

''(I) fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(II) conspires or acts to prevent the alien's removal.

''(ii) EFFECT OF SEEKING STAY OF REMOVAL.—An alien who seeks a stay of removal before an immigration judge, the Board of Immigration Appeals, or a Federal judge, shall not for that reason be deemed to be conspiring or acting to prevent the alien's removal.

''(iii) APPLICABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW PROVISIONS.—A determination to extend the removal period under this subparagraph beyond 180 days shall be made in accordance with the requirements of paragraph (9) and shall be subject to the administrative and judicial review provisions of such paragraph.''; and

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

''(D) ALIENS NOT IN THE CUSTODY OF THE SECRETARY.—

''(i) DELAY OF REMOVAL PERIOD.—If, on the date determined under subparagraph (B), the alien is not in the custody of the Secretary of Homeland Security under the authority of this Act, the removal period shall not begin until the alien is taken into such custody.

''(ii) TOLLING OF REMOVAL PERIOD.—If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled until the date on which the alien is returned to the custody of the Secretary.'';

(3) in paragraph (2)—

(A) by striking ''During the'' and inserting the following:

''(A) IN GENERAL.—During the''; and

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

''(B) DETENTION DURING STAY OF REMOVAL.—If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of the Secretary's discretion, may detain the alien during the pendency of such stay of removal.'';

(4) by amending paragraph (3)(D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding; or

''(ii) for the protection of the community.'';

(5) in paragraph (6), by striking ''beyond the removal period'' and inserting ''for an additional 90 days'';

(6) by redesignating paragraph (7) as paragraph (10); and

(7) by inserting after paragraph (6) the following new paragraphs:

''(7) PAROLE.—

''(A) IN GENERAL.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable.

''(B) ADMISSION STATUS.—An alien described in subparagraph (A) shall in no circumstance be considered admitted.

''(8) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion, may detain an alien for 90 days beyond the removal period if the removal of the alien is reasonably foreseeable.

''(9) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) REGULATIONS.—

''(i) IN GENERAL.—The Secretary of Homeland Security shall prescribe regulations to establish an administrative process by which the Secretary shall determine—

''(I) whether an alien's removal period should be extended beyond 180 days pursuant to paragraph (1)(C); or

''(II) if the removal period is not extended, whether the alien should be detained or released beyond the removal period (or beyond the additional 90-day detention period if such a period is authorized under paragraph (6) or (8)).

''(ii) LIMITATION ON DETENTION.—The Secretary may detain an alien while a determination under clause (i) is pending only if the Secretary has initiated the administrative process established pursuant to clause (i) not later than 30 days after the expiration of the relevant period.

''(B) EVIDENCE.—In making a determination under subparagraph (A)(i), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien that otherwise would be admissible before an immigration judge.

''(C) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary may detain an alien beyond the periods described in this subsection for additional periods of 180 days, renewable under subparagraph (D), until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future;

''(ii) determines that the alien—

''(I) has failed to make timely application in good faith for travel or other documents necessary to secure the alien's departure; or

''(II) has otherwise conspired or acted to prevent his removal and there would be a significant likelihood of that the alien would be removed in the reasonably foreseeable future in the absence of such failure or conspiracy; or

''(iii) certifies in writing—

''(I) after consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety, in which case the alien may be detained only in a civil medical facility;

''(II) pursuant to section 236A, that there are reasonable grounds to believe that the release of the alien would threaten the national security of the United States;

''(III) that—

''(aa) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), 1 or more attempts or conspiracies to commit any such aggravated felonies, or 1 or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense), for which the alien has served an aggregate term of imprisonment of not less than 5 years; and

''(bb) the Secretary has reason to believe that, because of a mental condition or personality disorder and behavior associated with such condition or disorder, the alien is likely to engage in acts of violence in the future or the alien's release would otherwise threaten the safety of the community or any person, notwithstanding any conditions of release, in which case the person shall be referred for civil commitment proceedings in the State in which the alien resides or, if the alien does not reside in a State, the State in which the alien is being detained.

''(D) RENEWAL OF DETENTION.—The Secretary may renew a determination or certification made under subparagraph (C) every 180 days after providing the alien with an opportunity to request reconsideration of the determination or certification and to submit documents or other evidence in support of such request. If the Secretary determines that continued detention is not warranted, the Secretary shall release the alien pursuant to subparagraph (G).

''(E) NONDELEGATION OF DETENTION DETERMINATIONS.—Notwithstanding any other provision of law, the Secretary may not delegate the authority provided under subparagraphs (C) and (D) to any employee below the level of Assistant Secretary for U.S. Immigration and Customs Enforcement.

''(F) REVIEW OF DETENTION DETERMINATIONS.—

''(i) REVIEW BY IMMIGRATION JUDGE.—A determination by the Secretary of Homeland Security to detain an alien under subparagraph (C) or (D) or to redetain an alien under subparagraph (H) shall be subject to review by an immigration judge in accordance with regulations to be prescribed by the Attorney General. Such regulations shall require an immigration judge to complete the review within 90 days. An immigration judge shall uphold the determination of the Secretary only if the Secretary establishes by clear and convincing evidence that the detention of the alien is authorized under subparagraph (C), (D), or (H).

''(ii) TIME PERIODS FOR ADMINISTRATIVE REVIEW.—For purposes of this subparagraph, a failure by the Secretary to reach a determination within 90 days of initiating the administrative process described in subparagraph (A) shall be treated as a determination to detain the alien.

''(iii) REVIEW IN FEDERAL COURT.—Notwithstanding any other provision of law, judicial review of an alien's detention under this section shall be available—

''(I) through only habeas corpus proceedings under section 2241 of title 28, United States Code; and

''(II) in the District Court of the United States in the district where the alien is detained or where removal proceedings against the alien were initiated.

''(G) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be released from detention, the Secretary may impose conditions on the release of the alien in accordance with the regulations prescribed pursuant to paragraph (3), including with respect to the use of electronic monitoring devices, the use of Federal or State mental or substance abuse treatment programs, and adherence to parole and probation requirements for aliens to whom such requirements apply under Federal or State law.

''(H) REDETENTION.—The Secretary may detain any alien subject to a final removal order who has previously been released from custody only if—

''(i) the alien fails to comply with the conditions of the alien's release; or

''(ii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (C) or (D).

''(I) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any

alien returned to custody under subparagraph (H) as if the removal period terminated on the day of the alien's redetention.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to—

(A) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act, unless—

(i) that order was issued and the alien was subsequently released or paroled before the date of the enactment of this Act; and

(ii) the alien has complied with and remains in compliance with the terms and conditions of such release or parole; and

(B) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

SA 1412. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike line 28 and all that follows through page 47, line 13.

SA 1413. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 88, line 32, strike ''(2) Definition of employer.—'' and all that follows through line 34.

SA 1414. Mrs. LINCOLN (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1, insert the following:

(e) PASSPORT APPLICATIONS.—

(1) IN GENERAL.—The programs referred to in subsection (a) shall not become effective until the Secretary of State submits a written certification to the President and Congress stating that the Department of State is processing and adjudicating passport applications for United States citizens in 6 weeks or less.

(2) PRESIDENTIAL PROGRESS REPORT.—The report required under subsection (c) shall describe the progress made in satisfying the requirement under paragraph (1).

SA 1415. Mrs. HUTCHISON (for herself, Mr. GRASSLEY, Mr. ENSIGN, Mr. ALLARD, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by striking subsection (c) and inserting the following new subsections:

''(c)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (d) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

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

''(d) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (c).''.

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

(1) by striking ''and'' at the end of paragraph (1);

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

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

''(3) in computing the average indexed monthly earnings of an individual, there shall not be counted any wages or self-employment income for any year for which no quarter of coverage may be credited to such individual as a result of the application of section 214(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SA 1416. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 295, strike line 18 and all that follows through page 296, line 7, and insert the following:

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in paragraphs (1) and (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) and by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in such paragraphs (1) and (2) of such section 312(a).

(III) REQUIREMENT AT THIRD RENEWAL.—At or before the time of application for the third extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service.

(IV) REQUIREMENT AT FOURTH RENEWAL.—At or before the time of application for the fourth extension of Z nonimmigrant status, an alien who is 18 years of age or older must retake the TOEFL and receive the lower of—

(aa) a score of not less than 70; or

(bb) a score of not less than 20 points higher than the score the alien received when the alien took the TOEFL pursuant to subclause (III).

(V) EXCEPTION.—The requirements of subclauses (I), (II), (III), and (IV) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

SA 1417. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 32 and 33, insert the following:

(9) GOOD MORAL CHARACTER.—The alien shall establish that the alien has been a person of good moral character, as described in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), for the entire period of the alien's unlawful presence in the United States.

SA 1418. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 25 insert the following new subsection:

(6) The U.S. Visit System: The integrated entry and exit data system required by 8 U.S.C. 1365a (Section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996), which is already 17 months past its required implementation date of December 21, 2005, has been fully implemented and is functioning at every land, sea, and air port of entry.

SA 1419. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike page 10, line 32 through page 11, line 11 and insert the following:

''Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended—

(1) by adding '', and'' at the end of subsection (a)(3), and

(2) by adding a new subsection (a)(4) that reads ''may not provide the alien with release on bond or with conditional parole if the alien is a national of a noncontiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the secretary of Homeland Security.''

SA 1420. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 52, between line 18 and 19, insert the following:

''(D) knowingly violates for a period of 90 days or more the terms or conditions of the alien's admission or parole into the United States.''

SA 1421. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 52, between line 18 and 19, insert the following:

(D) knowingly violates for a period of 90 days or more the terms or conditions of the alien's admission or parole into the United States.

SA 1422. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act a Y–1 Nonimmigrant:

(1) may be extended for an indefinite number of subsequent two-year periods, as long as each two-year period is separated by physical presence outside the United States for the immediate prior 12 months,

(2) may not be accompanied by their spouse and dependents for any of their 2 year periods of work in the United States, and

(3) may not sponsor a family member to visit them in the United States under the ''parent visa'' created by Section 506 of this Act.

SA 1423. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in Sec. 506(a), strike the following sentence:

''The requirement that the alien have a residence in a foreign country which the alien has no intention of abandoning shall not apply to an alien described in section 214(s) who is seeking to enter as a temporary visitor for pleasure;''

SA 1424. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 501, insert the following subsection:

(d) Notwithstanding any other provision of this Act for each fiscal year starting with the enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, 10,000 of the immigrant visas set aside under 503(c) of this Act for parents will be made available to aliens seeking immigrant visas under section 203(b) of the Immigration and Nationality Act based on achieving a score in the top 10 percentile on the Scholastic Aptitude Test (SAT) or the American College Testing (ACT) placement exam for that year. The test, the SAT or the ACT, must be taken in English for the immigrant to qualify. If more than 10,000 foreign applicants with the requisite SAT or ACT score apply, then the top 10,000 of the pool of applicants for that year will receive immigrant visas.

SA 1425. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in Sections 501 and 502, strike the ''supplemental schedule for Zs'' in its entirety and at the end of Section 502(b), insert a new subsection (G) that reads:

(G) Notwithstanding any other provision of this Act, aliens described in section 101(a)(15)(Z) of this Act must compete with all other applicants through the merit based evaluation system established under this subsection for merit based immigrant visas available under section 501 of this Act.

SA 1426. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in Sections 501 and 502, strike the ''supplemental schedule for Zs'' in its entirety and at the end of Section 502(b), insert new subsections (G) and (H) that read:

''(G) Notwithstanding any other provision of this Act, aliens described in section 101(a)(15)(Z) of this Act must achieve the same point threshold required for all other applicants to the merit based evaluation system established under this subsection.

''(H) Aliens described in section 101 (a)(15)(Z) shall be exempt from the annual cap on merit based green card as set by Section 501 of this Act.

SA 1427. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place on page 295, line 18 through page 296, line 2, insert the following changes:

Page 295, line 29, insert ''and'' between ''(2)'' and ''by demonstrating'';

Strike Page 295, line 38—page 296, line 2;

Adding a new (III) that reads: ''REQUIREMENT AT THIRD RENEWAL.—At or before the time of application for the third extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the TOEFL test which is administered by the Educational Testing Service.'';

Adding a new (IV) that reads: ''REQUIREMENT AT FOURTH RENEWAL.—At or before the time of application for the fourth extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the TOEFL test as administered by the Educational Testing Service and receive a score 20 points higher than the first time they took the TOEFL test for the third renewal, or a score of 70, whichever is lower.'';

Changing (III) to (V) on page 296 line 3;

On p. 296 line 4, strike ''(I) and (II)'' and insert ''(I), (II)'' (III), and (IV)''.

SA 1428. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in section 601(e), insert the following at the end of section 601(e)(8):

''(9) GOOD MORAL CHARACTER.—To be eligible for any Z nonimmigrant status, the alien must establish that the alien has been a person of good moral character, as defined in 8 U.S.C. §1101(f), I.N.A. §101(f), for his or her entire period of illegal presence in the United States.

SA 1429. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in section (f)(2), strike the last sentence of subsection (2).

SA 1430. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in section (f)(2), strike the last sentence of subsection (2).

SA 1431. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 607, and replace with the following:

SEC 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR YEARS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by:

(1) amending subsection (c) by deleting ''For'' and inserting ''Except as provided in subsection (e), for''; and

(2) adding at the end the following new subsections:

''(d)(1) Except as provided in paragraph (2) and subsection (e), for purposes of this section and for purposes of determining a qualifying quarter of coverage under 8 U.S.C. 1612(b)(2)(B), no quarter of coverage shall be credited if, with respect to any individual who is assigned a social security account number:

(a) such quarter of coverage is earned prior to the year in which such social security account number is assigned; or

(b) if such quarter of coverage was earned after the individuals visa or work authorization had expired.''.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who satisfies the criterion specified in subsection (c)(2).

''(e) Subsection (d) shall not apply with respect to a determination under subsection (a) or (b) for a deceased individual in the case of a child who is a United States citizen and who is applying for child's insurance benefits under section 202(d) based on the wages and self-employment income of such deceased individual.''

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

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

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

''(3) in computing the average indexed monthly earnings of an individual, there shall not be counted any wages or self-employment income for any year for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''

(c) Effective date—The amendment made by subsection (a) that provides for a new section 214(e) of the Social Security Act shall be effective with respect to applications for benefits filed after the sixth month following the month this Act is enacted.

SA 1432. Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike line 30 and all that follows through page 11, line 11, and insert the following:

SEC. 113. DETENTION OF ALIENS FROM NONCONTIGUOUS COUNTRIES.

Section 236(a) (8 U.S.C. 1226(a)) is amended—

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

(2) in paragraph (2)(B), by striking ''but'' at the end;

(3) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(4) may not provide the alien with release on bond or with conditional parole if the alien—

''(A) is a national of a noncontiguous country;

''(B) has not been admitted or paroled into the United States; and

''(C) was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security.''.

SA 1433. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 265, between lines 30 and 31, insert the following:

(d) VISAS FOR HIGH ACHIEVING FOREIGN STUDENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, any amendment made by this Act, or any other provision of law, for each fiscal year beginning after the date of the enactment of this Act, 10,000 of the immigrant visas allocated by section 203(a)(1) of the Immigration and Nationality Act for parents of a citizen of the United States shall be made available to aliens seeking immigrant visas under section 203(b) of the Immigration and Nationality Act who—

(A) achieve a score in the top 10th percentile on the Scholastic Aptitude Test or the American College Testing placement exam administered in that fiscal year; and

(B) take the exams described in subparagraph (A) in the English language.

(2) LIMITATION.—If more than 10,000 aliens described in paragraph (1) apply for immigrant visas in a fiscal year, the 10,000 such aliens with the highest scores on the exams described in paragraph (1)(A) shall receive immigrant visas.

SA 1434. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 276, beginning on line 38, strike ''. The requirement that the alien have a residence in a foreign country which the alien has no intention of abandoning shall not apply to an alien described in section 214(s) who is seeking to enter as a temporary visitor for pleasure''.

SA 1435. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 316, line 16, insert ''or, if such quarter of coverage is earned after the individual's visa or work authorization has expired'' before the period at the end.

SA 1436. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 260, strike line 3 and all that follows through page 268, line 35, and insert the following:

SEC. 501. REBALANCING OF IMMIGRANT VISA ALLOCATION.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) For each fiscal year until visas needed for petitions described in section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 become available, the worldwide level of family-sponsored immigrants under this subsection is 567,000 for petitions for classifications under section 203(a), plus any immigrant visas not required for the class specified in subsection (d).

''(2) Except as provided in paragraph (1), the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 127,000, plus any immigrant visas not required for the class specified in subsection (d).''.

(b) MERIT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—The worldwide level of merit-based, special, and employment creation immigrants under this subsection—

''(1) for the first 5 fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) for fiscal year 2005, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(A) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(B) 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(2) starting in the sixth fiscal year, shall be equal to 140,000 for each fiscal year until aliens described in section 101(a)(15)(Z) first become eligible for an immigrant visa, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(A) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(B) not more than 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the 'Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007'; and

''(3) 380,000, for each fiscal year starting in the first fiscal year in which aliens described in section 101(a)(15)(Z) become eligible for an immigrant visa, of which at least 10,000 will be for exceptional aliens of nonimmigrant status under section 101(a)(15)(Y), plus any immigrant visas not required for the class specified in subsection (c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

SEC. 502. INCREASING AMERICAN COMPETITIVENESS THROUGH A MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States benefits from a workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) MERIT-BASED IMMIGRANTS.—Visas shall first be made available in a number not to exceed 95 percent of such worldwide level, plus any visas not required for the classes in paragraphs (2) and (3), to qualified immigrants selected through a merit-based evaluation system.

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

''Category	**Description**	**Maximum points**
''Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**6 pts**	
Experience	Years of work for U.S. firm–**2 pts/year** (max 10 points)	
Age of worker	Worker's age: 25-39–**3 points**	
''Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** Bachelor's Degree–**16 pts** Associate's Degree–**10 pts** High school diploma or GED–**6 pts** Completed certified Perkins Vocational Education program–**5 pts** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
''English and civics	Native speaker of English or TOEFL score of 75 or higher–**15 pts** TOEFL score of 60-74–**10 pts** Pass USCIS Citizenship Tests in English & Civics–**6 pts**	**15**

"Category	Description	Maximum points
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets established pursuant to section 407 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

''(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa.

''(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

''(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).

''(G) Notwithstanding any other provision of this Act or the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, aliens described in section 101(a)(15)(Z) shall compete with all other applicants through the merit based evaluation system established under this subsection for merit based immigrant visas available under section 201(d).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) in paragraph (2), as redesignated—

(A) by striking ''7.1 percent'' and inserting ''4,200''; and

(B) striking ''5,000'' and inserting ''2,500''; and

(4) in paragraph (3), as redesignated—

(A) by striking ''7.1 percent'' and inserting ''2,800''; and

(B) striking ''3,000'' and inserting ''1,500''.

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended by striking subparagraphs (E) and (F).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment, unless such date is less than 270 days after the date of enactment, in which case the amendments shall take effect on the first day of the following fiscal year.

(2) PENDING AND APPROVED PETITIONS AND APPLICATIONS.—Petitions for an employment-based visa filed for classification under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b) (as such provisions existed prior to the enactment of this section) that were filed prior to the date of the introduction of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and were pending or approved at the time of the effective date of this section, shall be treated as if such provisions remained effective and an approved petition may serve as the basis for issuance of an immigrant visa. Aliens with applications for a labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

(e) CONFORMING AMENDMENTS.—

(1) Section 201 (8 U.S.C. 1151) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(2) Section 202 (8 U.S.C. 1152) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(3) Section 203(b) (8 U.S.C. 1153(b)) is amended—

(A) by amending the matter preceding paragraph (1) to read as follows:

''(b) PREFERENCE ALLOCATION FOR MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for merit-based, special, and employment creation immigrants in a fiscal year shall be allotted visas as follows:'';

(B) in paragraph (6)(B)(i)—

(i) by striking ''employment-based'' and inserting ''merit-based''; and

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

(C) in paragraph (6)(B)(iii)—

(i) by striking ''employment-based'' and inserting ''merit-based''; and

(ii) by striking ''each of paragraphs (1) through (3)'' and inserting ''paragraph (1)''.

(4) Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended by striking subparagraph (D).

(5) Section 213A(f) (8 U.S.C. 1183a(f)) is amended—

(A) by striking paragraph (4);

(B) by striking paragraph (5) and inserting the following:

''(4) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who is a spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

''(A) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

''(B) the Secretary of Homeland Security has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.'';

(C) by redesignating paragraph (6) as paragraph (5); and

(D) by striking ''(6)'' and inserting ''(5)''.

(6) Section 212(a) (8 U.S.C. 1182(a)) is amended by striking paragraph (5).

(7) Section 218(g)(3) (8 U.S.C. 1188) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(8)(A) Section 207(c)(3) (8 U.S.C. 1157(c)(3)) is amended by striking '', (5),'' in the first sentence.

(B) Section 209(c) (8 U.S.C. 1159(c)) is amended by striking '', (5),'' in the second sentence.

(C) Section 210(c)(2)(A) (8 U.S.C. 1160(c)(2)(A)) is amended by striking ''paragraphs (5) and'' and inserting ''paragraph''.

(D) Section 237(a)(1)(H)(i)(II) (8 U.S.C. 1227(a)(1)(H)(i)(II)) is amended by striking ''paragraphs (5) and'' and inserting ''paragraph''.

(E) Section 245(h)(2)(A) (8 U.S.C. 1255(h)(2)(A)) is amended by striking '', (5)(A),''.

(F) Section 245A(d)(2)(A) (8 U.S.C. 1255a(d)(2)(A)) is amended by striking ''paragraphs (5) and'' and inserting ''paragraph''.

(G) Section 286(s)(6) (8 U.S.C. 1356(s)(6)) is amended by striking ''and section 212(a)(5)(A)''.

(f) REFERENCES TO SECRETARY OF HOMELAND SECURITY.—

(1) Section 203 (8 U.S.C. 1153) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(2) Section 204 (8 U.S.C. 1154) is amended by striking ''Attorney General'' each place it appears, except for section 204(f)(4)(B), and inserting ''Secretary of Homeland Security''.

SA 1437. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1(a), insert the following:

(7) US–VISIT SYSTEM.—The integrated entry and exit data system required to be fully implemented by December 31, 2005, under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), has been fully implemented and is functioning at every land, sea, and air port of entry into the United States.

SA 1438. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 606 and replace with,

SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status.

SA 1439. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 262, strike line 34 and all that follows through page 265, line 15, and insert the following:

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

"Category	Description	Maximum points
"Employment Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)—**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)—**16 pts**	**47**
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year—**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or (2) attests for a current employee—**6 pts**	
Experience	Years of work for U.S. firm—**2 pts/year** (max 10 points)	
Age of worker	Worker's age: 25-39—**3 pts**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.—**20 pts** Bachelor's Degree—**16 pts** Associate's Degree—**10 pts** High school diploma or GED—**6 pts** Completed certified Perkins Vocational Education program—**5 pts** Completed Department of Labor Registered Apprenticeship—**8 pts** STEM, associates and above—**8 pts**	**28**
"English and civics	Native speaker of English or TOEFL score of 75 or higher—**15 pts** TOEFL score of 60–74—**10 pts** Pass USCIS Citizenship Tests in English & Civics—**6 pts**	**15**
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen—**8 pts** Adult (21 or older) son or daughter of a legal permanent resident—**6 pts** Sibling of United States citizen or LPR—**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005—**2 pts**	**10**
"Total		**100**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets established pursuant to section 407 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

''(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa.

''(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

''(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).

''(G) Notwithstanding any other provision of this Act, an alien seeking Z nonimmigrant status pursuant to section 101(a)(15)(Z) shall—

''(i) be subject to the requirements of the merit-based evaluation system in the same manner and to the same extent as aliens seeking visas under this section; and

''(ii) shall be exempt from the worldwide level of merit-based, special, and employment creation immigrants provided under section 201(d).''.

SA 1440. Mrs. HUTCHISON (for herself, Mr. CORKER, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike Title VI and insert the following:

TITLE VI—NONIMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS

SEC. 601.

(a) IN GENERAL.—Notwithstanding any other provision of law (including section 244(h) of the Immigration and Nationality Act (hereinafter ''the Act'') (8 U.S.C. 1254a(h)), the Secretary may permit an alien, or dependent of such alien, described in this section, to remain lawfully in the United States under the conditions set forth in this Title.

(b) DEFINITION OF Z NONIMMIGRANTS.—Section 101(a)(15) of the Act (8 U.S.C. 1101(a)(15)) is amended by inserting at the end the following new subparagraph:

''(Z) subject to Title VI of the [Insert title of Act], an alien who—

''(i) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, is employed, and seeks to continue performing labor, services or education; or

''(ii) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and

''(I) is the spouse or parent (65 years of age or older) of an alien described in (i); or

''(II) was, within two years of the date on which [NAME OF THIS ACT] was introduced, the spouse of an alien who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

''(aa) the termination of the relationship with such spouse was connected to domestic violence; and

''(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant.

''(iii) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph, is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and was born to or legally adopted by at least one parent who is at the time of application described in (i) or (ii).''

(c) PRESENCE IN THE UNITED STATES.—

(1) IN GENERAL.—The alien shall establish that the alien was not present in lawful status in the United States on January 1, 2007, under any classification described in section 101 (a)(15) of the Act (8 U.S.C. 1101(a)(15)) or any other immigration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

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

(d) OTHER CRITERIA.—

(1) GROUNDS OF INELIGIBILITY.—An alien is ineligible for Z nonimmigrant status if the Secretary determines that the alien—

(A)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), provided that to be deemed inadmissible, nothing in this paragraph shall require the Secretary to have commenced removal proceedings against an alien;

(B) is subject to the execution of an outstanding administratively final order of removal, deportation, or exclusion;

(C) is described in or is subject to section 241(a)(5) of the Act;

(D) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(E) is an alien—

(i) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense as described in section 101(h) of the Act outside the United States before arriving in the United States; or

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

(F) has been convicted of—

(i) a felony;

(ii) an aggravated felony as defined at section 101(a)(43) of the Act;

(iii) 3 or more misdemeanors under Federal or State law; or

(iv) a serious criminal offense as described in section 101(h) of the Act;

(G) has entered or attempted to enter the United States illegally on or after January 1, 2007; and

(H) with respect to an applicant for Z–2 or Z–3 nonimmigrant status, a Z–2 nonimmigrant, or a Z–3 nonimmigrant who is under 18 years of age, the alien is ineligible for Z nonimmigrant status if the principal 2–1 nonimmigrant or 2–1 nonimmigrant status applicant is ineligible.

(I) The Secretary may in his discretion waive ineligibility under subparagraph (B) or (C) if the alien has not been physically removed from the United States and if the alien demonstrates that his departure from the United States would result in extreme hardship to the alien or the alien's spouse, parent or child.

(2) GROUNDS OF INADMISSIBILITY.—

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

(i) paragraphs (6)(A)(i) (with respect to an alien present in the United States without being admitted or paroled before the date of application, but not with respect to an alien who has arrived in the United States on or after January 1, 2007), (6)(B), (6)(C)(i), (6)(C)(ii), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I), and (10)(B) of section 212(a) of the Act shall not apply, but only with respect to conduct occurring or arising before the date of application;

(ii) the Secretary may not waive—

(I) subparagraph (A), (B), (C), (D)(ii), (E), (F), (G), (H), or (I) of section 212(a)(2) of the Act (relating to criminals);

(II) section 212(a)(3) of the Act (relating to security and related grounds);

(iii) with respect to an application for Z nonimmigrant status, section 212(a)(6)(C)(i) of the Act;

(IV) paragraph (6)(A)(i) of section 212(a) of the Act (with respect to any entries occurring on or after January 1, 2007);

(V) section 212(a)(9)(C)(i)(II);

(VI) subparagraph (A), (C), or (D) of section 212(a)(10) of the Act (relating to polygamists, child abductors, and unlawful voters);

(iii) the Secretary may in his discretion waive the application of any provision of section 212(a) of the Act not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest; and

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

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

(I) ELIGIBILITY.—The alien must not fall within a class of aliens ineligible for Z nonimmigrant status listed under subsection (d)(1).

(2) ADMISSIBILITY.—The alien must not be inadmissible as a nonimmigrant to the United States under section 212, except as provided in subsection (d)(2), regardless of whether the alien has previously been admitted to the United States.

(3) PRESENCE.—To be eligible for Z–1 or Z–2 nonimmigrant status, or for nonimmigrant status under section 101(a)(15)(Z)(iii)(I), the alien must—

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

(B) be physically present in the United States on the date of application for Z nonimmigrant status; and

(C) be on January 1,2007, and on the date of application for Z nonimmigrant status, not present in lawful status in the United States under any classification described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) or any other immigration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

(4) EMPLOYMENT.—An alien seeking Z–1 nonimmigrant status must be employed in the United States on the date of filing of the application for Z–1 nonimmigrant status.

(5) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) An alien making an initial application for Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,500 for a single Z nonimmigrant.

(ii) An alien applying for extension of his Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to cover administrative and other expenses associated with processing the extension application, but no more than $1,500 for a single Z nonimmigrant.

(B) PENALTIES.—

(i) An alien making an initial application for Z-1 nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay a $500 penalty for each alien seeking Z–2 or Z–3 nonimmigrant status derivative to the Z–1 applicant.

(iii) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 nonimmigrants.

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

(D) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by sections 286(m) and (n).

(E) DEPOSIT, ALLOCATION, AND SPENDING OF PENALTIES.—

(i) DEPOSIT OF PENALTIES.—The penalty under subparagraph (B) shall be deposited and remain available as provided by section 286(w).

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The funds under subparagraph (C) shall be deposited and remain available as provided by section 286(x).

(6) HOME APPLICATION.—An alien granted probationary status under subsection (h) shall not be eligible for Z nonimmigrant status until the alien has completed the following home application requirements:

(i) HOME APPLICATION FOR Z NONIMMIGRANT VISA.—An alien awarded probationary status who seeks to become a Z-1 or Z-A nonimmigrant must, within two years of being awarded a secure ID card under subsection j), perfect the alien's application for Z-1 or Z-A nonimmigrant status at a United States consular office by submitting a supplemental certification in accordance with the requirements set forth in subparagraph (ii). The alien shall present his secure ID card at the United States consular office which shall then be marked or embossed with a designation as determined by the Secretaries of State and Homeland Security which will distinguish the card as satisfying all Z-1 or Z-A requirements. The probationary status of an alien seeking to become a Z-1 or Z-A nonimmigrant who fails to complete the requirements of this paragraph shall be terminated in accordance with subsection (o)(1)(G).

(ii) CONSULAR APPLICATION.—

(I) IN GENERAL.—An alien granted probationary status who seeks to become a Z-1 or Z-A nonimmigrant must perfect the alien's application by filing a supplemental certification in person at a United States consulate abroad within two years of being awarded a secure ID card under subsection (j).

(II) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, an alien in probationary status who is seeking to become a Z-1 or Z-A nonimmigrant shall file a supplemental certification at a consular office in the alien's country of origin. A consular office in a country that is not the alien's country of origin as a matter of discretion may, or at the direction of the Secretary of State shall, accept a supplemental certification from such an alien.

(III) CONTENTS OF SUPPLEMENTAL CERTIFICATION.—An alien in probationary status who is seeking to become a Z-1 or Z-A nonimmigrant shall certify, in addition to any other certifications specified by the Secretary, that the alien has during the period of the alien's probationary status remained continuously employed in accordance with the requirements of subsection (m) and has paid all tax liabilities owed by the alien pursuant to the procedures set forth in section 602(a)(8). An alien making a false certification under this subparagraph shall be terminated pursuant to subsection (0)(1)(C).

(iii) EXEMPTIONS.—Subparagraphs (i) and (ii) shall not apply to an alien who, on the date on which the alien is granted a secure ID card under subsection (j), is exempted from the employment requirements under subsection (m)(1)(B)(iii).

(iv) FAILURE TO ESTABLISH LAWFUL ADMISSION TO THE UNITED STATES.—Unless exempted under subparagraph (iii), an alien in probationary status who is seeking to become a Z-1 or Z-A nonimmigrant who fails to depart and reenter the United States in accordance with subparagraphs (i) and (ii) may not be issued a Z-1 or Z-A nonimmigrant visa under this section.

(v) DEPENDENTS.—An alien in probationary status who is seeking to become a Z–2, Z–3 or Z–A dependent nonimmigrant shall be awarded Z–2, Z–3 or Z–A dependent nonimmigrant status upon satisfaction of the requirements set forth in subparagraphs (i) and (ii) by the principal Z–1 or Z–A nonimmigrant. An alien in probationary status who is seeking to become a Z–2, Z–3 or Z–A dependent nonimmigrant and whose principal Z–1 or Z–A nonimmigrant fails to satisfy the requirements of subparagraphs (i) and (ii) may not be issued a Z–2, Z–3 or Z–A dependent nonimmigrant visa under this section unless the principal Z–1 or Z–A alien is exempted under subparagraph (iii).

(7) INTERVIEW.—An applicant for Z nonimmigrant status must appear to be interviewed.

(8) 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.

(f) APPLICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Homeland SecUrity shall prescribe by notice in the Federal Register, in accordance with the procedures described in section 610 of the [NAME OF THIS ACT], the procedures for an alien in the United States to apply for Z nonimmigrant status and the evidence required to demonstrate eligibility for such status.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security, or such other entities as are authorized by the Secretary to accept applications under the procedures established under this subsection, shall accept applications from aliens for Z nonimmigrant status for a period of one year starting the first day of the first month beginning no more than 180 days after the date of enactment of this section. If, during the one-year initial period for the receipt of applications for Z nonimmigrant status, the Secretary of Homeland Security determines that additional time is required to register applicants for Z nonimmigrant status, the

Secretary may in his discretion extend the period for accepting applications by up to 12 months.

(3) BIOMETRIC DATA.—Each alien applying for Z nonimmigrant status must submit biometric data in accordance with procedures established by the Secretary of Homeland Security.

(4) HOME APPLICATION.—No alien shall be awarded Z nonimmigrant status until the alien has completed the home application requirement set forth in subsection (e)(6).

(g) CONTENT OF APPLICATION FILED BY ALIEN.—

(1) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining probationary status.

(2) APPLICATION INFORMATION.—

(A) IN GENERAL.—The application form shall request such information as the Secretary deems necessary and appropriate, including but not limited to, information concerning the alien's physical and mental health; complete criminal history, including all arrests and dispositions; gang membership, renunciation of gang affiliation; immigration history; employment history; and claims to United States citizenship.

(B) STATUS.—An alien applying for Z nonimmigrant status shall be required to specify on the application whether the alien ultimately seeks to be awarded Z–1, Z–2, or Z–3 nonimmigrant status.

(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

(A) SUBMISSION OF FINGERPRINTS.—The Secretary may not accord Z nonimmigrant status unless the alien submits fingerprints and other biometric data in accordance with procedures established by the Secretary.

(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints and other biometric data provided by the alien to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under this section.

(h) TREATMENT OF APPLICANTS.—

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under paragraphs (f) and (g) and after the Secretary has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible—

(A) be granted probationary status in the form of employment authorization pending final adjudication of the alien's application;

(B) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)) unless employment authorization under subparagraph (A) is denied.

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

(3) CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under paragraph (4).

(4) PROBATIONARY CARD.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in that paragraph. The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary status and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed. All documentary evidence of probationary benefits shall expire no later than six months after the date on which the Secretary begins to issue secure ID cards under subsection (j).

(5) BEFORE APPLICATION PERIOD.—If an alien is apprehended between the date of enactment and the date on which the period for initial registration closes under subsection (f)(2), and the alien can establish prima facie eligibility for Z nonimmigrant status, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section after such regulations are promulgated.

(6) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Act, if the Secretary determines that an alien who is in removal proceedings is prima facie eligible for Z nonimmigrant status, then the Secretary shall affirmatively communicate such determination to the immigration judge. The immigration judge shall then terminate or administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of a secure ID card, as described in subsection (0), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

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

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under Section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of

(a) presence or employment required under this section, or

(b) a requirement for any other benefit under the immigration laws.

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (A) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(I) bank records;

(II) business records;

(III) employer records;

(IV) records of a labor union or day labor center;

(V) remittance records;

(VI) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(a) the name, address, and telephone number of the affiant;

(b) the nature and duration of the relationship between the affiant and the alien; and

(c) other verification or information.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

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

(ii) set such terms and conditions on the use of affidavits as is necessary to verify and confirm the identity of any affiant or otherwise prevent fraudulent submissions.

(3) BURDEN OF PROOF.—An alien who is applying for a Z nonimmigrant visa under this section shall prove, by a preponderance of the evidence, that the alien has satisfied the requirements of this section.

(4) DENIAL OF APPLICATION.—

(i) An alien who fails to satisfy the eligibility requirements for a Z nonimmigrant visa shall have his application denied and may not file additional applications.

(ii) An alien who fails to submit requested initial evidence, including requested biometric data, and requested additional evidence by the date required by the Secretary shall, except where the alien demonstrates to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful, have his application considered abandoned. Such application shall be denied and the alien may not file additional applications.

(j) SECURE ID CARD EVIDENCING STATUS.—

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

(2) FEATURES OF SECURE ID CARD.—Documentary evidence of Z nonimmigrant status:

(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

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

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a valid travel and entry document for the purpose of applying for admission to the United States where the alien is applying for admission at a Port of Entry.

(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

(E) shall be issued to the Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's application for Z nonimmigrant status, except that an alien may not be granted permanent Z nonimmigrant status until all appropriate background checks on the alien are completed to the satisfaction of the Secretary of Homeland Security.

(k) PERIOD OF AUTHORIZED ADMISSION.—

(1) INITIAL PERIOD.—The initial period of authorized admission as a Z nonimmigrant shall be four years, which shall begin to run on the date that the alien was first awarded a secure ID card under subsection (j).

(2) EXTENSIONS.—

(A) IN GENERAL.—nonimmigrants may seek an indefinite number of four-year extensions of the initial period of authorized admission.

(B) REQUIREMENTS.—In order to be eligible for an extension of the initial or any subsequent period of authorized admission under this paragraph, an alien must satisfy the following requirements:

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

(ii) ENGLISH LANGUAGE AND CIVICS.—

''(I) Requirement at first renewal.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in sections 312(a)(1) and (2) by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in sections 312(a)(1) and (2). The alien may make up to three attempts to demonstrate such understanding and knowledge but must satisfy this requirement prior to the expiration of the second extension of Z nonimmigrant status.

(III) EXCEPTION.—The requirement of subclauses (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

(bb) is over fifty years of age and has been living in the United States for periods totaling at least twenty years, or (cc) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years.

(iii) EMPLOYMENT.—With respect to an extension of Z–1 or Z–3 nonimmigrant status an alien must demonstrate satisfaction of the employment or study requirements provided in subsection (m) during the alien's most recent authorized period of stay as of the date of application; and

(iv) FEES.—The alien must pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,500 for a single Z nonimmigrant.

(C) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien applying for extension of Z nonimmigrant status may be required to submit to a renewed security and law enforcement background check that must be completed to the satisfaction of the Secretary of Homeland Security before such extension may be granted.

(D) TIMELY FILING AND MAINTENANCE OF STATUS.—

(i) IN GENERAL.—An extension of stay under this paragraph, or a change of status to another Z nonimmigrant status under subsection (1), may not be approved for an applicant who failed to maintain Z nonimmigrant status or where such status expired or terminated before the application was filed.

(ii) EXCEPTION.—Failure to file before the period of previously authorized status expired or terminated may be excused in the discretion of the Secretary and without separate application, with any extension granted from the date the previously authorized stay expired, where it is demonstrated at the time of filing that:

(I) the delay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the delay commensurate with the circumstances; and

(II) the alien has not otherwise violated his Z nonimmigrant status.

(iii) EXEMPTIONS FROM PENALTY AND EMPLOYMENT REQUIREMENTS.—An alien demonstrating extraordinary circumstances under clause (ii), including the spouse of a Z–1 nonimmigrant who has been battered or has been the subject of extreme cruelty perpetrated by the Z–1 nonimmigrant, and who is changing to Z–1 nonimmigrant status, may be exempted by the Secretary, in his discretion, from the requirements under subsection (m) for a period of up to 180 days.

(E) BARS TO EXTENSION.—Except as provided in subparagraph (D), a Z nonimmigrant shall not be eligible to extend such nonimmigrant status if:

(i) the alien has violated any term or condition of his or her Z nonimmigrant status, including but not limited to failing to comply with the change of address reporting requirements under section 265;

(ii) the period of authorized admission of the Z nonimmigrant has been terminated for any reason; or

(iii) with respect to a Z–2 or Z–3 nonimmigrant, the principal alien's Z–1 nonimmigrant status has been terminated.

(l) CHANGE OF STATUS.—

(1) CHANGE FROM Z NONIMMIGRANT STATUS.—

(A) IN GENERAL.—A Z nonimmigrant may not change status under section 248 to another nonimmigrant status, except another Z nonimmigrant status or status under subparagraph (U) of section 101(a)(15).

(B) CHANGE FROM Z-A STATUS.—A Z-A nonimmigrant may change status to Z nonimmigrant status at the time of renewal referenced in section 214A(j)(1)(C) of the Immigration and Nationality Act.

(C) LIMIT ON CHANGES.—A Z nonimmigrant may not change status more than one time per 365–day period. The Secretary may, in his discretion, waive the application of this subparagraph to an alien if it is established to the satisfaction of the Secretary that application of this subparagraph would result in extreme hardship to the alien.

(2) NO CHANGE TO Z NONIMMIGRANT STATUS.—A nonimmigrant under the immigration laws may not change status under section 248 to Z nonimmigrant status.

(m) EMPLOYMENT.—

(I) Z–1 and Z–3 NONIMMIGRANTS.—

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

(B) CONTINUOUS EMPLOYMENT REQUIREMENT.—All requirements that an alien be employed or seeking employment for purposes of this Title shall not apply to an alien who is under 16 years or over 65 years of age. A Z–1 or Z–3 nonimmigrant between 16 and 65 years of age, or an alien in probationary status between 16 and 65 years of age who is seeking to become a Z–1 or Z–3 nonimmigrant, must remain continuously employed full time in the United States as a condition of such nonimmigrant status, except where—

(i) the alien is pursuing a full course of study at an established college, university, seminary, conservatory, trade school, academic high school, elementary school, or other academic institution or language training program;

(ii) the alien is employed while also engaged in study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or language training program;

(iii) the alien cannot demonstrate employment because of a physical or mental disability (as defined under section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2) or as a result of pregnancy if such condition is evidenced by the submission of documentation prescribed by the Secretary; or

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

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

(3) PORTABILITY.—Nothing in this subsection shall be construed to limit the ability of a Z nonimmigrant to change employers during the alien's period of authorized admission.

(n) TRAVEL OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—An alien who has been issued a secure ID card under subsection (j) and who is in probationary status or is a Z nonimmigrant—

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

(B) may be readmitted (if otherwise admissible) without having to obtain a visa if:

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

(ii) the alien is the bearer of valid documentary evidence of Z nonimmigrant status that satisfies the conditions set forth in section (j); and

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

(2) ADMISSIBILITY.—On seeking readmission to the United States after travel outside the United States an alien granted Z nonimmigrant status must establish that he or she is not inadmissible, except as provided by subsection (d)(2).

(3) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the most recent period of authorized admission in the United States under subsection (k).

(o) TERMINATION OF BENEFITS.—

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

(A) the Secretary determines that the alien is ineligible for such classification and all review procedures under section 603 of the [Insert title of Act] have been exhausted or waived by the alien;

(B) (i) the alien is found removable from the United States under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227); (ii) the alien becomes inadmissible under section 212 (except as provided in subsection (d)(2), or (iii) the alien becomes ineligible under subsection (d)(1);

(C) the alien has used documentation issued under this section for unlawful or fraudulent purposes;

(D) in the case of the spouse or child of an alien applying for a Z nonimmigrant visa, in probationary status, or classified as a Z nonimmigrant under this section, the benefits for the principal alien are terminated;

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

(F) with respect to an alien in probationary status, the alien's application for Z nonimmigrant status is denied

(G) with respect to an alien awarded probationary status who seeks to become a Z–1 nonimmigrant, the alien fails to complete the home application requirement set forth in subsection (e)(6) within two years of receiving a secure ID card.

(3) DENIAL OF IMMIGRANT VISA OR ADJUSTMENT APPLICATION.—Any application for an immigrant visa or adjustment of status to lawful permanent resident status made under this section by an alien whose Z nonimmigrant status is terminated under paragraph (1) shall be denied.

(4) DEPARTURE FROM THE UNITED STATES.—Any alien whose period of authorized admission or probationary benefits is terminated under paragraph (1), as well as the alien's Z–2 or Z–3 nonimmigrant dependents, shall be subject to removal and depart the United States immediately.

(5) INVALIDATION OF DOCUMENTATION.—Any documentation that is issued by the Secretary of Homeland Security under subsection (j) or pursuant to subsection (h)(4) to any alien, whose period of authorized admission terminates under paragraph (1), shall automatically be rendered invalid for any purpose except departure.

(P) REVOCATION.—If, at any time after an alien has obtained status under section 601 of the [Insert title of Act] but not yet adjusted such status to that of an alien lawfully admitted for permanent residence under section 602, the Secretary may, for good and sufficient cause, if it appears that the alien was not in fact eligible for status under section 601, revoke the alien's status following appropriate notice to the alien.

(q) DISSEMINATION OF INFORMATION ON Z PROGRAM.—During the 2 year period immediately after the issuance of regulations implementing this title, the Secretary, in cooperation with entities approved by the Secretary, shall broadly disseminate information respecting Z classification under this section and the requirements to be satisfied to obtain such classification. The Secretary shall 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 no fewer than the top five principal languages, as determined by the Secretary in his discretion, spoken by aliens who would qualify for classification under this section, including to television, radio, and print media to which such aliens would have access.

(r) DEFINITIONS.—In this title and section 214A of the Immigration and Nationality Act:

(1) Z NONIMMIGRANT; Z NONIMMIGRANT WORKER.—The term 'Z noniminigrant worker' means an alien admitted to the United States under paragraph (Z) of subsection 101(a)(15). The term does not include aliens granted probationary benefits under subsection (h) and whose applications for nonimmigrant status under section 101(a)(15)(Z) of the Act have not yet been adjudicated.

(2) Z–1 NONIMMIGRANT; Z–1 WORKER.—The term 'Z–1 nonimmigrant' or 'Z–1 worker' means an alien admitted to the United States under paragraph (i)(I) of subsection 101(a)(15)(Z).

(3) Z–A NONIMMIGRANT; Z–A WORKER.—The term 'Z–A nonimmigrant' or 'Z-A worker' means an alien admitted to the United States under paragraph (ii)(II) of subsection 101(a)(15)(Z).

(4) Z–2 NONIMMIGRANT.—The term 'Z–2 nonimmigrant' means an alien admitted to the United States under paragraph (ii) of subsection 101(a)(15)(Z).

(5) Z–3 NONIMMIGRANT; Z–3 WORKER.—The term 'Z–3 nonimmigrant' or 'Z–3 worker' means an alien admitted to the United States under paragraph (iii) of subsection 101 (a)(15)(Z).

SEC. 602. EARNED ADJUSTMENT FOR Z STATUS ALIENS

(a) LAWFUL PERMANENT RESIDENCE.—

(1) Z–1 NONIMMIGRANTS.—

(A) PROHIBITION ON IMMIGRANT VISA.—A Z–1 nonimmigrant may not be issued an immigrant visa pursuant to sections 221 and 222.

(B) ADJUSTMENT.—Notwithstanding sections 245(a) and (c), the status of any Z–1 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(C) REQUIREMENTS.—A Z–1 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, including the merit requirements set forth in section 203(b)(1)(A) [INSERT CITE], the following requirements:

(i) STATUS.—The alien must be in valid Z–1 nonimmigrant status;

(ii) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the evaluation system under section 203(b)(1)(A) of the Act;

(iii) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(iv) FEES AND PENALTIES.—In addition to the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for adjustment of status, a Z–1 head of household must pay a $4,000 penalty at the time of submission of any immigrant petition on his behalf, regardless of whether the alien submits such petition on his own behalf or the alien is the beneficiary of an immigrant petition filed by another party; and

(2) Z–2 AND Z–3 NONIMMIGRANTS.—

(A) RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.—An application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence of a Z–2 nonimmigrant or a Z–3 nonimmigrant under 18 years of age may not be approved before the adjustment of status of the alien's principal Z–1 nonimmigrant.

(B) ADJUSTMENT OF STATUS.—

(i) ADJUSTMENT.—Notwithstanding sections 245(a) and (c), the status of any Z–2 or Z–3 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(ii) REQUIREMENTS.—A Z–2 or Z–3 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, the following requirements:

(I) STATUS.—The alien must be in valid Z–2 or Z–3 nonimmigrant status;

(II) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the merit-based evaluation system under section 203(b)(1)(A) of the Act;

(III) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(IV) FEES.—The alien must pay the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for an immigrant visa; and

(3) MAINTENANCE OF WAIVERS OF INADMISSIBILITY.—The grounds of inadmissibility not applicable under section (d)(2) shall also be considered inapplicable for purposes of admission as an immigrant or adjustment pursuant to this subsection.

(4) APPLICATION OF OTHER LAW.—In processing applications under this subsection on behalf of aliens who have been battered or subjected to extreme cruelty, the Secretary shall apply—

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

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

(5) BACK OF THE LINE.—An alien may not adjust status to that of a lawful permanent resident under this section until 30 days after an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Act that were filed before May 1, 2005.

(6) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 D.S.C. 1613), an alien whose status has been adjusted under this section 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.).

(7) MEDICAL EXAMINATION.—An applicant for earned adjustment shall undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

(8) PAYMENT OF INCOME TAXES.—

(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the applicant shall satisfy any applicable Federal tax liability accrued during the period of Z status by establishing that—

(i) no such tax liability exists;

(ii) all outstanding liabilities have been paid; or

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

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

(i) the applicant, upon request, to establish the payment of all taxes required under this subsection; or

(ii) the Secretary, upon request, regarding the payment of Federal taxes by an alien applying for a benefit under this section.

(9) DEPOSIT OF FEES.—Fees collected under this paragraph shall be deposited into the Immigration Examination Fee Account and shall remain available as provided under subsections (m) and (n) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(10) DEPOSIT OF PENALTIES.—Penalties collected under this paragraph shall be deposited into the Temporary Worker Program Account and shall remain available as provided under section 286(w) of the Immigration and Nationality Act.

SEC. 603. ADMINISTRATIVE REVIEW, REMOVAL PROCEEDINGS, AND JUDICIAL REVIEW FOR ALIENS WHO HAVE APPLIED FOR LEGAL STATUS.

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

(1) EXCLUSIVE REVIEW.—Administrative review of a determination respecting nonimmigrant status under this title shall be conducted solely in accordance with this subsection.

(2) ADMINISTRATIVE APPELLATE REVIEW.—Except as provided in subparagraph (b)(2), an alien whose status under this title has been denied, terminated, or revoked may file not more than one appeal of the denial, termination, or rescission with the Secretary not later than 30 calendar days after the date of the decision or mailing thereof, whichever occurs later in time. The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of a denial, termination, or rescission of status under [this Act].

(3) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination 38 on the application and upon such additional newly discovered or previously unavailable evidence as the administrative appellate review authority may decide to consider at the time of the determination.

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

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

(1) SELF-INITIATED REMOVAL.—Any alien who receives a denial under subsection (a) may request, not later than 30 calendar days after the date of the denial or the mailing thereof, whichever occurs later in time, that the Secretary place the alien in removal proceedings. The Secretary shall place the alien in removal proceedings to which the alien would otherwise be subject, unless the alien is subject to an administratively final order of removal, provided that no court shall have jurisdiction to review the timing of the Secretary's initiation of such proceedings. If the alien is subject to an administratively final order of removal, the alien may seek review of the denial under this section pursuant to subsection 242(h) as though the order of removal had been entered on the date of the denial, provided that the court shall not review the order of removal except as otherwise provided by law.

(2) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(i) AGGRAVATED FELONS.—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (1)(F)(ii) of subsection 601(d) of [this Act] because the alien has been convicted of an aggravated felony, as defined in paragraph 101(a)(43) of the INA, may be placed forthwith in proceedings pursuant to section 238(b) of the INA.

(ii) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any other alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clauses (1)(F)(i), (iii), or (iv) of subsection [CITE: 601(d)] of [this Act] may be placed forthwith in removal proceedings under section 240 of the INA.

(iii) FINAL DENIAL, TERMINATION OR RESCISSION.—The Secretary's denial, termination, or rescission of the status of any alien described in clauses (i) and (ii) of this subparagraph shall be final for purposes of subparagraph 242(h)(3)(C) of the INA and shall represent the exhaustion of all review procedures for purposes of subsections 601(h) (relating to treatment of applicants) and 601(o) (relating to termination of proceedings) of this Act, notwithstanding paragraph (a)(2) of this section.

(3) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection the alien may file not more than one motion to reopen or to reconsider. The Secretary's or Attorney General's decision whether to consider any such motion is committed to the Attorney General's discretion.

(c) JUDICIAL REVIEW.— Section 242 of the Immigration and Nationality Act is amended by adding at the end the following subsection (h):

''(h) Judicial Review of Eligibility Determinations Relating to Status Under Title VI of [this Act].

''(1) EXCLUSIVE REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in this subsection, no court shall have jurisdiction to review a determination respecting an application for status under title VI of [this Act], including, without limitation, a denial, termination, or rescission of such status.

''(2) NO REVIEW FOR LATE FILINGS.—An alien may not file an application for status under title VI of [this Act] beyond the period for receipt of such applications established by subsection 601(f) thereof. The denial of any application filed beyond the expiration of the period established by that subsection shall not be subject to judicial review or remedy.

''(3) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS UNDER TITLE VI OF [THIS ACT].—A denial, termination, or rescission of status under subsection 601 of [this Act] may be reviewed only in conjunction with the judicial review of an order of removal under this section, provided that:

''(A) the venue provision set forth in (b)(2) shall govern;

''(B) the deadline for filing the petition for review in (b)(1) shall control;

''(C) the alien has exhausted all administrative remedies available to the alien as of right, including but not limited to the timely filing of an administrative appeal pursuant to subsection 603(a) of [this Act];

''(D) the court shall decide a challenge to the denial of status only on the administrative record on which the Secretary's denial, termination, or rescission was based;

''(E) LIMITATION ON REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court reviewing a denial, termination, or rescission of status under Title VI of [this Act] may review any discretionary decision or action of the Secretary regarding any application for or termination or rescission of such status; and

''(F) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—The alien may file not more than one motion to reopen or to reconsider in proceedings brought under this section.

''(4) STANDARD FOR JUDICIAL REVIEW.—Judicial review of the Secretary's denial, termination, or rescission of status under title VI of [this Act] relating to any alien shall be based solely upon the administrative record before the Secretary when he enters a final denial, termination, or rescission. The administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. The legal determinations are conclusive unless manifestly contrary to law.

''(5) CHALLENGES ON VALIDITY OF THE SYSTEM.—

''(A) IN GENERAL.—Any claim that title VI of [this Act], or any regulation, written policy, or written directive issued or unwritten policy or practice initiated by or under the authority of the Secretary of Homeland Security to implement that title, violates the Constitution of the United States or is otherwise in violation of law is available exclusively in an action instituted in the United States District Court for the District of Columbia in accordance with the procedures prescribed in this paragraph. Nothing in this subparagraph shall preclude an applicant for status under title VI of [this Act] from asserting that an action taken or decision made by the Secretary with respect to his status under that title was contrary to law in a proceeding under section 603 of [this Act] and paragraph (b)(2) of this section.

''(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph,

(i) must, if it asserts a claim that title VI of [this Act] or any regulation, written policy, or written directive issued by or under the authority of the Secretary to implement that title violates the Constitution or is otherwise unlawful, be filed no later than one year after the date of the publication or promulgation of the challenged regulation, policy or directive or, in cases challenging the validity of the Act, within one year of enactment; and

(ii) must, if it asserts a claim that an unwritten policy or practice initiated by or under the authority of the Secretary violates the Constitution or is otherwise unlawful, be filed no later than one year after the plaintiff knew or reasonably should have known of the unwritten policy or practice.

''(C) CLASS ACTIONS.—Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with Public Law 109–2 and the Federal Rules of Civil Procedure.''

''(D) PRECLUSIVE EFFECT.— The final disposition of any claim brought under subparagraph (5)(A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under subsection 603 [of this Act].

''(E) EXHAUSTION AND STAY OF PROCEEDINGS.—No claim brought under this paragraph shall require the plaintiff to exhaust administrative remedies under subsection 603 of [this Act], but nothing shall prevent the court from staying proceedings under this paragraph to permit the Secretary to evaluate an allegation of an unwritten policy or practice or to take corrective action. In issuing such a stay, the court shall take into account any harm the stay may cause to the claimant. The court shall have no authority to stay proceedings initiated under any other section of the INA.''

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer, employee or contractor of such agency or bureau, may—

(1) use the information furnished by an applicant under section 601 [and 602] of the [—] or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, any subsequent application to extend such status under section 601 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act;

(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) EXCEPTIONS TO CONFIDENTIALITY.—

(1) Subsection (a) shall not apply with respect to—

(A) an alien whose application has been denied, terminated or revoked based on the Secretary's finding that the alien—

(i) is inadmissible under sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of the [—]), or (6)(E) of the Act;

(ii) is deportable under sections 237(a)(1)(E), (1)(G), (2), or (4) of the Act;

(iii) was physically removed and is subject to reinstatement pursuant to section 241 (a)(5).

(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or revoked under section 601(d)(1)(F);

(C) an alien whom the Secretary determines has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(D) an alien whom the Secretary determines has, in connection with his application under sections 601 or 602, engaged in

fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document;

(E) an alien who has knowingly and voluntarily waived in writing the confidentiality provisions in subsection (a); or

(F) an order from a court of competent jurisdiction.

(2) Nothing in this subsection shall require the Secretary to commence removal proceedings against an alien whose application has been denied, terminated, or revoked based on the Secretary's finding that the alien is inadmissible or deportable.

(c) AUTHORIZED DISCLOSURES.—Information furnished on or derived from an application described in subsection (a) may be disclosed to—

(1) a law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections 601 and 602, of [—], any application to extend such status under section 601(k) of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602 of [—], then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) PENALTIES.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

SEC. 605. EMPLOYER PROTECTIONS.

(a) Copies of employment records or other evidence of employment provided by an alien or by an alien's employer in support of an alien's application for Z nonimmigrant status shall not be used in a prosecution or investigation (civil or criminal) of that employer under section 247B (8 U.S.C. 1324a) or the tax laws of the United States for the prior unlawful employment of that alien, regardless of the adjudication of such application or reconsideration by the Secretary of such alien's prima facie eligibility determination.

(b) APPLICABILITY OF OTHER LAW.—Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR YEARS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by:

(1) amending subsection (c) by deleting ''For'' and inserting ''Except as provided in subsection (e), for''; and

(2) adding at the end the following new subsections:

''(d)(1) Except as provided in paragraph (2) and subsection (e), for purposes of this section and for purposes of determining a qualifying quarter of coverage under 8 U.S.C. 1612(b)(2)(B), no quarter of coverage shall be credited if, with respect to any individual who is assigned a social security account number after 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who satisfies the criterion specified in subsection (c)(2).

''(e) Subsection (d) shall not apply with respect to a determination under subsection (a) or (b) for a deceased individual in the case of a child who is a United States citizen and who is applying for child's insurance benefits under section 202(d) based on the wages and self-employment income of such deceased individual. ''

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

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

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

''(3) in computing the average indexed monthly earnings of an individual, there shall not be counted any wages or self-employment income for any year for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''

(c) EFFECTIVE DATE.—The amendment made by subsection (a) that provides for a new section 214(e) of the Social Security Act shall be effective with respect to applications for benefits filed after the sixth month following the month this Act is enacted.

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601(e)(5)(B) and Section 602(a)(I)(C)(v) through an installment payment plan.

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

(1) shall be credited as offsetting collections to appropriations provided pursuant to section 611 for the fiscal year in which this Act is enacted and the subsequent fiscal year; and

(2) shall be deposited and remain available as otherwise provided under this title.

SEC. 609. LIMITATIONS ON ELIGIBILITY.

(a) IN GENERAL.—An alien is not ineligible for any immigration benefit under any provision of this title, or any amendment made by this title, solely on the basis that the alien violated section 1543, 1544, or 1546 of title 18, United States Code, or any amendments made by the [NAME OF THIS ACT], during the period beginning on the date of the enactment of such Act and ending on the date on which the alien applies for any benefits under this title, except with respect to any forgery, fraud or misrepresentation on the application for Z nonimmigrant status filed by the alien.

(b) PROSECUTION.—An alien who commits a violation of section 1543, 1544, or 1546 of such title or any amendments made by the [NAME OF THIS ACT], during the period beginning on the date of the enactment of such Act and ending on the date that the alien applies for eligibility for such benefit may be prosecuted for the violation if the alien's application for such benefit is denied.

SEC. 610. RULEMAKING.

(a) The Secretary shall issue an interim final rule within six months of the date of enactment of this subtitle to implement this title and the amendments made by this title. The interim final rule shall become effective immediately upon publication in the Federal Register. The interim final rule shall sunset two years after issuance unless the Secretary issues a final rule within two years of the issuance of the interim final rule.

(b) The exemption provided under this section shall sunset no later than two years after the date of enactment of this subtitle, provided that, such sunset shall not be construed to impose any requirements on, or affect the validity of, any rule issued or other action taken by the Secretary under such exemptions.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

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

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that funds authorized to be appropriated under subsection (a) should be directly appropriated so as to facilitate the orderly and timely commencement of the processing of applications filed under sections 601 and 602.

Subtitle B—DREAM Act

SEC. 612. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2007'' or the ''DREAM Act of 2007''.

SEC. 613. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 614. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may beginning on the date that is three years after the date of enactment of this Act

adjust to the status of an alien lawfully admitted for permanent residence an alien who is determined to be eligible for or has been granted probationary or Z nonimmigrant status if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period since January 1, 2007, is under 30 years of age on the date of enactment, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has earned a high school diploma or obtained a general education development certificate in the United States;

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has—

(i) acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States; or

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

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

(F) The alien is in compliance with the eligibility and admissibility criteria set forth in section 601(d).

(b) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—Solely for purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien who has been granted probationary or Z nonimmigrant status and has satisfied the requirements of subparagraphs (a)(1)(A) through (F) shall beginning on the date that is eight years after the date of enactment be considered to have satisfied the requirements of Section 316(a)(1) of the Act (8 U.S.C. 1427(a)(1)).

(c) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status.

(d) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

SEC. 615. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that no additional fee will be charged to an applicant for a Z nonimmigrant visa for applying for benefits under this subtitle.

SEC. 616. HIGHER EDUCATION ASSISTANCE.

(a) Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) shall have no force or effect with respect to an alien who has been granted probationary or Z nonimmigrant status.

(b) Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this title, or who is a probationary Z or Z nonimmigrant under this title and who meets the eligibility criteria set forth in section 614(a)(1)(A), (B), and (F), shall be eligible for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) FEDERAL WORK.—study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 617. DELAY OF FINES AND FEES.

(a) Payment of the penalties and fees specified in section 601(e)(5) shall not be required with respect to an alien who meets the eligibility criteria set forth in section 614(a)(1)(A), (B), and (F) until the date that is six years and six months after the date of enactment of this Act or the alien reaches the age of 24, whichever is later. If the alien makes all of the demonstrations specified in section 614(a)(1) by such date, the penalties shall be waived. If the alien fails to make the demonstrations specified in section 614(a)(1) by such date, the alien's Z nonimmigrant status will be terminated unless the alien pays the penalties and fees specified in section 601(e)(5) consistent with the procedures set forth in section 608 within 90 days.

(b) With respect to an alien who meets the eligibility criteria set forth in section 614(a)(1)(A) and (F), but not the eligibility criteria in section 614(a)(1)(B), the individual who pays the penalties specified in section 601(e)(5) shall be entitled to a refund when the alien makes all the demonstrations specified in section 614(a)(1).

SEC. 618. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for adjustment of status under section 623(a);

(2) the number of aliens who applied for adjustment of status under section 623(a); and

(3) the number of aliens who were granted adjustment of status under section 623(a).

SEC. 619. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to carry out the amendments made by this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 620. CORRECTION OF SOCIAL SECURITY RECORDS.

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

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

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

(3) by inserting after subparagraph (C) the following: ''(D) who is granted nonimmigrant status pursuant to section 101(a)(15)(Z–A) 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 before the date on which the alien was granted such nonimmigrant status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle C—Agricultural Workers

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''

PART I—ADMISSION OF AGRICULTURAL WORKERS

SEC. 622. ADMISSION OF AGRICULTURAL WORKERS.

(a) Z–A NONIMMIGRANT VISA CATEGORY.—

(1) ESTABLISHMENT.—Paragraph (15) of section 101(a)), of the Immigration and Nationality Act (8 U.S.C. 1101(a), [as amended by section 601(b), is further amended by adding at the end the following new subparagraph:

''(Z–A)(i) an alien who is coming to the United States to perform any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), agricultural labor under section 3121(g) of the Internal Revenue Code of 1986, or the performance of agricultural labor or services described in subparagraph (H)(ii)(a), who meets the requirements of section 214A of this Act; or

''(ii) the spouse or minor child of an alien described in clause (i) who is residing in the United States.''.

(b) REQUIREMENTS FOR ISSUANCE OF NONIMMIGRANT VISA.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 214 the following new section:

''SEC. 214A. ADMISSION OF AGRICULTURAL WORKERS.

''(a) DEFINITIONS.—In this section:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) DEPARTMENT.—The term 'Department' means the Department of Homeland Security.

''(3) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(4) QUALIFIED DESIGNATED ENTITY.—The term 'qualified designated entity' means—

''(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

''(B) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245, the Act entitled 'An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United

States, and for other purposes', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

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

''(6) TEMPORARY.—A worker is employed on a 'temporary' basis when the employment is intended not to exceed 10 months.

''(7) WORK DAY.—The term 'work day' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

''(8) Z–A DEPENDENT VISA.—The term 'Z–A dependent visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(ii).

''(9) Z–A VISA.—The term 'Z–A visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(i).

''(b) AUTHORIZATION FOR PRESENCE, EMPLOYMENT, AND TRAVEL IN THE UNITED STATES.—

''(1) IN GENERAL.—An alien issued a Z–A visa or a Z–A dependent visa may remain in, and be employed in, the United States during the period such visa is valid.

''(2) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted a Z–A visa or a Z–A dependent visa an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

''(3) AUTHORIZED TRAVEL.—An alien who is granted a Z–A visa or a Z–A dependent visa is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

''(c) QUALIFICATIONS.—

''(I) Z–A VISA.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant a Z–A visa to an alien if the Secretary determines that the alien—

''(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24–month period ending on December 31, 2006;

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

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

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

''(E) meets the requirements of paragraph (3).

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

''(A) described in section 101(a)(15)(Z–A)(ii);

''(B) meets the requirements of paragraph (3); and

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

''(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

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

''(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints provided under subparagraph (A) and other biometric data provided by an alien to conduct a background check of the alien, including searching the alien's criminal history and any law enforcement actions taken with respect to the alien and ensuring that the alien is not a risk to national security.

''(4) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILLTY.—In the determination of an alien's eligibility for a Z–A visa or a Z–A dependent visa the following shall apply:

''(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) shall not apply.

''(B) WAIVER OF OTHER GROUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any provision of such section 212(a), other than the paragraphs described in subparagraph (A), in the case of individual aliens for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

''(ii) GROUNDS THAT MAY NOT BE WAIVED.—Except as provided in subparagraph (C), subparagraphs (A), (B), and (C) of paragraph (2), and paragraphs (3) and (4) of section 212(a) may not be waived by the Secretary under clause (i).

''(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

''(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for a Z–A visa or a Z–A dependent visa by reason of a ground of inadmissibility under section 212(a)(4) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

''(d) APPLICATION.—

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

''(2) SUBMISSION.—Applications for a Z–A visa under may be submitted—

''(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations (or similar successor regulations); or

''(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

''(3) PROOF OF ELIGIBILITY.—

''(A) IN GENERAL.—An alien may establish that the alien meets the requirement for a Z–A visa through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

''(B) DOCUMENTATION OF WORK HISTORY.—

''(i) BURDEN OF PROOF.—An alien applying for a Z–A visa or applying for adjustment of status described in subsection (J) has the burden of proving by a preponderance of the evidence that the alien has performed the requisite number of hours or days of agricultural employment required for such application or adjustment of status, as applicable.

''(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of such records under regulations to be promulgated by the Secretary.

''(iii) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under clause (i) to establish that the alien has performed the requisite number of hours or days of agricultural employment by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

''(4) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

''(A) REQUIREMENTS.—Each qualified designated entity shall agree—

''(i) to forward to the Secretary an application submitted to that entity pursuant to paragraph (2)(B) if the alien for whom the application is being submitted has consented to such forwarding;

''(ii) not to forward to the Secretary any such application if such an alien has not consented to such forwarding; and

''(iii) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

''(B) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this section to be made by the Secretary.

''(5) APPLICATION FEES.—

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

''(i) shall be charged for applying for a Z–A visa under this section or for an adjustment of status described in subsection (j); and

''(ii) may be charged by qualified designated entities to help defray the costs of services provided to such aliens making such an application.

''(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

''(6) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to [ ].

''(7) TREATMENT OF APPLICANTS.—

''(A) IN GENERAL.—An alien who files an application under this section to receive a Z–A visa and any spouse or child of the alien seeking a Z–A dependant visa, on the date described in subparagraph (B)—

''(i) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

''(ii) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

''(iii) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z–A visa; and ''(iv) may not be considered an unauthorized alien (as defined in section 274A) until the date on which [the alien's application for a Z–A visa] is denied.

''(B) TIMING OF PROBATIONARY BENEFITS.—

''(i) IN GENERAL.—Subject to clause (ii), an alien who submits an application for a Z–A visa under subsection (d), including any evidence required under such subsection, and any spouse or child of the alien seeking a Z–A dependent visa shall receive the probationary benefits described in clauses (i) through (iv) of subparagraph (A) at the earlier of—

''(I) the date and time that the alien has passed all appropriate background checks, including name and fingerprint checks; or

''(II) the end of the next business day after the date that the Secretary receives the alien's application for Z–A visa.

''(ii) EXCEPTION.—If the Secretary determines that the alien fails the background checks referred to in clause (i)(I), the alien may not be granted probationary benefits described in clauses (i) through (iv) of subparagraph (A).

''(C) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien granted probationary benefits described in clauses (i) through (iv) of subparagraph (A) with a counterfeit-resistant document that reflects the benefits and status set forth in subparagraph (A). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed.

''(D) CONSTRUCTION.—Nothing in this section may be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under this paragraph.

''(8) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

''(A) BEFORE APPLICATION PERIOD.—Beginning on the date of enactment of the AgJOBS Act of 2007, the Secretary shall provide that, in the case of an alien who is apprehended prior to the first date of the application period described in subsection (c)(l)(B) and who can establish a nonfrivolous case of eligibility for a Z–A visa (but for the fact that the alien may not apply for such status until the beginning of such period), the alien—

''(i) may not be removed; and

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

''(B) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for Z–A visa during the application period described in subsection (c)(l)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

''(i) may not be removed; and

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

''(e) NUMERICAL LIMITATIONS.—

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

''(2) Z–A DEPENDENT VISA.—The Secretary may not count any Z–A dependent visa issued against the numerical limitation described in paragraph (1).

''(f) EVIDENCE OF NONIMMIGRANT STATUS.—

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

''(2) FEATURES OF DOCUMENTATION.—Documentary evidence of a Z–A visa or a Z–A dependent visa—

''(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

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

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

''(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A; and

''(E) shall be issued to the alien granted the visa by the Secretary promptly after final adjudication of such alien's application for the visa, except that an alien may not be granted a Z–A visa or a Z–A dependent visa until all appropriate background checks on each alien are completed to the satisfaction of the Secretary.

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

''(h) TREATMENT OF ALIENS GRANTED A Z–A VISA.—

''(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien granted a Z–A visa or a Z–A dependent visa shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of this Act.

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

''(3) TERMS OF EMPLOYMENT.—

''(A) PROHIBITION.—No alien granted a Z–A visa may be terminated from employment by any employer during the period of a Z–A visa except for just cause.

''(B) TREATMENT OF COMPLAINTS.—

''(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted a Z–A visa who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

''(ii) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with clause (i) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

''(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this subparagraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

''(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted a Z–A visa without just cause, the Secretary shall credit the alien for the number of days of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of subsection (f)(2).

''(v) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this subparagraph shall bear the cost of their own attorney's fees for the arbitration.

''(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

''(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

''(4) RECORD OF EMPLOYMENT.—

''(A) IN GENERAL.—Each employer of an alien who is granted a Z–A visa shall annually—

''(i) provide a written record of employment to the alien; and

''(ii) provide a copy of such record to the Secretary.

''(B) CIVIL PENALTIES.—

''(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted a Z–A visa has failed to provide the record of employment required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

''(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this subsection.

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

''(1) IN GENERAL.—The Secretary may terminate a Z–A visa or a Z–A dependent visa granted to an alien only if the Secretary determines that the alien is deportable.

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

''(A) the Secretary finds, by a preponderance of the evidence, that the grant of a Z–A visa was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i)); or

''(B) the alien—

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

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

''(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

''(iv) in the case of an alien granted a Z–A visa, fails to perform the agricultural employment described in subsection (j)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (j)(1)(A)(iii).

''(3) REPORTING REQUIREMENT.—The Secretary shall promulgate regulations to ensure that the alien granted a Z–A visa complies with the qualifying agricultural employment described in subsection (j)(1)(A) at the end of the 5 year work period, which may include submission of an application pursuant to this subsection.

''(j) ADJUSTMENT TO PERMANENT RESIDENCE.—

''(1) Z–A VISA.—Except as provided in this subsection, the Secretary shall award the maximum number of points available pursuant to section 203(b)(1) and adjust the status of an alien granted a Z–A visa to that of an alien lawfully admitted for permanent residence under this Act, if the Secretary determines that the following requirements are satisfied:

''(A) QUALIFYING EMPLOYMENT.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the alien has performed at least—

''(I) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of enactment of the AgJobs Act of 2007; or

''(II) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3–year period beginning on such date of enactment.

''(ii) FOUR YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of clause (i) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on such date of enactment.

''(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of clause (i), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that clause if the alien was unable to work in agricultural employment due to—

''(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

''(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

''(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

''(B) PROOF.—An alien may demonstrate compliance with the requirements of subparagraph (A) by submitting—

''(i) the record of employment described in subsection (h)(4); or

''(ii) such documentation as may be submitted under subsection (d)(3).

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

''(i) apply for adjustment of status; or

''(ii) renew the alien's Z visa status as described in section 601 (k)(2).

''(D) FINE.—The alien pays to the Secretary a fine of $400; or

''(2) SPOUSES AND MINOR CHILDREN.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under paragraph (1), including any individual who was a minor child on the date such alien was granted a Z–A visa, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

''(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted a Z–A visa or a Z–A dependent visa an adjustment of status under this Act and provide for termination of such visa if—

''(A) the Secretary finds by a preponderance of the evidence that grant of the Z–A visa was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i)); or

''(B) the alien—

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

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

''(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

''(4) GROUNDS FOR REMOVAL.—Any alien granted Z–A visa status who does not apply for adjustment of status or renewal of Z status under section 601 (k)(2) prior to the expiration of the application period described in subsection (c)(1)(B) or who fails to meet the other requirements of paragraph (1) by the end of the application period, is deportable and may be removed under section 240.

''(5) PAYMENT OF TAXES.—

''(A) IN GENERAL.—Not later than the date on which an alien's status is adjusted as described in this subsection, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

''(i) no such tax liability exists;

''(ii) all such outstanding tax liabilities have been paid; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (l)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(C) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

''(6) ENGLISH LANGUAGE.—

''(A) IN GENERAL.—Not later than the date on which a Z–A nonimmigrant's status is adjusted or renewed under section 601 (k)(2), a Z–A nonimmigrant who is 18 years of age or older must pass the naturalization test described in sections 312(a)(I) and (2).

''(B) EXCEPTION.—The requirement of subparagraph (A) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z–A nonimmigrant status—(i) is unable because of physical or developmental disability or mental impairment to comply therewith;

(ii) is over fifty years of age and has been living in the United States for periods totaling at least twenty years, or

(iii) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years.

''(7) PRIORITY OF APPLICATIONS.—

''(A) BACK OF LINE.—An alien may not adjust status to that of a lawful permanent resident under this subsection until 30 days after the date on which an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Act that were filed before May 1, 2005 (referred to in this paragraph as the 'processing date').

''(B) OTHER APPLICANTS.—The processing of applications for an adjustment of status under this subsection shall be processed not later than 1 year after the processing date.

''(C) CONSULAR APPLICATION.—

(i) IN GENERAL.—A Z–A nonimmigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence must be filed in person with a United States consulate abroad.

(ii) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, a Z–A nonimmigrant applying for adjustment of status under this paragraph shall make an application at a consular office in the alien's country of origin. The Secretary of State shall direct a consular office in a country that is not a Z–A nonimmigrant's country of origin to accept an application for adjustment of status from such an alien, where the Z–A nonimmigrant's country of origin is not contiguous to the United States, and as consular resources make possible.

''(k) CONFIDENTIALITY OF INFORMATION.—Applicants for Z–A nonimmigrant status under this subtitle shall be afforded confidentiality as provided under section 604.

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

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

''(A) applies for a Z–A visa or a Z–A dependent visa under this section or an adjustment of status described in subsection (j) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

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

''(m) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for a Z–A visa under subsection (b) or an adjustment of status under subsection (j).

''(n) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative or judicial review of a determination on an application for a Z–A visa shall be such as is provided under section 603.

''(o) PUBLIC OUTREACH.—Beginning not later than the first day of the application period described in subsection (c)(1)(B), the Secretary shall cooperate with qualified designated entities to broadly disseminate information regarding the availability of Z–A visas, the benefits of such visas, and the requirements to apply for and be granted such a visa.''.

(c) NUMERICAL LIMITATIONS.—

(1) WORLDWIDE LEVEL OF IMMIGRATION.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)), as amended by [ ], is further amended—

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

(B) by adding at the end, the following new subparagraph:

''(N) Aliens issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) who receive an adjustment of status to that of an alien lawfully admitted for permanent residence.''.

(2) NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.—Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR Z–A NONIMMIGRANTS.—An immigrant visa may be made available to an alien issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) without regard to the numerical limitations of this section.''.

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

''Sec. 214A. Admission of agricultural worker.''.

SEC. 623. AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.

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

''(y) AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Agricultural Worker Immigration Status Adjustment Account'. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 214A.

''(2) USE OF FEES.—The fees deposited into the Agricultural Worker Immigration Status Adjustment Account shall be used by the Secretary of Homeland Security for processing applications made by aliens seeking nonimmigrant status under section 101(a)(15)(Z–A) or for processing applications made by such an alien who is seeking an adjustment of status

''(3) AVAILABILITY OF FUNDS.—All amounts deposited in the Agricultural Worker Immigration Status Adjustment Account under this subsection shall remain available until expended.''.

SEC. 624. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to carry out the amendments made by this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 625. CORRECTION OF SOCIAL SECURITY RECORDS.

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

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

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

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

''(D) who is granted nonimmigrant status pursuant to section 101(a)(15)(Z–A) 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 before the date on which the alien was granted such nonimmigrant status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

SA 1441. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

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

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

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

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

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

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

''(3) USE OF LABOR THROUGH CONTRACT.—

''(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain, or to continue to obtain, the labor of an alien in the United States knowing, or with reckless disregard for the fact that, the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A) or (2).

''(B) INFORMATION SHARING.—The Secretary shall establish procedures by which the employer may obtain confirmation from the Secretary that the alien is not an unauthorized alien with respect to performing such labor.

''(4) DEFENSE.—

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

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

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

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

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

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

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

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

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

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

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

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

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

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

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

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

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

''(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that—

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

''(bb) contains security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use;

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

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

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that meets the requirements of such items (aa) and (bb).

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

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

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

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

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

''(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary, the Secretary of State, the Commissioner of Social Security, or the official of a State responsible for issuing drivers' licenses and identity cards; and

''(B) such individual is eligible for employment in the United States.

''(2) REQUIREMENT FOR PARTICIPATION.—

''(A) NEW EMPLOYEES.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is not later than 18 months after the date of enactment of this section.

''(B) OTHER EMPLOYEES.—Not later than 3 years after such date of enactment, the Secretary shall require all employers to verify through the System the identity and employment eligibility of any individual who—

''(i) the Secretary has reason to believe is unlawfully employed based on the information received under section 6103(l)(21) of the Internal Revenue Code of 1986; and

''(ii) has not been previously verified through the System.

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

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

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

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

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

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (2) or (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(iv).

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

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

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

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

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

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

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

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

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

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

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

''(B) INITIAL INQUIRY.—

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

''(I) the individual's name and date of birth;

''(II) the individual's social security account number;

''(III) the identification number contained on the document presented by the individual pursuant to subsection (c)(1)(B); and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), such alien identification or authorization number that the Secretary shall require.

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

''(I) no earlier than the date of hire and no later than the first day of employment, or recruiting or referring for a fee, of the individual (as the case may be); or

''(II) in the case of an employee hired before such employer was required to participate in the system, at such time as the Secretary shall specify.

''(C) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

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

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

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under subparagraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

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

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (c)(1)(A)(i), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

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

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii) or a final confirmation notice or final nonconfirmation notice is issued through the System.

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

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

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

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

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

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

''(E) RESPONSIBILITIES OF THE SECRETARY.—

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

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

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

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

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

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

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

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

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

''(iv) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

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

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—The Secretary of State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(I) and transmit to the Secretary the related photographic image or other identifying information.

''(H) RESPONSIBILITIES OF A STATE.—The official responsible for issuing drivers' licenses and identity cards for a State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(II) and transmit to the Secretary the related photographic image or other identifying information.

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

''(10) ADMINISTRATIVE REVIEW.—

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

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

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

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

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

''(iii) acts or omissions of an employee or official operating or responsible for the System;

''(iv) acts or omissions of the individual's employer;

''(v) acts or omissions of the individual; or

''(vi) any other reason.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was caused by a negligent, reckless, willful, or malicious act of the government, and was not due to an act or omission of the individual, the Secretary shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under this paragraph and ending on the earlier of—

''(I) the date which is 180 days thereafter; or

''(II) the day after the date the individual receives a confirmation described in subparagraph (C).

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 30 days after the date of such decision, or such further time as the Secretary may allow.

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

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

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph

(10), the court shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under paragraph (10) and ending on the earlier of—

''(I) the date which is 180 days thereafter; or

''(II) the day after the date the individual receives a reversal described in clause (i).

''(12) COMPENSATION FOR LOSS OF EMPLOYMENT.—For purposes of paragraphs (10) and (11)—

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

''(B) SOURCE OF FUNDS.—Compensation or reimbursement provided under such paragraphs shall be provided from funds appropriated that are not otherwise obligated.

''(13) LIMITATION ON COLLECTION AND USE OF DATA.—

''(A) LIMITATION ON COLLECTION OF DATA.—

''(i) IN GENERAL.—The Secretary shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

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

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

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

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

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

''(ii) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined $1,000 for each violation.

''(B) LIMITATION ON USE OF DATA.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

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

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

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

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

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

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

''(15) ANNUAL GAO STUDY AND REPORT.—

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

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

''(C) REPORT.—Not later than the date that is 24 months after the date of the enactment of this section, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

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

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

''(iii) An assessment of the effects of the System on the employment of unauthorized aliens.

''(iv) An assessment of the effects of the System, including the effects of tentative confirmations on unfair immigration-related employment practices, and employment discrimination based on national origin or citizenship status.

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

''(e) COMPLIANCE.—

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

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

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

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

''(2) AUTHORITY IN INVESTIGATIONS.—

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

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

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

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

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

''(3) COMPLIANCE PROCEDURES.—

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

''(i) describe the violation;

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

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

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

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

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

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

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

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

''(4) CIVIL PENALTIES.—

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

''(i) Pay a civil penalty of $5,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $25,000 for each unauthorized alien with respect to each such violation.

''(iv) If the employer has previously been fined more than 2 times under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $75,000 for each unauthorized alien with respect to each such violation.

''(v) An employer who fails to comply with a written final determination under paragraph (3)(C) shall be fined $75,000 for each violation, in addition to any fines or other penalties imposed by such determination.

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

''(i) Pay a civil penalty of $1,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $2,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph, pay a civil penalty of $5,000 for each such violation.

''(iv) If the employer has previously been fined more than 2 times under this subparagraph, pay a civil penalty of $15,000 for each such violation.

''(v) An employer who fails to comply with a written final determination under paragraph (3) shall be fined $15,000 for each violation, in addition to any fines or other penalties imposed by such determination.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 30 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 31 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

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

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $75,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

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

''(g) ADJUSTMENT FOR INFLATION.—All penalties in this section shall be increased every 4 years beginning January 2011 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

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

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

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

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

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of a Federal contract, grant, or cooperative agreement for a period of not more than 2 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of the debarment.

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

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

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be subject to debarment from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years.

''(C) WAIVER.—After consideration of the views of all agencies or departments that hold a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of nor more than 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

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

''(4) DETERMINATION OF REPEAT VIOLATORS.—Inadvertent violations of recordkeeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

''(j) MISCELLANEOUS PROVISIONS.—

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

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions upon those who hire, or recruit or refer for a fee, unauthorized aliens for employment; or

''(B) requiring the use of the System for any unauthorized purpose, or any authorized purpose prior to the time such use is required or permitted by Federal law.

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

''(l) DEFINITIONS.—In this section:

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

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

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

''(B) authorized to be so employed by this Act or by the Secretary under any other provision of law.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

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

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

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

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

8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

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

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

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

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(c)''.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

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

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 301(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

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

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

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

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

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

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

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall—

''(i) to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary of Homeland Security;

''(ii) in all cases, record, verify, and maintain an electronic record of the alien identification or authorization number issued by the Secretary and utilized by the Commissioner in assigning such social security account number; and

''(iii) upon the issuance of a social security account number, transmit such number to the Secretary of Homeland Security for inclusion in such alien's record maintained by the Secretary.''.

(2) Section 205(c)(2)(C)(i) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(i)) is amended by adding at the end the following: ''Any State that utilizes a social security account number for such purpose shall enter into an agreement with the Commissioner to allow the Commissioner to verify the name, date of birth, and the identity number issued by the official the State responsible for issuing drivers' licenses and identity cards. Such agreement shall be under the same terms and conditions as agreements entered into by the Commissioner under paragraph 205(r)(8).''.

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

''(9) Notwithstanding this section or any agreement entered into thereunder, the Commissioner of Social Security is authorized to disclose death information to the Secretary of Homeland Security to the extent necessary to carry out the responsibilities required under subsection (c)(2) and section 6103(l)(21) of the Internal Revenue Code of 1986.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

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

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY THE SOCIAL SECURITY ADMINISTRATION TO THE DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—Upon written request by the Secretary of Homeland Security, the Commissioner of Social Security or the Secretary shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO MATCH NOTICES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is specified in subparagraph (F) which contains—

''(I) 1 (or any greater number the Secretary shall request) name and taxpayer identifying number of any employee (within the meaning of section 6051) or any recipient (within the meaning of section 6041(a)) that could not be matched to the records maintained by the Commissioner of Social Security, or

''(II) 2 (or any greater number the Secretary shall request) names of employees (within the meaning of such section) or recipients (within the meaning of section 6041(a)) with the same taxpayer identifying number,

and the taxpayer identity of each such employee or recipient.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE TAXPAYER IDENTIFYING INFORMATION OF EMPLOYEES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is specified in subparagraph (F) which contains the taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051) or a recipient (within the meaning of section 6041(a))—

''(I) who is under the age of 14 (or any lesser age the Secretary shall request), according to the records maintained by the Commissioner of Social Security,

''(II) whose date of death, according to the records so maintained, occurred in a calendar year preceding the calendar year for which the information return was filed,

''(III) whose taxpayer identifying number is contained in more than one (or any greater number the Secretary shall request) information return filed in such calendar year, or

''(IV) who is not authorized to work in the United States, according to the records maintained by the Commissioner of Social Security,

and the taxpayer identity of each such employee or recipient.

''(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) which the Commissioner of Social Security or the Secretary, as the case may be, has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—The taxpayer identity of all employees (within the meaning of section 6051) hired and recipients (within the meaning of section 6041(a)) retained after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—The taxpayer identity of all employees (within the meaning of section 6051) and recipients (within the meaning of section 6041(a)) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—The taxpayer identity of each person participating in the System and the taxpayer identity of all employees (within the meaning of section 6051) of such person hired and all recipients (within the meaning of section 6041(a)) of such person retained during the period beginning with the later of—

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

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

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

''(B) RESTRICTION ON DISCLOSURE.—The taxpayer identities disclosed under subparagraph (A) may be used by officers, employees, and contractors of the Department of Homeland Security only for purposes of, and to the extent necessary in—

''(i) preventing identity fraud;

''(ii) preventing aliens from unlawfully obtaining employment in the United States;

''(iii) establishing and enforcing employer participation in the System;

''(iv) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act; and

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

''(C) REIMBURSEMENT.—The Commissioner of Social Security and the Secretary shall prescribe a reasonable fee schedule based on the additional costs directly incurred for furnishing taxpayer identities under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) INFORMATION RETURNS UNDER SECTION 6041.—For purposes of this paragraph, any reference to information returns required by reason of section 6041(a) shall only be a reference to such information returns relating to payments for labor.

''(E) FORM OF DISCLOSURE.—The taxpayer identities to be disclosed under paragraph (A) shall be provided in a form agreed upon by the Commissioner of Social Security, the Secretary, and the Secretary of Homeland Security.

''(F) TERMINATION.—This paragraph shall not apply to any request made after the date which is 5 years after the date of the enactment of this paragraph.''.

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

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

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

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

''(B) agrees to conduct an on-site review every 3 years (midpoint review in the case of contracts or agreements of less than 3 years in duration) of each contractor to determine compliance with such requirements,

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

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

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

(3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

(f) AUTHORIZATION OF APPROPRIATIONS.—

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

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

(g) EFFECTIVE DATES.—

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

(2) SUBSECTION (e).—

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

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2008.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356), as amended by sections 402(b) and 623, is further amended by adding at the end the following new subsection:

''(z) EMPLOYER COMPLIANCE FUND.—

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

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

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

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

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

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

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

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

SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''; and

(B) in subparagraph (B), by striking ''in the case of a protected individual (as defined in paragraph (3)),''; and

(2) by striking paragraph (3) and inserting the following:

''(3) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(A) IN GENERAL.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

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

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

''(iii) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first day of employment, unless a waiver is provided by the Secretary of Homeland Security for good cause, or for the reverification of an employee after the employee has satisfied the process described in section 274A(d); or

''(iv) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).

''(B) PREEMPLOYMENT SCREENING AND BACKGROUND CHECK.—Nothing in subparagraph (A) shall be construed to preclude a preemployment screening or background check that is required or permitted under any other provision of law.''.

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

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

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

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

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

(c) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2008 through 2010'' before the period at the end.

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

SA 1442. Mr. MENENDEZ (for himself, Mr. DURBIN, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 287, strike line 12 and all that follows through line 35 on page 296, and insert the following:

(6) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,500 for a Z–1 nonimmigrant.

(ii) An alien applying for extension of the alien's Z–1 nonimmigrant status shall be required to pay a processing fee in an amount sufficient to cover administrative and other expenses associated with processing the extension application, but no more than $1,000 for a Z–1 nonimmigrant.

(B) PENALTIES.—

(i) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 nonimmigrants.

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, a Z–1 nonimmigrant making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $500.

(D) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by sections 286(m) and (n).

(E) DEPOSIT, ALLOCATION, AND SPENDING OF PENALTIES.—

(i) DEPOSIT OF PENALTIES.—The penalty under subparagraph (B) shall be deposited and remain available as provided by section 286(w).

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The funds under subparagraph (C) shall be deposited and remain available as provided by section 286(x).

(7) INTERVIEW.—An applicant for Z nonimmigrant status must appear to be interviewed.

(8) 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.

(f) APPLICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall prescribe by notice in the Federal Register, in accordance with the procedures described in section 610 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and the procedures for an alien in the United States to apply for Z nonimmigrant status and the evidence required to demonstrate eligibility for such status.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security, or such other entities as are authorized by the Secretary to accept applications under the procedures established under this subsection, shall accept applications from aliens for Z nonimmigrant status for a period of 1 year starting the first day of the first month beginning no more than 180 days after the date of enactment of this section. If, during the 1-year initial period for the receipt of applications for Z nonimmigrant status, the Secretary of Homeland Security determines that additional time is required to register applicants for Z nonimmigrant status, the Secretary may in his discretion extend the period for accepting applications by up to 12 months.

(3) BIOMETRIC DATA.—Each alien applying for Z nonimmigrant status must submit biometric data in accordance with procedures established by the Secretary of Homeland Security.

(g) CONTENT OF APPLICATION FILED BY ALIEN.—

(1) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Z nonimmigrant status.

(2) APPLICATION INFORMATION.—The application form shall request such information as the Secretary deems necessary and appropriate, including but not limited to, information concerning the alien's physical and mental health; complete criminal history, including all arrests and dispositions; gang membership, renunciation of gang affiliation; immigration history; employment history; and claims to United States citizenship.

(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

(A) SUBMISSION OF FINGERPRINTS.—The Secretary may not accord Z nonimmigrant status unless the alien submits fingerprints and other biometric data in accordance with procedures established by the Secretary.

(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints and other biometric data provided by the alien to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under this section.

(h) TREATMENT OF APPLICANTS.—

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under subsections (f) and (g) and after the Secretary has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible—

(A) be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

(B) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner.

(3) CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under paragraph (4).

(4) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in subsection (h)(1). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed. All documentary evidence of probationary benefits shall expire no later than 6 months after the date on which the Secretary begins to approve applications for Z nonimmigrant status.

(5) BEFORE APPLICATION PERIOD.—If an alien is apprehended between the date of enactment and the date on which the period for initial registration closes under subsection (f)(2), and the alien can establish prima facie eligibility for Z nonimmigrant status, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section after such regulations are promulgated.

(6) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Act, if the Secretary determines that an alien who is in removal proceedings is prima facie eligible for Z nonimmigrant status, then the Secretary shall affirmatively communicate such determination to the immigration judge. The immigration judge shall then terminate or administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

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

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of—

(I) presence or employment required under this section; or

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

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

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

(v) remittance records; and

(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(I) the name, address, and telephone number of the affiant;

(II) the nature and duration of the relationship between the affiant and the alien; and

(III) other verification or information.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

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

(ii) set such terms and conditions on the use of affidavits as is necessary to verify and confirm the identity of any affiant or otherwise prevent fraudulent submissions.

(3) BURDEN OF PROOF.—An alien who is applying for a Z nonimmigrant visa under this section shall prove, by a preponderance of the evidence, that the alien has satisfied the requirements of this section.

(4) DENIAL OF APPLICATION.—

(A) An alien who fails to satisfy the eligibility requirements for a Z nonimmigrant visa shall have his application denied and may not file additional applications.

(B) An alien who fails to submit requested initial evidence, including requested biometric data, and requested additional evidence by the date required by the Secretary shall, except where the alien demonstrates to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful, have his application considered abandoned. Such application shall be denied and the alien may not file additional applications.

(j) EVIDENCE OF NONIMMIGRANT STATUS.—

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

(2) FEATURES OF DOCUMENTATION.—Documentary evidence of Z nonimmigrant status—

(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

(B) shall be designed in consultation with United States Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a valid travel and entry document for the purpose of applying for admission to the United States where the alien is applying for admission at a Port of Entry;

(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

(E) shall be issued to the Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's application for Z nonimmigrant status, except that an alien may not be granted permanent Z nonimmigrant status until all appropriate background checks on the alien are completed to the satisfaction of the Secretary of Homeland Security.

(k) PERIOD OF AUTHORIZED ADMISSION.—

(1) INITIAL PERIOD.—The initial period of authorized admission as a Z nonimmigrant shall be 4 years.

(2) EXTENSIONS.—

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

(B) REQUIREMENTS.—In order to be eligible for an extension of the initial or any subsequent period of authorized admission under this paragraph, an alien must satisfy the following requirements:

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

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in sections 312(a)(1) and (2) by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in sections 312(a)(1) and (2). The alien may make up to 3 attempts to demonstrate such understanding and knowledge but must satisfy this requirement prior to the expiration of the second extension of Z nonimmigrant status.

(III) EXCEPTION.—The requirement of subclauses (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

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

(cc) is over 55 years of age and has been living in the United States for periods totaling at least 15 years.

(iii) EMPLOYMENT.—With respect to an extension of Z–1 or Z–3 nonimmigrant status an alien must demonstrate satisfaction of the employment or study requirements provided in subsection (m) during the alien's most recent authorized period of stay as of the date of application; and

(iv) FEES.—The alien must pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,000 for a Z–1 nonimmigrant.

SA 1443. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADMISSION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.

Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that—

(A) for a period of at least one year beginning after March 1, 2003, he or she served the United States Government inside Iraq as an employee, volunteer, contractor, or employee of a contractor of the United States Government; or

(B) he or she has a parent, spouse, son, daughter, grandparent, grandchild, or sibling currently residing in the United States who is a United States citizen, lawful permanent resident, asylee, or refugee; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

SA 1444. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. TERMINATION.

(a) IN GENERAL.—The amendments described in subsection (b) shall be effective during the 5-year period ending on September 30 of the fifth fiscal year following the fiscal year in which this Act is enacted.

(b) PROVISIONS.—The amendments described in this subsection are the following:

(1) The amendments made by subsections (a) and (b) of section 501.

(2) The amendments made by subsections (b), (c), and (e) of section 502.

(3) The amendments made by subsections (a), (b), (c)(1), (d), and (g) of section 503.

(4) The amendments made by subsection (a) of section 504.

(c) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

(1) TEMPORARY SUPPLEMENTAL ALLOCATION.—Section 201(d) (8 U.S.C. 1151(d)) is amended by adding at the end the follows new paragraphs:

''(3) TEMPORARY SUPPLEMENTAL ALLOCATION.—Notwithstanding paragraphs (1) and (2), there shall be a temporary supplemental allocation of visas as follows:

''(A) For the first 5 fiscal years in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(B) In the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(3) of Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(C) Starting in the seventh fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number equal to the number of aliens described in section 101(a)(15)(Z) who became aliens admitted for permanent residence based on the merit-based evaluation system in the prior fiscal year until no further aliens described in section 101(a)(15)(Z) adjust status.

''(4) TERMINATION OF TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in paragraph (3) shall terminate when the number of visas calculated pursuant to paragraph (3)(C) is zero.

''(5) LIMITATION.—The temporary supplemental visas described in paragraph (3) shall not be awarded to any individual other than an individual described in section 101(a)(15)(Z).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on October 1 of the sixth fiscal year following the fiscal year in which this Act is enacted.

(d) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

(1) INCREASE IN LEVEL.—Section 201(c)(1)(B)(ii) (8 U.S.C. 1151(c)(1)(B)(ii)) is amended by striking ''226,000'' and inserting ''567,000''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective during the period beginning on October 1 of the sixth fiscal year following the fiscal year in which this Act is enacted and ending on the date that an alien may be adjust status to an alien lawfully admitted for permanent residence described in section 602(a)(5).

SA 1445. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, strike ''such limitation'' and insert ''the limitations under clauses (i) and (ii) of paragraph (1)(D)''.

SA 1446. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 304, strike lines 2 through 20 and insert the following:

(ii) APPLICATION PROCESSES.—

(I) IN GENERAL.—Except as provided in subclause (III), a Z–1 nonimmigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence must be filed in person with a United States consulate abroad.

(II) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, a Z–1 nonimmigrant applying for adjustment of status under this paragraph shall make an application at a consular office in the alien's country of origin. A consular office in a country that is not a Z–1 nonimmigrant's country of origin may as a matter of discretion, or shall at the direction of the Secretary of State, accept an application for adjustment of status from such an alien.

(III) APPLICATIONS SUBMITTED FROM WITHIN THE UNITED STATES.—

(aa) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall permit a Z–1 nonimmigrant to submit an application for an adjustment of status to that of an alien lawfully admitted for permanent residence from within the United States if the country of origin of the Z–1 nonimmigrant authorizes the Z–1 nonimmigrant to submit the application.

(bb) REQUIREMENT TO REGISTER.—A Z–1 nonimmigrant applying for adjustment of status under this subclause shall submit to a consulate of the nonimmigrant's country of nationality in the United States a registration of the nonimmigrant's presence in the United States.

SA 1447. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (c) of section 757 of the bill (relating to impact on commercial motor vehicles).

SA 1448. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LANGUAGE TRAINING PROGRAMS.

(a) ACCREDITATION REQUIREMENT.—Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i) is amended by striking ''a language'' and inserting ''an accredited language''.

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

(1) except as provided under paragraphs (3) and (4), require that an accredited language training program described in section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended by subsection (a), be accredited by the Commission on English Language Program Accreditation, the Accrediting Council for Continuing Education and Training, or under the governance of an institution accredited by 1 of the 6 regional accrediting agencies;

(2) require that if such an accredited language training program provides intensive language training, the head of such program provide the Secretary of Education with documentation regarding the specific subject matter for which the program is accredited;

(3) permit an alien admitted as a nonimmigrant under such section 101(a)(15)(F)(i) to participate in a language training program, during the 3-year period beginning on the date of the enactment of this Act, if such program is not accredited under paragraph (1); and

(4) permit a language training program established after the date of the enactment of this Act, which is not accredited under paragraph (1), to qualify as an accredited language training program under such section 101(a)(15)(F)(i) during the 3-year period beginning on the date on which such program is established.

SA 1449. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)), as amended by section 425(b)(1), in paragraph (4)(C)(iii), strike subclause (I) and insert the following:

''(I) with respect to a State, for the first fiscal year of the pilot program conducted under this paragraph, the greater of—

''(aa) 15; or

''(bb) the number of the waivers received by the State in the previous fiscal year;''.

SA 1450. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PLAN FOR THE CONTROL AND MANAGEMENT OF ARUNDO DONAX.

(a) DEFINITIONS.—In this section:

(1) ARUNDO DONAX.—The term ''Arundo donax'' means a tall perennial reed commonly known as ''Carrizo cane'', ''Spanish cane'', ''wild cane'', and ''giant cane''.

(2) PLAN.—The term ''plan'' means the plan for the control and management of Arundo donax developed under subsection (b).

(3) RIVER.—The term ''River'' means the Rio Grande River.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall develop a plan for the control and management of Arundo donax along the portion of the River that serves as the international border between the United States and Mexico.

(2) COMPONENTS.—In developing the plan, the Secretary shall address—

(A) information derived by the Secretary of Agriculture and the Secretary of the Interior from ongoing efforts to identify the most effective biological, mechanical, and chemical means of controlling and managing Arundo donax;

(B) past and current efforts to understand—

(i) the ecological damages caused by Arundo donax; and

(ii) the dangers Arundo donax poses to Federal and local law enforcement;

(C) any international agreements and treaties that need to be completed to allow for the control and management of Arundo donax on both sides of the River;

(D) the long-term efforts that the Secretary considers to be necessary to control and manage Arundo donax, including the cost estimates for the implementation of the efforts; and

(E) whether a waiver of applicable Federal environmental laws (including regulations) is necessary.

(3) CONSULTATION.—The Secretary shall develop the plan in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of State, and any other Federal and State agencies that have appropriate expertise regarding the control and management of Arundo donax.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the plan to—

(1) the Committees on the Judiciary of the Senate and the House of Representatives; and

(2) the Committees on Appropriations of the Senate and the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SA 1451. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 36, after line 17, add the following:

SEC. 139. REPORT REGARDING USE OF LEVEES.

Not later than 90 days after the date of enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to Congress a report regarding the use of flood control levees under the control of the International Boundary and Water Commission by U.S. Customs and Border Protection, which shall—

(1) discuss the purpose and importance of any such use of such levees;

(2) describe the level of degradation of such levees as a result of such use; and

(3) identify any formal agreements that may be needed between the Department of Homeland Security and the International Boundary and Water Commission or the Department of State to ensure needed access to such levees.

SA 1452. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle ____—Asylum and Detention Safeguards

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the ''Secure and Safe Detention and Asylum Act''.

SEC. ___02. DEFINITIONS.

In this subtitle:

(1) ASYLUM SEEKER.—The term ''asylum seeker'' means an applicant for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or for withholding of removal under section 241(b)(3) of that Act (8 U.S.C. 1231(b)(3)) or an alien who indicates an intention to apply for relief under either such section and does not include a person with respect to whom a final adjudication denying an application made under either such section has been entered.

(2) CREDIBLE FEAR OF PERSECUTION.—The term ''credible fear of persecution'' has the meaning given that term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)).

(3) DETAINEE.—The term ''detainee'' means an alien in the Department's custody held in a detention facility.

(4) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are

provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(5) REASONABLE FEAR OF PERSECUTION OR TORTURE.—The term ''reasonable fear of persecution or torture'' has the meaning described in section 208.31 of title 8, Code of Federal Regulations.

(6) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

(7) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers.

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment, done at New York, December 10, 1994.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1464), including applicants for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(G) Unaccompanied alien children (as defined in 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

SEC. ___03. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(b) FACTORS RELATING TO SWORN STATEMENTS.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) RECORDINGS.—

(1) IN GENERAL.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language that the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) FORMAT.—The recording shall be made in video, audio, or other equally reliable format.

(d) EXEMPTION AUTHORITY.—

(1) Subsections (b) and (c) shall not apply to interviews that occur at facilities exempted by the Secretary pursuant to this subsection.

(2) The Secretary or the Secretary's designee may exempt any facility based on a determination by the Secretary or the Secretary's designee that compliance with subsections (b) and (c) at that facility would impair operations or impose undue burdens or costs.

(3) The Secretary or the Secretary's designee shall report annually to Congress on the facilities that have been exempted pursuant to this subsection.

(4) The exercise of the exemption authority granted by this subsection shall not give rise to a private cause of action.

(e) INTERPRETERS.—The Secretary shall ensure that a professional fluent interpreter is used when the interviewing officer does not speak a language understood by the alien and there is no other Federal, State, or local government employee available who is able to interpret effectively, accurately, and impartially.

SEC. ___04. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''(c)'' and inserting ''(d)''; and

(iii) in the second sentence by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''Attorney General'' and inserting ''Secretary''; and

(II) by striking ''or'' at the end;

(ii) in subparagraph (B), by striking ''but'' at the end; and

(iii) by inserting after subparagraph (B) the following:

''(C) the alien's own recognizance; or

''(D) a secure alternatives program as provided for in this section; but'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (h), respectively;

(3) by inserting after subsection (a) the following new subsections:

''(b) CUSTODY DECISIONS.—

''(1) IN GENERAL.—In the case of a decision under subsection (a) or (d), the following shall apply:

''(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

''(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible fear of persecution or a reasonable fear of persecution or torture in order to proceed in immigration court, within 72 hours of a positive credible fear of persecution or reasonable fear of persecution or torture determination.

''(2) CRITERIA TO BE CONSIDERED.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

''(A) whether the alien poses a risk to public safety or national security;

''(B) whether the alien is likely to appear for immigration proceedings; and

''(C) any other relevant factors.

''(3) CUSTODY REDETERMINATION.—An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (d) request a redetermination of that decision by an immigration judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an immigration judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

''(c) EXCEPTION FOR MANDATORY DETENTION.—Subsection (b) shall not apply to any alien who is subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who has a final order of removal and has no proceedings pending before the Executive Office for Immigration Review.'';

(4) in subsection (d), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by striking ''or parole'' and inserting '', parole, or decision to release;'';

(5) in subsection (e), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary'' each place it appears; and

(B) in paragraph (2), by inserting ''or for humanitarian reasons,'' after ''such an investigation,'';

(6) in subsection (f), as redesignated—

(A) in the matter preceding paragraph (1), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (1), in subparagraphs (A) and (B), by striking ''Service'' and inserting ''Department of Homeland Security''; and

(C) in paragraph (3), by striking ''Service'' and inserting ''Secretary of Homeland Security'';

(7) by inserting after subsection (f), as redesignated, the following new subparagraph:

''(g) ADMINISTRATIVE REVIEW.—If an immigration judge's custody decision has been stayed by the action of an officer or employee of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.''; and

(8) in subsection (h), as redesignated—

(A) by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''; and

(B) by striking ''Attorney General'' and inserting ''Secretary''.

SEC. ___05. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered and implemented by the Executive Office for Immigration Review of the Department of Justice.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this section shall be based on the Legal Orientation Program carried out by the Executive Office for Immigration Review on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear of persecution interview, as a continuation of existing programs, such as the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. ___06. CONDITIONS OF DETENTION.

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as physical abuse, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SOLITARY CONFINEMENT.—Procedures limiting the use of solitary confinement, shackling, and strip searches of detainees to situations where the use of such techniques is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low-cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—

(A) IN GENERAL.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, and where appropriate, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the distinctions between persons with criminal convictions or a history of violent behavior and all other detainees; and

(2) ensure that procedures and conditions of detention are appropriate for a noncriminal, nonviolent population.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where such personnel work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. ___07. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this section referred to as the ''Office'').

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and shall report to, the Secretary.

(3) SCHEDULE.—The Office shall be established and the Administrator of the Office appointed not later than 6 months after the date of enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Administrator of the Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Administrator of the Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department;

(iii) the Office of Civil Rights and Civil Liberties of the Department; or

(iv) any other relevant office or agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Administrator of the Office shall submit to the Secretary, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives an annual report on the Administrator's findings on detention conditions and the results of the investigations carried out by the Administrator.

(B) CONTENTS OF REPORT.—Each report required by subparagraph (A) shall include—

(i) a description of the actions to remedy findings of noncompliance or other problems that are taken by the Secretary or the Assistant Secretary of Homeland Security for United States Immigration

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SA 1453. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Insert the following:

Subtitle ___—Asylum and Detention Safeguards

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the ''Secure and Safe Detention and Asylum Act''.

SEC. ___02. DEFINITIONS.

In this subtitle:

(1) ASYLUM SEEKER.—The term ''asylum seeker'' means an applicant for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or for withholding of removal under section 241(b)(3) of that Act (8 U.S.C. 1231(b)(3)) or an alien who indicates an intention to apply for relief under either such section and does not include a person with respect to whom a final adjudication denying an application made under either such section has been entered.

(2) CREDIBLE FEAR OF PERSECUTION.—The term ''credible fear of persecution'' has the meaning given that term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)).

(3) DETAINEE.—The term ''detainee'' means an alien in the Department's custody held in a detention facility.

(4) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(5) REASONABLE FEAR OF PERSECUTION OR TORTURE.—The term ''reasonable fear of persecution or torture'' has the meaning described in section 208.31 of title 8, Code of Federal Regulations.

(6) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

(7) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers.

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment, done at New York, December 10, 1994.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1464), including applicants for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(G) Unaccompanied alien children (as defined in 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

SEC. ___03. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(b) FACTORS RELATING TO SWORN STATEMENTS.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) RECORDINGS.—

(1) IN GENERAL.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language that the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) FORMAT.—The recording shall be made in video, audio, or other equally reliable format.

(d) EXEMPTION AUTHORITY.—

(1) Subsections (b) and (c) shall not apply to interviews that occur at facilities exempted by the Secretary pursuant to this subsection.

(2) The Secretary or the Secretary's designee may exempt any facility based on a determination by the Secretary or the Secretary's designee that compliance with subsections (b) and (c) at that facility would impair operations or impose undue burdens or costs.

(3) The Secretary or the Secretary's designee shall report annually to Congress on the facilities that have been exempted pursuant to this subsection.

(4) The exercise of the exemption authority granted by this subsection shall not give rise to a private cause of action.

(e) INTERPRETERS.—The Secretary shall ensure that a professional fluent interpreter is used when the interviewing officer does not speak a language understood by the alien and there is no other Federal, State, or local government employee available who is able to interpret effectively, accurately, and impartially.

SEC. ___04. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''(c)'' and inserting ''(d)''; and

(iii) in the second sentence by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''Attorney General'' and inserting ''Secretary''; and

(II) by striking ''or'' at the end;

(ii) in subparagraph (B), by striking ''but'' at the end; and

(iii) by inserting after subparagraph (B) the following:

''(C) the alien's own recognizance; or

''(D) a secure alternatives program as provided for in this section; but'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (h), respectively;

(3) by inserting after subsection (a) the following new subsections:

''(b) CUSTODY DECISIONS.—

''(1) IN GENERAL.—In the case of a decision under subsection (a) or (d), the following shall apply:

''(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

''(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible fear of persecution or a reasonable fear of persecution or torture in order to proceed in immigration court, within 72 hours of a positive credible fear of persecution or reasonable fear of persecution or torture determination.

''(2) CRITERIA TO BE CONSIDERED.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

''(A) whether the alien poses a risk to public safety or national security;

''(B) whether the alien is likely to appear for immigration proceedings; and

''(C) any other relevant factors.

''(3) CUSTODY REDETERMINATION.—An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (d) request a redetermination of that decision by an immigration judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an immigration judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

''(c) EXCEPTION FOR MANDATORY DETENTION.—Subsection (b) shall not apply to any alien who is subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who has a final order of removal and has no proceedings pending before the Executive Office for Immigration Review.'';

(4) in subsection (d), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by striking ''or parole'' and inserting '', parole, or decision to release;'';

(5) in subsection (e), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary'' each place it appears; and

(B) in paragraph (2), by inserting ''or for humanitarian reasons,'' after ''such an investigation,'';

(6) in subsection (f), as redesignated—

(A) in the matter preceding paragraph (1), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (1), in subparagraphs (A) and (B), by striking ''Service'' and inserting ''Department of Homeland Security''; and

(C) in paragraph (3), by striking ''Service'' and inserting ''Secretary of Homeland Security'';

(7) by inserting after subsection (f), as redesignated, the following new subparagraph:

''(g) ADMINISTRATIVE REVIEW.—If an immigration judge's custody decision has been stayed by the action of an officer or employee of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.''; and

(8) in subsection (h), as redesignated—

(A) by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''; and

(B) by striking ''Attorney General'' and inserting ''Secretary''.

SEC. ___05. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered and implemented by the Executive Office for Immigration Review of the Department of Justice.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this section shall be based on the Legal Orientation Program carried out by the Executive Office for Immigration Review on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear of persecution interview, as a continuation of existing programs, such as the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. ___06. CONDITIONS OF DETENTION.

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as physical abuse, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SOLITARY CONFINEMENT.—Procedures limiting the use of solitary confinement, shackling, and strip searches of detainees to situations where the use of such techniques is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low-cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—

(A) IN GENERAL.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, and where appropriate, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the distinctions between persons with criminal convictions or a history of violent behavior and all other detainees; and

(2) ensure that procedures and conditions of detention are appropriate for a noncriminal, nonviolent population.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where such personnel work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. ___07. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this section referred to as the ''Office'').

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and shall report to, the Secretary.

(3) SCHEDULE.—The Office shall be established and the Administrator of the Office appointed not later than 6 months after the date of enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Administrator of the Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Administrator of the Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department;

(iii) the Office of Civil Rights and Civil Liberties of the Department; or

(iv) any other relevant office or agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Administrator of the Office shall submit to the Secretary, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives an annual report on the Administrator's findings on detention conditions and the results of the investigations carried out by the Administrator.

(B) CONTENTS OF REPORT.—Each report required by subparagraph (A) shall include—

(i) a description of the actions to remedy findings of noncompliance or other problems that are taken by the Secretary or the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, and each detention facility found to be in noncompliance; and

(ii) information regarding whether such actions were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Administrator of the Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees, or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Administrator of the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department;

(2) the Office of Civil Rights and Civil Liberties of the Department;

(3) the Privacy Officer of the Department;

(4) the Civil Rights Division of the Department of Justice; or

(5) any other relevant office or agency.

SEC. ___08. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program under which an alien who has been detained may be released under enhanced supervision to prevent the alien from absconding and to ensure that the alien makes appearances related to such detention.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing pilot programs such as the Intensive Supervision Appearance Program developed by the Department.

(2) UTILIZATION OF ALTERNATIVES.—The secure alternatives program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(e)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Secretary shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program.

(5) OTHER CONSIDERATIONS.—In designing such program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program.

SEC. ___09. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department's detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to programs and recreation;

(E) detainees are permitted contact visits with legal representatives and family members; and

(F) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall, to the extent practicable, ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for children under 14 years of age are not physically separated from at least 1 of the child's parents.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Among the factors to be considered with respect to placing a detainee in a less restrictive facility is whether the detainee is—

(1) an asylum seeker;

(2) part of a family with minor children;
(3) a member of a vulnerable population; or
(4) a nonviolent, noncriminal detainee.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. ___10. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 1454. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be stricken, insert the following:

Subtitle ___—Asylum and Detention Safeguards

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the ''Secure and Safe Detention and Asylum Act''.

SEC. ___02. DEFINITIONS.

In this subtitle:

(1) ASYLUM SEEKER.—The term ''asylum seeker'' means an applicant for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or for withholding of removal under section 241(b)(3) of that Act (8 U.S.C. 1231(b)(3)) or an alien who indicates an intention to apply for relief under either such section and does not include a person with respect to whom a final adjudication denying an application made under either such section has been entered.

(2) CREDIBLE FEAR OF PERSECUTION.—The term ''credible fear of persecution'' has the meaning given that term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)).

(3) DETAINEE.—The term ''detainee'' means an alien in the Department's custody held in a detention facility.

(4) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(5) REASONABLE FEAR OF PERSECUTION OR TORTURE.—The term ''reasonable fear of persecution or torture'' has the meaning described in section 208.31 of title 8, Code of Federal Regulations.

(6) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

(7) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers.

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment, done at New York, December 10, 1994.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1464), including applicants for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(G) Unaccompanied alien children (as defined in 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

SEC. ___03. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(b) FACTORS RELATING TO SWORN STATEMENTS.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) RECORDINGS.—

(1) IN GENERAL.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language that the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) FORMAT.—The recording shall be made in video, audio, or other equally reliable format.

(d) EXEMPTION AUTHORITY.—

(1) Subsections (b) and (c) shall not apply to interviews that occur at facilities exempted by the Secretary pursuant to this subsection.

(2) The Secretary or the Secretary's designee may exempt any facility based on a determination by the Secretary or the Secretary's designee that compliance with subsections (b) and (c) at that facility would impair operations or impose undue burdens or costs.

(3) The Secretary or the Secretary's designee shall report annually to Congress on the facilities that have been exempted pursuant to this subsection.

(4) The exercise of the exemption authority granted by this subsection shall not give rise to a private cause of action.

(e) INTERPRETERS.—The Secretary shall ensure that a professional fluent interpreter is used when the interviewing officer does not speak a language understood by the alien and there is no other Federal, State, or local government employee available who is able to interpret effectively, accurately, and impartially.

SEC. ___04. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''(c)'' and inserting ''(d)''; and

(iii) in the second sentence by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''Attorney General'' and inserting ''Secretary''; and

(II) by striking ''or'' at the end;

(ii) in subparagraph (B), by striking ''but'' at the end; and

(iii) by inserting after subparagraph (B) the following:

''(C) the alien's own recognizance; or

''(D) a secure alternatives program as provided for in this section; but'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (h), respectively;

(3) by inserting after subsection (a) the following new subsections:

''(b) CUSTODY DECISIONS.—

''(1) IN GENERAL.—In the case of a decision under subsection (a) or (d), the following shall apply:

''(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

''(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible fear of persecution or a reasonable fear of persecution or torture in order to proceed in immigration court, within 72 hours of a positive credible fear of persecution or reasonable fear of persecution or torture determination.

''(2) CRITERIA TO BE CONSIDERED.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

''(A) whether the alien poses a risk to public safety or national security;

''(B) whether the alien is likely to appear for immigration proceedings; and

''(C) any other relevant factors.

''(3) CUSTODY REDETERMINATION.—An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (d) request a redetermination of that decision by an immigration judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an immigration judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

''(c) EXCEPTION FOR MANDATORY DETENTION.—Subsection (b) shall not apply to any alien who is subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who has a final order of removal and has no proceedings pending before the Executive Office for Immigration Review.'';

(4) in subsection (d), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by striking ''or parole'' and inserting '', parole, or decision to release;'';

(5) in subsection (e), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary'' each place it appears; and

(B) in paragraph (2), by inserting ''or for humanitarian reasons,'' after ''such an investigation,'';

(6) in subsection (f), as redesignated—

(A) in the matter preceding paragraph (1), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (1), in subparagraphs (A) and (B), by striking ''Service'' and inserting ''Department of Homeland Security''; and

(C) in paragraph (3), by striking ''Service'' and inserting ''Secretary of Homeland Security'';

(7) by inserting after subsection (f), as redesignated, the following new subparagraph:

''(g) ADMINISTRATIVE REVIEW.—If an immigration judge's custody decision has been stayed by the action of an officer or employee of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.''; and

(8) in subsection (h), as redesignated—

(A) by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''; and

(B) by striking ''Attorney General'' and inserting ''Secretary''.

SEC. ___05. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered and implemented by the Executive Office for Immigration Review of the Department of Justice.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this section shall be based on the Legal Orientation Program carried out by the Executive Office for Immigration Review on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear of persecution interview, as a continuation of existing programs, such as the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. ___06. CONDITIONS OF DETENTION.

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as physical abuse, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SOLITARY CONFINEMENT.—Procedures limiting the use of solitary confinement, shackling, and strip searches of detainees to situations where the use of such techniques is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low-cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—

(A) IN GENERAL.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, and where appropriate, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the distinctions between persons with criminal convictions or a history of violent behavior and all other detainees; and

(2) ensure that procedures and conditions of detention are appropriate for a noncriminal, nonviolent population.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where such personnel work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. ___07. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this section referred to as the ''Office'').

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and shall report to, the Secretary.

(3) SCHEDULE.—The Office shall be established and the Administrator of the Office appointed not later than 6 months after the date of enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Administrator of the Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Administrator of the Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department;

(iii) the Office of Civil Rights and Civil Liberties of the Department; or

(iv) any other relevant office or agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Administrator of the Office shall submit to the Secretary, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives an annual report on the Administrator's findings on detention conditions and the results of the investigations carried out by the Administrator.

(B) CONTENTS OF REPORT.—Each report required by subparagraph (A) shall include—

(i) a description of the actions to remedy findings of noncompliance or other problems that are taken by the Secretary or the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, and each detention facility found to be in noncompliance; and

(ii) information regarding whether such actions were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Administrator of the Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees, or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Administrator of the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department;

(2) the Office of Civil Rights and Civil Liberties of the Department;

(3) the Privacy Officer of the Department;

(4) the Civil Rights Division of the Department of Justice; or

(5) any other relevant office or agency.

SEC. ___08. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program under which an alien who has been detained may be released under enhanced supervision to prevent the alien from absconding and to ensure that the alien makes appearances related to such detention.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing pilot programs such as the Intensive Supervision Appearance Program developed by the Department.

(2) UTILIZATION OF ALTERNATIVES.—The secure alternatives program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(e)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Secretary shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program.

(5) OTHER CONSIDERATIONS.—In designing such program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program.

SEC. ___09. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department's detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to programs and recreation;

(E) detainees are permitted contact visits with legal representatives and family members; and

(F) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall, to the extent practicable, ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for children under 14 years of age are not physically separated from at least 1 of the child's parents.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Among the factors to be considered with respect to placing a detainee in a less restrictive facility is whether the detainee is—

(1) an asylum seeker;

(2) part of a family with minor children;

(3) a member of a vulnerable population; or

(4) a nonviolent, noncriminal detainee.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. ___10. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 1455. Mr. LAUTENBERG (for himself, Mr. BROWNBACK, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 32 and 33, insert the following new subsection:

(f) ADJUSTMENT OF STATUS FOR CERTAIN VICTIMS OF TERRORISM.—

(1) SPECIFIED TERRORIST ACTIVITY.—In this subsection, the term ''specified terrorist activity'' means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

(2) ADJUSTMENT OF STATUS.—

(A) IN GENERAL.—The Secretary shall adjust the status of any alien described in paragraph (3) to that of an alien lawfully admitted for permanent residence, if the alien—

(i) applies for such adjustment not later than 2 years after the date on which the Secretary establishes procedures to implement this subsection; and

(ii) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) RULES IN APPLYING CERTAIN PROVISIONS.—

(i) IN GENERAL.—In the case of an alien described in paragraph (3) who is applying for adjustment of status under this subsection—

(I) the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply; and

(II) the Secretary may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(ii) STANDARDS.—In granting waivers under clause (i)(II), the Secretary shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(C) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(i) APPLICATION PERMITTED.—An alien who is present in the United States and has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may apply for adjustment of status under subparagraph (A).

(ii) MOTION NOT REQUIRED.—An alien described in clause (i) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

(iii) EFFECT OF DECISION.—If the Secretary grants a request under clause (i), the Secretary shall cancel the order. If the Secretary renders a final administrative decision to deny the request, the order shall be effective and enforceable to the same extent as if the application had not been made.

(3) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—Subject to paragraph (7), the benefits under paragraph (2) shall apply to any alien who—

(A) was lawfully present in the United States as a nonimmigrant alien under the immigration laws of the United States on September 10, 2001;

(B) was, on such date, the spouse, child, dependent son, or dependent daughter of an alien who—

(i) was lawfully present in the United States as a nonimmigrant under the immigration laws of the United States on such date; and

(ii) died as a direct result of a specified terrorist activity; and

(C) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(4) STAY OF REMOVAL; WORK AUTHORIZATION.—

(A) IN GENERAL.—The Secretary shall establish a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under paragraph (2).

(B) DURING CERTAIN PROCEEDINGS.—The Secretary may not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under paragraph (2), unless the Secretary has rendered a final administrative determination to deny the application.

(C) WORK AUTHORIZATION.—The Secretary shall authorize an alien who was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note), and who has applied for adjustment of status under paragraph (2) to engage in employment in the United States during the pendency of such application.

(5) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under paragraph (2) the same right to, and procedures for, administrative review as are provided to—

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

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

(6) CANCELLATION OF REMOVAL FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.—

(A) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b)) and paragraph (7) of this subsection, the Secretary shall, under such section 240A, cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subparagraph (B), if the alien applies for such relief.

(B) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subparagraph (A) shall apply to any alien who—

(i) was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity; and

(ii) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(C) STAY OF REMOVAL; WORK AUTHORIZATION.—

(i) IN GENERAL.—The Secretary shall establish a process to provide for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subparagraph (A).

(ii) WORK AUTHORIZATION.—The Secretary shall authorize an alien who was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note), and who has applied for cancellation of removal under subparagraph (A) to engage in employment in the United States during the pendency of such application.

(D) MOTIONS TO REOPEN REMOVAL PROCEEDINGS.—

(i) IN GENERAL.—On motions to reopen removal proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), any alien who has become eligible for cancellation of removal as a result of the enactment of this section may file 1 motion to reopen removal proceedings to apply for such relief.

(ii) FILING PERIOD.—The Secretary shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of the enactment of this Act and shall extend for a period not to exceed 240 days.

(7) EXCEPTIONS.—Notwithstanding any other provision of this subsection, an alien may not be provided relief under this subsection if the alien is—

(A) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or deportable under paragraph (2) or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)), including any individual culpable for a specified terrorist activity; or

(B) a family member of an alien described in subparagraph (A).

(8) EVIDENCE OF DEATH.—For purposes of this subsection, the Secretary shall use the standards established under section 426 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (115 Stat. 362) in determining whether death occurred as a direct result of a specified terrorist activity.

(9) AUTHORITY OF THE ATTORNEY GENERAL.—The requirements and authorities under this subsection pertaining to the Secretary, other than the authority to grant work authorization, shall apply to the Attorney General with respect to cases otherwise within the jurisdiction of the Executive Office for Immigration Review.

(10) PROCESS FOR IMPLEMENTATION.—The Secretary and the Attorney General—

(A) shall carry out this subsection as expeditiously as possible;

(B) are not required to promulgate regulations before implementing this subsection; and

(C) shall promulgate procedures to implement this subsection not later than 180 days after the date of the enactment of this Act.

SA 1456. Mrs. FEINSTEIN (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. HUMAN TRAFFICKING AWARENESS.

(a) FINDINGS.—Congress finds that:

(1) The United States has a tradition of advancing fundamental human rights.

(2) Because the people of the United States remain committed to protecting individual freedom, there is a national imperative to eliminate human trafficking, including early or forced marriage, commercial sexual exploitation, forced labor, labor obtained through debt bondage, involuntary servitude, slavery, and slavery by descent.

(3) To combat human trafficking in the United States and globally, the people of the United States and the Federal Government, including local and State governments, must be aware of the realities of human trafficking and must be dedicated to stopping this contemporary manifestation of slavery.

(4) Beyond all differences of race, creed, or political persuasion, the people of the United States face national threats together and refuse to let human trafficking exist in the United States and around the world.

(5) The United States should actively oppose all individuals, groups, organizations, and nations who support, advance, or commit acts of human trafficking.

(6) The United States must also work to end human trafficking around the world through education.

(7) Victims of human trafficking need support in order to escape and to recover from the physical, mental, emotional, and spiritual trauma associated with their victimization.

(8) Human traffickers use many physical and psychological techniques to control their victims, including the use of violence or threats of violence against the victim or the victim's family, isolation from the public, isolation from the victim's family and religious or ethnic communities, language and cultural barriers, shame, control of the victim's possessions, confiscation of passports and other identification documents, and threats of arrest, deportation, or imprisonment if the victim attempts to reach out for assistance or to leave.

(9) Although laws to prosecute perpetrators of human trafficking and to assist and protect victims of human trafficking have been enacted in the United States, awareness of the issues surrounding human trafficking by those people most likely to come into contact with victims is essential for effective enforcement because the techniques that traffickers use to keep their victims enslaved severely limit self-reporting.

(10) The effort by individuals, businesses, organizations, and governing bodies to promote the observance of the National Day of Human Trafficking Awareness on January 11 of each year represents one of the many examples of the ongoing commitment in the United States to raise awareness of and to actively oppose human trafficking.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that Congress supports the goals and ideals of observing the National Day of Human Trafficking Awareness on January 11 of each year and all other efforts to raise awareness of and opposition to human trafficking.

SA 1457. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. ___. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, ''Border tunnels and passages'', and inserting the following:

''555. Border tunnels and passages.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6)of title 18, United States Code, is amended by striking ''554'' and inserting ''555''.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking ''554'' and inserting ''555''.

SA 1458. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 304, strike lines 2 through 20 and insert the following:

(ii) APPLICATION.—A Z-1 non-immigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence may be filed in person with a United States consulate outside the United States or with United States Citizenship and Immigration Services at any location in the United States designated by the Secretary.

SA 1459. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 282, strike line 11 and all that follows through page 283, line 8 and insert the following:

(b) ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 401(a), is further amended by adding at the end the following:

''(Z) subject to title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, an alien who—

''(i)(I) has maintained a continuous physical presence in the United States since the date that is 4 years before the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(II) is employed, and seeks to continue performing labor, services, or education; and

''(III) the Secretary of Homeland Security determines has sufficient ties to a community in the United States, based on—

''(aa) whether the applicant has immediate relatives (as defined in section 201(b)(2)(A)) residing in the United States;

''(bb) the amount of cumulative time the applicant has lived in the United States;

''(cc) whether the applicant owns property in the United States;

''(dd) whether the applicant owns a business in the United States;

''(ee) the extent to which the applicant knows the English language;

''(ff) the applicant's work history in the United States;

''(gg) whether the applicant attended school (either primary, secondary, college, post-graduate) in the United States;

''(hh) the extent to which the applicant has a history of paying Federal and State income taxes;

''(ii) whether the applicant has been convicted of criminal activity in the United States; and

''(jj) whether the applicant has certifies his or her intention to ultimately become a United States citizen;

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

''(II) was, during the 2-year period ending on the date on which the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

''(aa) the termination of the relationship with such spouse was connected to domestic violence; and

''(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant; or

''(III) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph and was born to, or legally adopted by, a parent described in clause (i).''.

(2) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations, in accordance with the procedures set forth in sections 555, 556, and 557 of title 5, United States Code, which establish the precise system that the Secretary will use to make a determination under section 101(a)(15)(Z)(ii) of the Immigration and Nationality Act, as added by paragraph (1).

SA 1460. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

Beginning on page 270, strike lines 31 and 32, and insert the following:

''(3) FAMILY-BASED VISA PETITIONS FILED BEFORE JANUARY 1, 2007, FOR WHICH VISAS WILL BE AVAILABLE BEFORE JANUARY 1, 2027.—

''(A) IN GENERAL.—The allocation of immigrant visas described in paragraph (4) shall apply to an alien for whom—

''(i) a family-based visa petition was filed on or before January 1, 2007; and

''(ii) as of January 1, 2007, the Secretary of Homeland Security calculates under subparagraph (B) that a visa can reasonably be expected to become available before January 1, 2027.

''(B) REASONABLE EXPECTATION OF AVAILABLITY OF VISAS.—In calculating the date on which a family-based visa can reasonably be expected to become available for an alien described in subparagraph (A), the Secretary of Homeland Security shall take into account—

''(i) the number of visas allocated annually for the family preference class under which the alien's petition was filed;

''(ii) the effect of any per country ceilings applicable to the alien's petition;

''(iii) the number of petitions filed before the alien's petition was filed that were filed under the same family preference class; and

''(iv) the rate at which visas made available in the family preference class under which the alien's petition was filed were unclaimed in previous years.

''(4) ALLOCATION OF FAMILY-BASED IMMIGRANT VISAS.—''.

SA 1461. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 239, strike line 419(b)

On page 260, line 39 strike ''and''

On page 260, line 44, insert the following: '';and

(iii) up to 40,000 will be for aliens who met the specifications set forth in section 203(b)(1) of the Immigration and Nationality Act (as of January 1, 2007)

(iv) the remaining visas be allocated as follows:

(a) in FY 2008 through 2009, 85,401 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(b) in FY 2010, 56,934 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(c) in FY 2011, 28,467 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(d) in FY 2012, 14,234 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

On page 265, line 16, insert the following:

(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification

(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.

Section 214(g) is amended by adding at the end the following new subsection—

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.''

SA 1462. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 409, strike paragraphs (1) and (2) and insert the following:

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)'';

(B) by striking subparagraph (B) and inserting the following:

''(B) under section 101(a)(15)(Y)(i), may not exceed—

''(i) for the first fiscal year after the effective date described in section 401(c) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, 200,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year, as adjusted in accordance with paragraph (2)(B); or

''(II) 600,000;

''(C) under clause (iii) of section 101(a)(15)(Y), may not exceed 20 percent of the annual limit on admissions of aliens under clause (i) of such section for that fiscal year; or

''(D) under section 101(a)(15)(Y)(ii)(II), may not exceed—

''(i) for the first fiscal year after the effective date referred to in subparagraph (B)(i), 100,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2)(A); or

''(II) 200,000.''; and

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively;

(3) by inserting after paragraph (1) the following:

''(2) MARKET-BASED ADJUSTMENT.—

''(A) IN GENERAL.—With respect to the numerical limitation in subparagraph (A)(ii) or (D)(ii) of paragraph (1)—

''(i) if the total number of visas allocated for that fiscal year are issued during the first 6 months that fiscal year, an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(ii) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; or

''(iii) for any fiscal year after the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.

''(B) Y–1 NONIMMIGRANTS.—With respect to the numerical limitation in subparagraph (B)(ii) of paragraph (1)—

''(i) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year and the total number of such visas was—

''(I) not more than 400,000, the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year; or

''(II) more than 400,000, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; or

''(ii) for any fiscal year after the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''.

SA 1463. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 409, strike paragraphs (1) and (2) and insert the following:

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)'';

(B) by striking subparagraph (B) and inserting the following:

''(B) under section 101(a)(15)(Y)(i), may not exceed—

''(i) for the first fiscal year after the effective date described in section 401(c) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, 200,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2); or

''(II) 400,000;

''(C) under clause (iii) of section 101(a)(15)(Y), may not exceed 20 percent of the annual limit on admissions of aliens under clause (i) of such section for that fiscal year; or

''(D) under section 101(a)(15)(Y)(ii)(II), may not exceed—

''(i) for the first fiscal year after the effective date referred to in subparagraph (B)(i), 100,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2); or

''(II) 200,000.''; and

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively;

(3) by inserting after paragraph (1) the following:

''(2) MARKET-BASED ADJUSTMENT.—With respect to the numerical limitation set in subparagraph (A)(ii), (B)(ii), and (D)(ii) of paragraph (1)—

''(A) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year; or

''(B) for any fiscal year after the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''.

SA 1464. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 224, between lines 29 and 30, and insert the following:

(3) by amending paragraph (3), as redesignated by paragraph (2) of this section, to read as follows:

''(3) The numerical limitations of paragraph (1)—

''(A) shall apply to principal aliens and not to the spouses or children of such aliens; and

''(B) shall not apply to aliens seeking nonimmigrant status under section 101(a)(15)(Y)(i) for a fiscal year who have been granted nonimmigrant status under such section during a previous fiscal year.''; and

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SA 1465. Mr. GRAHAM (for himself, Mr. KYL, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 157, strike lines 34 through 39, and insert the following:

(2) OVERSTAY.—Except as provided in paragraphs (3) and (4), an alien who knowingly remains in the United States for more than 30 days after the expiration of the period of authorized admission for such alien shall be—

(A) imprisoned for not less than 60 days; and

(B) barred permanently from receiving benefits under the immigration laws of the United States.

On page 150, strike lines 4 through 20.

On page 286, beginning on line 4, strike all through line 10, and insert the following:

(iii) for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest, the Secretary may, in the Secretary's discretion, waive the application of paragraphs (1)(C), (2)(D)(i) (when the alien demonstrates that such actions or activities were committed involuntarily), (5)(A), (6)(A) (with respect to entries occurring before January 1, 2007), (6)(C)(ii), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I), and (10)(B) of section 212(a) of the Immigration and Nationality Act; and

In Section 1. Effective Date Triggers,

On page 3, line 43 insert the following:

(d) the Secretary of the Department of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien who was admitted to the United States under Section 101(a)(15)(H)(ii) (as amended by Title IV); Section 101(a)(15)(Y); or Section 101(a)(15)(B) (admitted under the terms and conditions of Section 214(s)) of the ACT, and who has exceeded the alien's authorized period of admission or otherwise violated any terms of the nonimmigrant classification in which the alien was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to national security, homeland security, or public safety.

Parent Visas:

(a) Paragraph 506(b) is amended by striking ''$1,000'' and inserting ''$2,500''

Fee for the new trigger language regarding the establishment and deployment of a Y departure tracking system.

(a) Paragraph 218A(e), as created by the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, is amended as follows:

(1) In subparagraph (3)—

(A) To redesignate paragraphs (C), (D) and (E) as paragraphs (D), (E), and (F), respectively;

(B) To add a new paragraph (C) to read as follows:

''(C) An Exit Tracking Fee, in an amount set by Secretary at a level that will ensure recovery of the full costs of providing the Y nonimmigrant visa exit system described in section 1(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and any additional costs associated with the administration of the fees collected''; and

(C) To add a new paragraph (G) to read as follows:

''(G) DEPOSIT AND DISPOSITION OF DEPARTURE FEE.—The funds described in subparagraph (C) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in 218A(e)(3)(C).''

Affidavit requirements:

(a) Amend paragraph (i) of section 601

(1) in subparagraph (2)

(A) amend paragraph (D)(ii) to read as follows:

''(ii) set by notice in the Federal Register such terms and conditions and minimum standards for affidavits described in (C)(VI) as are necessary, when such affidavits are reviewed in combination with the other documentation as described (A) or (C), to reliably demonstrate and provide for verification of the identity of any affiant or verification of the physical presence, identity, or employment information averred to by the affiant, or to otherwise prevent fraudulent submissions.''

Background Checks—

Section 601(g)(3)(B) is amended by adding ''and any other appropriate information'' after ''biometric data provided by the alien.''

Section 601(h)(2) is amended by adding prior to the period at the end of the subsection: ''unless that the Secretary determines, in his discretion, that there are articulable reasons to suspect that the alien may be a danger to the security of the United States or to the public safety. If the Secretary determines that the alien may be a danger to the security of the United States or to the public safety, the Secretary shall endeavor to determine eligibility for Z status as expeditiously as possible.''

Security Checks/Electronic Registration System—

(a) add a new section to title VI to read as follows:

SEC. 626. ELECTRONIC SYSTEM FOR THE PREREGISTRATION FOR APPLICANTS FOR Z AND Z-A STATUS.

The Secretary of Homeland Security may establish an online registration process allowing applicants for Z and Z-A nonimmigrant status to provide, in advance of the application described in paragraph 601(f), such biographical information and other information as the Secretary shall prescribe for the purpose of (1) providing applicants with an appointment to provide fingerprints and other biometric data at a DHS facility, (2) initiating background checks based on such information, and (3) other purposes consistent with this Act.

Treatment of Certain Criminal Aliens

Strike page 47, line 38-page 48 line 2 and insert:

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any conviction that occurred before, on, or after enactment of this Act.''

Exit System Trigger for Y Visas—p.3, line 25 add as section 1(a)(6):

(6) *Visa exit tracking system:* The Department of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act, at designated ports of entry or designated U.S. Consulates abroad.

Strike section 111(a) in its entirety and replace with

(a) Section 215 of the Immigration and Nationality Act, (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (h);

(2) by moving redesignated subsection (h), as redesignated by paragraph (1) to the end;

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g); and

(4) by inserting after subsection (b) the following:

''(c) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES—

''The Secretary shall require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status.

''(d) COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS—

''(1) The Secretary shall require aliens who were admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)), section 101(a)(15)(H)(ii), or section 101(a)(15)(Y) to record their departure at a designated port of entry or at a designated United States consulate abroad.

''(2) Aliens who do not record their departure as required in paragraph (1) shall be entered into the database as overstays within 48 hours of the expiration of their period of authorized admission.

''(3) The information in this database shall be made available to state and local law enforcement pursuant to the provisions of section 240D.''

Line edit amendment:

On page 49 lines 7–8 strike '', which is punishable by a sentence of imprisonment of five years or more''

On page 49 line 44 to page 50 line 10 strike ''Unless'' and all that follows and insert:

Any alien whom—

''(i) a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe to be or to have been a member of a criminal gang (as defined in section 101 (a)(52)); or

''(ii) a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe to have participated in the activities of a criminal gang (as defined in section 101 (a)(52)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang;

''is inadmissible. The Secretary of Homeland Security or the Attorney General may in his discretion waive clauses (i) or (ii).''.

On page 50 line 16 through page 50 line 22, strike ''Any'' and all that follows and insert:

Any alien whom—

''(i) there is reasonable ground to believe is or has been a member of a criminal gang (as defined in section 101(a)(52)); or

''(ii) there is reasonable ground to believe has participated in the activities of a criminal gang (as defined in section 101(a)(52)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang;

''is deportable. The Secretary of Homeland Security or the Attorney General may in his discretion waive clauses (i) or (ii).''

On page 51, strike lines 8–12 and insert: ''(ii) the alien is, or at any time after admission has been, a member of a criminal gang (as defined in section 101(a)(52)); and''

On page 51, line 24, redesignate (e) as (f). On page 51, line 24, redesignate (f) as (g). On page 51, line 23 insert:

(e) EFFECTIVE DATE.—The amendments made to subsections (b), (c) and (d) shall apply to—

1. Any act or membership that occurred on, before or after the date of the enactment of this Act, and

2. all aliens who are required to establish admissibility on or after the date of enactment of this section, and to all aliens in removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

On page 289, line 35–36 strike ''gang membership, renunciation of gang affiliation;'' and insert ''gang membership;''

Misdemeanor Crime for Knowingly Overstaying Visa and Parole:

On page 52, line 10 strike ''or''

On page 52, line 18 strike the period after ''shipping laws)'' and insert ''; or'' On page 52, line 18 insert:

''(D) knowingly exceeds by 30 days or more the period of the alien's admission or parole into the United States.''

On page 53 redesignate subsections (b) and (c) as subsections (c) and (d) and insert on line 25: .

(b) SPECIAL EFFECTIVE DATE.—Subsection (a)(1)(D) of section 275 of the Immigration and Nationality Act, as amended by this Act, shall apply to all aliens admitted or paroled after the enactment of this Act.

Deposit and Spending of Penalties and Fines in Titles VI—

1. Add a new subsection (z) to section 286 as follows:

(z) IMMIGRATION ENFORCEMENT ACCOUNT.—

(1) Transfers into the Immigration Enforcement Account—Immediately upon enactment, the following amount shall be transferred from the general fund to the Immigration Enforcement Account, $4,400,000,000.

(2) Appropriations—

(a) There are hereby appropriated such sums that are provided under subsection 1 to remain available until five years after enactment.

(b) These sums shall be used to meet the trigger requirements set forth in title I, section 1.

(c) To the extent funds are not exhausted pursuant to (b), they shall be used by the Secretary of Homeland Security on one or more of the following:

1. Fencing and Infrastructure;
2. Towers;
3. Detention beds;
4. Employment Eligibility Verification System;
5. Implementation of programs authorized in titles IV and VI; and
6. Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

2. Strike section 608 and replace with the following:

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601 (e)(6)(B) and Section 602(a)(I)(C)(v) through an installment payment plan.

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

(1) the first $4.4 billion of such penalties shall be deposited into the general fund as repayment of funds transferred into the Immigration Enforcement Account under section 286(z)(1).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

On page 4, strike lines 12 through 26, and insert the following:

(2) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(A) SMUGGLING PERSONNEL.—During each of the fiscal years 2008 through 2012, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(B) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—

(i) IN GENERAL.—In each of the fiscal years 2008 through 2011, the Secretary of Homeland Security shall increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in the United States Immigration and Customs Enforcement to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States, to investigate immigration fraud, and to enforce workplace violations.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subparagraph.

(C) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

On page 140, beginning on line 4, strike ''In each of the five years beginning on the date of the enactment of this Act, the appropriations necessary to increase to a level not less than 4500'' and insert the following: ''In each of the two years beginning on the date of the enactment of this Act, the appropriations necessary to hire not less than 2500 a year''.

Beginning on page 290, strike line 13 and all that follows through page 291, line 1, and insert the following:

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under subsections (f) and (g) and after the Secretary has conducted appropriate background checks—

(A) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

(B) may, in the Secretary's discretion, receive advance permission to reenter the United States pursuant to existing regulations governing advance parole; and

(C) may not be considered an unauthorized alien (as defined in section 274A(b) of the Immigration and Nationality Act, as amended by section 302) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien described in paragraph (1) until the alien has passed all appropriate background checks.

Beginning on page 154, strike line 23 and all that follows through page 155, line 8, and insert the following:

''(2) EXCEPTION.—The Secretary of Homeland Security may waive the termination of the period of authorized admission of an alien who is a Y nonimmigrant for unemployment under paragraph (1)(D) if the alien submits to the Secretary an attestation under penalty of perjury in a form prescribed by the Secretary, with supporting documentation, that establishes that such unemployment was the result of—

''(A) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(B) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by Federal or State law or by a policy of the alien's employer; or

''(C) any other period of temporary unemployment that is the direct result of a force majeure event.

''(3) RETURN TO FOREIGN RESIDENCE.—An alien who is a Y nonimmigrant whose period of authorized admission terminates under paragraph (1) shall depart the United States immediately.

''(k) REGISTRATION OF DEPARTURE.—

''(1) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure or designated U.S. consulate abroad in a manner to be prescribed by the Secretary of Homeland Security.

''(2) EFFECT OF FAILURE TO DEPART.—In the event an alien described in paragraph (1) fails to depart the United States or to register such departure as required by subsection (j)(3), the Secretary of Homeland Security shall take immediate action to determine the location of the alien and, if the alien is located in the United States, to remove the alien from the United States.

''(3) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in paragraph (1) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates.''. The Secretary shall ensure that the invalidation of such documentation is recorded in the employment eligibility verification system described in section 301.

at the appropriate place in Title 3, insert the following:

14 days prior to employment eligibility expiration employers shall provide, in writing, notification to aliens of the expiration of the alien's employment eligibility.

SA 1466. Mr. BIDEN (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 56, strike line 9 and insert the following:

''(i) VICTIMS OF BATTERY AND EXTREME CRUELTY.—The Attorney General in the Attorney General's discretion may waive the provisions of subsection (a) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of subparagraph (A) of section 204 (a)(1), or classification under clause (ii), (iii), or (iv) of subparagraph (B) of such section, in any case in which there is a connection between—

''(1) the alien's having been battered or subjected to extreme cruelty; and

''(2) the alien's—

''(A) removal;

''(B) departure from the United States;

''(C) reentry or reentries into the United States; or

''(D) attempted reentry into the United States.

''(j) DEFINITIONS.—In this section:

On page 71, line 6, strike ''and''.

On page 71, line 14, strike the period at the end and insert the following: ''; and

(7) by adding at the end the following new subsection:

''(g) APPLICATION OF VAWA PROTECTIONS.—The restrictions on relief under this section shall not apply to relief under sections 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240(A)(b)(2), or under 244(a)(3) (as in effect on March 31, 1997), if the extreme cruelty or battery was at least one central reason for the alien's overstaying the grant of voluntary departure.''.

On page 150, strike line 9 and insert ''grounds of inadmissability under section 601(d)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).''.

On page 150, strike line 31 and insert ''601(d)(1)(A), (D), (E), (F), or (G) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).''.

On page 157, line 7, strike ''; or'' and insert a semicolon.

On page 157, line 11, strike the period at the end and insert ''; or

''(D) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 158, line 2, strike ''; or'' and insert a semicolon.

On page 158, line 6, strike the period at the end and insert ''; or

''(D) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 271, strike lines 19 through 21 and insert the following:

(d) PETITION.—Section 204(a)(1) of the Immigrations and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking '', (3), or (4)''; and

(B) in clause (vii)(III), insert after ''immediate relative under section 201(b)(2)(A)(i)'' the following: ''(as in effect on January 1, 2007)''; and

(2) in subparagraph (D)(i)(I), by striking ''a petitioner'' and all that follows through the period at the end of the sentence and inserting ''an immediate relative''.

On page 279, line 14, strike ''; or'' and insert a semicolon.

On page 279, line 18, strike the period at the end and insert ''; or

''(iv) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 280, line 2, insert after ''terminated.'' the following: ''The provisions of this paragraph shall not apply to citizen and Y-1 nonimmigrant sponsors described in subsection 214(d)(2)(c)(ii) or section 237(a)(7).''.

On page 303, line 9, insert after ''221 and 222'' the following: ''of the Immigration and Nationality Act (8 U.S.C. 1201 and 1202) unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) of such Act or under section 244(a)(3) of such Act (as in effect on March 31, 1997).''.

On page 305, strike line 13 and insert the following:

(A) RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.—

(i) IN GENERAL.—An

On page 305, between lines 19 and 20, insert the following:

(ii) EXCEPTION FOR CERTAIN INDIVIDUALS.—The restriction under clause (i) does not apply if the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) of the Immigration and Nationality Act or under section 244(a)(3) of such Act (as in effect on March 31, 1997).

SA 1467. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. B–1 VISITOR VISA GUIDELINES AND DATA TRACKING SYSTEMS.

(a) GUIDELINES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act—

(A) the Secretary of State shall review existing regulations or internal guidelines relating to the decisionmaking process with respect to the issuance of B–1 visas by consular officers and determine whether modifications are necessary to ensure that such officers make decisions with respect to the issuance of B–1 visas as consistently as possible while ensuring security and maintaining officer discretion over such issuance determinations; and

(B) the Secretary of Homeland Security shall review existing regulations or internal guidelines relating to the decisionmaking process of Customs and Border Protection officers concerning whether aliens holding a B–1 visitor visa are admissible to the United States and the appropriate length of stay and shall determine whether modifications are necessary to ensure that such officers make decisions with respect to aliens' admissibility and length of stay as consistently as possible while ensuring security and maintaining officer discretion over such determinations.

(2) MODIFICATION.—If, after conducting the reviews under paragraph (1), the Secretary of State or the Secretary of Homeland Security determine that modifications to existing regulations or internal guidelines, or the establishment of new regulations or guidelines, are necessary, the relevant Secretary shall make such modifications during the 6-month period referred to in such paragraph.

(3) CONSULTATIONS.—In making determinations and preparing guidelines under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall consult with appropriate stakeholders.

(b) DATA TRACKING SYSTEMS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act—

(A) the Secretary of State shall develop and implement a system to track aggregate data relating to the issuance of B–1 visitor visas in order to ensure the consistent application of agency regulations or internal guidelines; and

(B) the Secretary of Homeland Security shall develop and implement a system to track aggregate data relating to admissibility decision, and length of stays under, B-1 visitor visas in order to ensure the consistent application of agency regulations or internal guidelines.

(2) LIMITATION.—The systems implemented under paragraph (1) shall not store or track personally identifiable information, except that this paragraph shall not be construed to limit the application of any other system that is being implemented by the Department of State or the Department of Homeland Security to track travelers or travel to the United States.

(c) PUBLIC EDUCATION.—The Secretary of State and the Secretary of Homeland Security shall carry out activities to provide guidance and education to the public and to visa applicants concerning the nature, purposes, and availability of the B-1 visa for business travelers.

(d) REPORT.—Not later than 6 and 18 months after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security shall submit reports concerning the status of the implementation of this section to the Senate Committees on the Judiciary & Foreign Relations

and to the Committees on the Judiciary and Foreign Affairs of the House of Representatives.

SA 1468. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 123, strike line 5 and all that follows through page 124, line 6, and insert the following:

''(1) EMPLOYERS.—

''(A) IN GENERAL.—Whenever an employer who does not hold Federal contracts, grants, or cooperative agreements is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to prohibition from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Secretary. The Secretary or the Attorney General shall advise the Administrator of General Services of any such prohibition, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for the period of the prohibition.

''(B) WAIVER AUTHORITY.—After consideration of the views of any agency or department regarding an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive the prohibition or may limit the duration or scope of the prohibition under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.

''(2) CONTRACTORS AND RECIPIENTS.—

''(A) IN GENERAL.—Whenever an employer who holds Federal contracts, grants, or cooperative agreements is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to prohibition from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Secretary. Prior to prohibiting the employer, the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies holding contracts, grants, or cooperative agreements with the employer of the proceedings to prohibit the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not less than 5 years.

''(B) WAIVER AUTHORITY.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive the prohibition or may limit the duration or scope of the prohibition under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.''.

SA 1469. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Insert the following after Section 126:

''SECTION 127. NORTHERN BORDER COORDINATOR.

''(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the position of Northern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

''(b) RESPONSIBILITIES.—The Northern Border Coordinator shall be responsible for—

''(1) increasing the security of the border, including ports of entry, between the United States and Canada;

''(2) improving the coordination among the agencies responsible for the security described under paragraph (1);

''(3) serving as the primary liaison with State and local governments and law enforcement agencies regarding security along the border between the United States and Canada; and

''(4) serving as a liaison with the Canadian government on border security.''.

SA 1470. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADMISSION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.

(a) IN GENERAL.—Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that—

(A) for a period of at least one year beginning after March 1, 2003, he or she served the United States Government inside Iraq as an employee, volunteer, contractor, or employee of a contractor of the United States Government; or

(B) he or she has a parent, spouse, son, daughter, grandparent, grandchild, or sibling currently residing in the United States who is a United States citizen, lawful permanent resident, asylee, or refugee; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

(b) AUTHORIZATION OF ADDITIONAL REFUGEE ADMISSIONS.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection:

''(g) ADMISSION OF CERTAIN NATIONALS OF IRAQ.—In addition to any refugee admissions determined under subsections (a) and (b), there are 250,000 refugee admissions authorized for each of fiscal years 2007, 2008, and 2009 for refugees who are nationals of Iraq.''.

SA 1471. Mr. DURBIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 242, strike line 37 and all that follows through line 24, on page 250, and insert the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H-1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

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

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K) of the Immigration and Nationality Act, as redesignated by section 2(d)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by inserting '', clear indicators of fraud, misrepresentation of material fact,'' after ''completeness'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2)''.

(b) INVESTIGATIONS BY DEPARTMENT OF LABOR.—Section 212(n)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ''12 months'' and inserting ''24 months''; and

(B) by striking ''The Secretary shall conduct'' and all that follows and inserting ''Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.'';

(2) in subparagraph (C)(i)—

(A) by striking '`'' condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)''; and

(B) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)'';

(3) in subparagraph (G)—

(A) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(B) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employers compliance with the requirements of this subsection.'';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.''.

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2) of such Act, as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A) of such Act, as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H-1B nonimmigrants during the applicable calendar year.''

(e) PENALTIES.—Section 212(n)(2)(C) of such Act, as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n) of such Act, as amended by this section, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers' rights.''.

SEC. 422. L-1 VISA FRAUD AND ABUSE PROTECTIONS.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (H), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a

new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish a procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.''.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 238, beginning with line 13, strike all through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION.

(a) H–1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 30,000—

''(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

''(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

SA 1473. Mr. COLEMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1, add the following new subsection:

(e) INFORMATION SHARING BETWEEN FEDERAL AND LOCAL LAW ENFORCEMENT OFFICERS.—

(1) REQUIREMENT FOR INFORMATION SHARING.—No person or agency may prohibit a Federal, State, or local government entity from acquiring information regarding the immigration status of any individual if the entity seeking such information has probable cause to believe that the individual is not lawfully present in the United States. Such probable cause includes the individual's failure to possess an identification document issued by the United States or a State.

(2) REQUIREMENT PRIOR TO IMPLEMENTATION.—Subject to subsection (a), with the exception of the probationary benefits conferred by section 601(h) of this Act, the provisions of subtitle C of title IV, and the admission of aliens under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that adjust the current status of any individual who is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence, may not become effective until the date that the Secretary submits a written certification to the President and Congress that the requirement set out in paragraph (1) is being carried out.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed—

(A) to limit the acquisition of information as otherwise provided by law; or

(B) to require a person to disclose information regarding an individual's immigration status prior to the provision of emergency medical assistance.

SA 1474. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Insert before section 426 the following:

SEC. 425A. BLANKET PETITIONS TO SPONSOR INTERNATIONAL ATHLETES AND PERFORMERS.

Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following:

''(F)(i) The Secretary of Homeland Security shall provide for a procedure under which a petitioner for aliens described in section 101(a)(15)(P) may file a blanket petition to import such aliens (including their essential support personnel) as nonimmigrants described in such section instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for admission of aliens covered under such a petition.

''(ii) A petitioner may file such a blanket petition seeking continuing approval to import the aliens as described in clause (i), for itself and some or all of its parent organizations, branches, subsidiaries, and affiliates (collectively referred to in this subparagraph as 'qualifying organizations'), if—

''(I) the petitioner has an office in the United States where the petitioner has been doing business for not less than 1 year; and

''(II) the petitioner and the petitioner's qualifying organizations—

''(aa) have obtained approval of petitions under paragraph (1) for at least 10 aliens described in section 101(a)(15)(P) during the previous 12 months;

''(bb) have worldwide combined annual sales of at least $5,000,000; or

''(cc) have a United States workforce of at least 500 employees.

''(iii) A petitioner that meets the requirements of clause (ii) may request a blanket advisory opinion from a labor organization described in paragraph (6)(A)(iii).

''(iv) Notwithstanding paragraph (1), the question of importing any alien under a petition described in this subparagraph shall be determined by the Secretary of Homeland Security.

''(v) United States consular officers shall have authority to determine eligibility of individual aliens outside the United States seeking admission under blanket petitions filed under this subparagraph for aliens described in section 101(a)(15)(P), except for visa-exempt nonimmigrants. Visa-exempt nonimmigrants may seek a determination of such eligibility from an authorized Department of Homeland Security officer at a United States port of entry.

''(G) A petition approved under subparagraph (F) for an alien described in section 101(a)(15)(P) shall be valid for an initial period of time determined by the Secretary of Homeland Security, which shall not exceed 2 years.''.

SA 1475. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 1409 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, after line 12 of the amendment, insert the following:

(d) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by subsection (c)(1), is further amended by adding at the end the following:

''(5) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa recaptured from fiscal years 1996 and 1997 under this subsection to provide employment for an alien as a professional nurse, provided that—

''(i) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(ii) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(I) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(II) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(B) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to this paragraph shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(e) DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) DOMESTIC NURSING ENHANCEMENT ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(2) USE OF FUNDS.—Amounts collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), and deposited into the account established under paragraph (1) shall be used by the Secretary of Health and Human Services to carry out section 832 of the Public Health Service Act. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(f) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a masters degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 286(w) of the Immigration and Nationality Act, there are authorized to be appropriated such sums as may be necessary to carry out this section.''.

(g) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) a list of candidate countries not later than 6 months after the date of the enactment of the Improving America's Security Act of 2007, and annually thereafter; and

''(2) an amendment to the list described in paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to subparagraph (A) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) NATURALIZATION.—Section 319(b) of such Act (8 U.S.C. 1430(b)) is amended by inserting ''an eligible alien who is residing or has resided in a foreign country under section 317A'' before ''and (C)''.

(E) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to United States Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(h) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances,

including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 6, 2007, at 10 a.m., to conduct a hearing entitled ''Paying for College: The Role of Private Student Lending.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet in order to conduct a business meeting during the session of the Senate on Wednesday, June 6, 2007 at 10 a.m. in Room 406 of the Dirksen Senate Office Building.

The business meeting will consider the following agenda:

S. 506, the High Performance Green Buildings Act of 2007;

H.R. 1195, SAFETEA–LU Technical Corrections Act;

H.R. 798, a bill to direct the Administrator of General Services to install a photovoltaic system for the headquarters building of the Department of Energy;

S. 635, the Methamphetamine Remediation Research Act of 2007;

S. 1523, the Capitol power plant carbon dioxide emissions reduction demonstration project bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, June 6, 2007, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Trade and Globalization: Adjustment for a 21st Century Workforce.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senate Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Patent Reform: The Future of American Innovation'' on Wednesday, June 6, 2007 at 10 a.m. in Dirksen Senate Office Building Room 226.

Witness list

Panel I: The Honorable Jon W. Dudas, Undersecretary of Commerce for Intellectual Property Director of the U.S. Patent and Trademark Office, Department of Commerce, Alexandria, VA;

Panel II: Mr. Bruce G. Bernstein, Chief Intellectual Property and Licensing Officer, InterDigital Communications Corporation, King of Prussia, PA; Ms. Mary Doyle, Senior Vice President, General Counsel and Secretary, Palm, Inc., Sunnyvale, CA; Mr. John A. Squires, Chief Intellectual Property Counsel, Goldman, Sachs & Co., New York, NY; Ms. Kathryn L. Biberstein, Senior Vice President, General Counsel and Secretary, and Chief Compliance Officer, Alkermes, Inc., Cambridge, MA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, June 6, 2007 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony on the impacts of climate change on water supply and availability in the United States, and related issues from a water use perspective.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that floor privileges be granted to Julie Blanks, a legislative fellow in my office, for the remainder of today's session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Texas, Mrs. HUTCHISON, as a member of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference for the first session of the 110th Congress.

RECOGNIZING THE EFFORTS AND CONTRIBUTIONS OF THE MEMBERS OF THE MONUMENTS, FINE ARTS, AND ARCHIVES PROGRAM UNDER THE CIVIL AFFAIRS AND MILITARY GOVERNMENT SECTIONS OF THE UNITED STATES ARMED FORCES

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 223, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 223) recognizing the efforts and contributions of the members of the Monuments, Fine Arts, and Archives program under the Civil Affairs and Military Government Sections of the United States Armed Forces during and following World War II who were responsible for the preservation, protection, and restitution of artistic and cultural treasures in countries occupied by the Allied armies.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 223) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 223

Whereas the United States Government established the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas in 1943 to promote and coordinate the protection and salvage of works of art and cultural and historical monuments and records in countries occupied by Allied armies during World War II;

Whereas the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas is also known as the Roberts Commission, in honor of its chairman, Supreme Court Justice Owen J. Roberts;

Whereas, in connection with the establishment of the Roberts Commission, the Monuments, Fine Arts, and Archives program (MFAA) was established under the Civil Affairs and Military Government Sections of the United States Armed Forces;

Whereas the establishment of the Roberts Commission and the MFAA provided an example for other countries, working in conjunction with the United States, to develop similar programs, and more than 100 foreign MFAA personnel, representing at least seventeen countries, contributed to this international effort;

Whereas the MFAA was comprised of both men and women, commissioned officers and civilians, who were appointed or volunteered to serve as representatives of the Roberts Commission and as the official guardians of some of the world's greatest artistic and cultural treasures;

Whereas members of the MFAA, called the ''Monuments Men'', often joined frontline military forces and some even lost their lives in combat during World War II;