SA 1490. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1491. Mr. COBURN submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 14, expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people; which was ordered to lie on the table.

SA 1492. Mr. REID proposed an amendment to amendment SA 1235 proposed by Mr. SESSIONS 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.

SA 1493. Mr. REID proposed an amendment to amendment SA 1199 proposed by Mr. DODD (for himself and Mr. MENENDEZ) to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1494. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 1235 proposed by Mr. SESSIONS to the 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 1495. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1496. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1497. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 1323 submitted by Mr. SESSIONS (for himself, Mr. ISAKSON, and Mr. CHAMBLISS) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1498. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1499. Mr. KYL (for himself, Ms. CANTWELL, Ms. COLLINS, and 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.

TEXT OF AMENDMENTS

SA 1476. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mr. CONRAD 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:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PEACE GARDEN PASS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ''Peace Garden Pass'') to allow citizens of the United States described in subsection (b) to travel to the International Peace Garden on the borders of the State of North Dakota and Manitoba, Canada (and to be readmitted into the United States).

(2) MAINTAINING BORDER SECURITY.—The Secretary shall take any appropriate measures to ensure that the Peace Garden Pass does not weaken border security or otherwise pose a threat to national security, including—

(A) including biographic data on the Peace Garden Pass; and

(B) using databases to verify the identity and other relevant information of holders of the Peace Garden Pass upon re-entry into the United States.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued for the sole purpose of traveling to the International Peace Garden from the United States and returning from the International Peace Garden to the United States without having been granted entry into Canada.

(c) CHARACTERISTICS OF THE PEACE GARDEN PASS.—The Peace Garden Pass shall be—

(1) machine-readable;

(2) tamper-proof; and

(3) not valid for certification of citizenship for any other purpose other than admission into the United States from the Peace Garden

(d) IDENTIFICATION.—The Secretary shall—

(1) determine what form of identification (other than a passport or passport card) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(e) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(f) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(g) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 1477. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1438 submitted by Mr. SESSIONS 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 1, after the last line, insert the following:

(__) SOCIAL SECURITY CARDS.—

(1) INCLUSION OF BIOMETRIC DATA.—Notwithstanding section 305(a)(2) of this Act, section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended to read as follows:

''(G) The Commissioner of Social Security shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. Beginning not later than 2 years after the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, all social security cards issued under this subparagraph shall be fraud-resistant, tamper-resistant, and wear-resistant, and shall include biometric data.''.

(2) BIOMETRICS FEASIBILITY REPORT.—Notwithstanding the second paragraph (3) in section 305(a), the Commissioner of Social Security is not required to submit to Congress a report on the utility, costs, and feasibility of including a photograph and other biometric information on the social security card.

(3) REISSUANCE OF SOCIAL SECURITY CARDS.—Not later than 3 years after the date of the enactment of this Act, the Commissioner of Social Security replace any social security cards that do not meet the standards described in section 205(c)(2)(G) of the Social Security Act, as amended by paragraph (1) of this subsection, with social security cards that meet such standards.

(4) EMPLOYEE VERIFICATION.—Beginning on the date that is 3 years after the date of the enactment of this Act, a social security card may not be used for employee verification purposes unless such card meets the standards described in section 205(c)(2)(G) of the Social Security Act, as amended by paragraph (1) of this subsection.

(5) SOCIAL SECURITY CARDS FOR NONIMMIGRANTS.—Social security cards issued to an individual who is not a citizen or legal permanent resident of the United States shall prominently display an expiration date, which shall be the date on which the work eligibility of such individual expires.

SA 1478. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1332 submitted by Mr. SANDERS (for himself and Mr. GRASSLEY) 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 2, after line 17, add the following:

(d) EXCEPTION.—Subsections (a) and (b) shall not apply if the employer attests, under penalty of perjury, that the mass layoff did not result in the employment loss (as defined in section 2(a)(6) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)(6))) of any United States worker at the same location and from the specific position that is to be filled by the nonimmigrant who is the subject of the visa petition.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1268 submitted by Mr. BINGAMAN 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:

In lieu of the matter proposed to be inserted, insert the following:

''(D) under section 101(a)(15)(Y)(ii), may not exceed—

''(i) 100,000 for the first fiscal year in which the program is implemented;

''(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) 300,000 for any fiscal year.'';

(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) and (D)(ii) of paragraph (1)—

''(A) 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;

''(B) 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; and

''(C) with the exception of 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.'';

(4) in paragraph (10), as redesignated by paragraph (2) of this section, by amending subparagraph (A) to read as follows:

''(A) Subject to subparagraphs (B) and (C), an alien who has been already been counted toward the numerical limitations under paragraph (1)(D) during any 1 of the 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward the limitations under clauses (i) and (ii) of paragraph (1)(D) for the fiscal year in which the petition is approved. Such alien shall be considered a returning worker.''; and

(5) in paragraph (11), as redesignated by paragraph (2) of this section—

(A) by inserting ''(A)'' after ''(11)''; and

(B) by adding at the end the following:

''(B) The numerical limitations under paragraph (1)(D) shall be allocated for each fiscal year to ensure that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 101(a)(15)(Y)(ii) during the first 6 months of such fiscal year is not greater than 50 percent of the total number of such visas available for that fiscal year.''.

SEC. 410. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, may, as a condition of authorizing the grant of nonimmigrant visas for Y nonimmigrants who are citizens or nationals of any foreign country, negotiate with each such country to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—It is the sense of Congress that each agreement negotiated under subsection (a) shall require the participating home country to—

SA 1480. 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:

Strike section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, 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 (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, 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 limitations on crediting quarters of coverage under subsection (d).''.

(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 who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 1481. Mr. BAUCUS 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, line 19, strike the period and insert '', or''.

On page 224, between lines 19 and 20, insert the following:

''(vi) a document described in paragraph (7).''.

On page 228, between lines 22 and 23, insert the following:

''(7) DOCUMENT EVIDENCING MEMBERSHIP OR ENROLLMENT IN, OR AFFILIATION WITH, A FEDERALLY-RECOGNIZED INDIAN TRIBE.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B)(vi), a document described in this paragraph is a document that the Secretary recognizes by regulation evidences membership or enrollment in, or affiliation with, a federally-recgonized Indian tribe.

''(B) PROMULGATION OF REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations to recognize such documents.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as abrogating or diminishing the rights and privileges of tribal members under the Jay Treaty, done at London November 19, 1794.''.

SA 1482. Ms. CANTWELL (for herself and Mr. DURBIN) 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:

Beginning on page 238, strike line 13, and all that follows through line 24 on page 250 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 50,000—

''(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.

(c) PROVISION OF W–2 FORMS.—Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)), as renumbered by section 405, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 1101(a)(15)(H)(i)(b) of this title—

''(A) the period of authorized admission as such a nonimmigrant may not exceed six years; [Provided that, this provision shall not apply to such 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 one-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 six years, any subsequent application for an extension of stay for such alien must 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 may in his discretion specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien; and

''(C) notwithstanding section 6103 of title 26, United States Code, 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 clause (i) 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) Section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) is amended by inserting before the period: ''; Provided that, this provision 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 one-year increments until such time as a final decision is made on the alien's lawful permanent residence.''.

(2) Sections 106(a) and 106(b) of the American Competitiveness in the Twenty-First Century Act of 2000—Immigration Services and Infrastructure Improvements Act of 2000, Public Law 106–313, are hereby repealed.

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) of the Immigration and Nationality Act (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 following: ''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) of such Act, 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) of such Act, 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) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(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 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.

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 40,000 shall be for aliens who met the specifications set forth in section 203(b)(1)(as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 85,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 56,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 28,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 14,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 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.''.

(2)(A) Section 214(g) of the Immigration and Nationality Act is amended by adding at the end the following new paragraph:

''(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 or 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.''.

(B) The amendment made by subparagraph (A) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

On page 266, line 4, insert ''The beneficiary of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SA 1483. 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. ___. TREATMENT OF CERTAIN NATIONALS OF IRAQ.

(a) REQUIREMENT FOR REHEARING OF CERTAIN CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CONDITIONS.—Section 208(b) of the Immigration and Nationality Act (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 rehearing before an immigration judge of an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq 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) has remained in the United States as of the date of the enactment of this paragraph.''.

(b) CONSIDERATION 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 is a member of a religious minority group in Iraq; 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 1484. 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, at the time the alien files the application, a State impact assistance fee of $750 and an additional $100 fee for each dependent accompanying or following to join the alien.

SA 1485. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1342 submitted by Mr. LEVIN (for himself and Ms. MIKULSKI) 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 174, line 4, insert ''For seasonal businesses, such a waiver shall not be necessary if the average unemployment rate in the county was less than 7 percent for the period in the preceding year when the Y nonimmigrant would have been employed.'' after ''section (b).''.

SA 1486. Mr. LEVIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 1443 submitted by Mr. LEVIN 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:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF CERTAIN NATIONALS OF IRAQ.

(a) REQUIREMENT FOR REHEARING OF CERTAIN CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CONDITIONS.—Section 208(b) of the Immigration and Nationality Act (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 rehearing before an immigration judge of an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq 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) has remained in the United States as of the date of the enactment of this paragraph.''.

(b) CONSIDERATION 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 he or she is a member of a religious minority group in Iraq; 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 1487. 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:

Strike sections 606 and 607 and insert the following:

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 PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, 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 (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2). ''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commission of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of coverage under subsection (d), however, this provision shall not be construed to establish an effective date for purposes of this section.''

(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 who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income 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 amendments made by this section shall be effective as of the date of enactment of this Act.

SA 1488. 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:

At the appropriate place insert the following:

SEC. . PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 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, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(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 who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 1489. 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 paragraphs (1) and (2).

SA 1490. 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:

Strike sections 606 and 607 and insert the following:

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.

The effective date of this section shall be one day after the date of enactment.

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, 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 (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commission of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of cover under subsection, (d), however, this provision shall not be construed to establish an effective date for purposes of this section.''.

(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 who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income 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 amendments made by this section shall be effective as of the date of enactment of this Act.

SA 1491. Mr. COBURN submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 14, expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NO CONFIDENCE IN CONGRESS.

(a) FINDINGS.—The Senate finds the following:

(1) The national debt of the United States of America now exceeds $8,500,000,000,000.

(2) Each United States citizen's share of this debt exceeds $29,000.

(3) Every cent that the United States Government borrows and adds to this debt is money stolen from future generations of Americans and from important programs, including Social Security and Medicare on

which our senior citizens depend for their retirement security.

(4) The power of the purse belongs to Congress.

(5) Congress authorizes and appropriates all Federal discretionary spending and creates new mandatory spending programs.

(6) For too long, Congress has simply borrowed more and more money to pay for new spending, while Americans want Congress to live within its means, using the same set of common sense rules and restraints Americans face everyday; because in the real world, families cannot follow Congress's example and must make difficult decisions and set priorities on how to spend their limited financial resources.

(7) Last year, the interest costs of the Federal debt the Government must pay to those who buy U.S. Treasury bonds were about 8 percent of the total Federal budget. In total, the Federal government spent $226,000,000,000 on interest costs alone last year.

(8) According to the Government Accountability Office, interest costs will consume 25 percent of the entire Federal budget by 2035. By way of comparison, the Department of Education's share of Federal spending in 2005 was approximately 3 percent of all Federal spending. The Department of Health and Human Services was responsible for approximately 23 percent of all Federal spending. Spending by the Social Security Administration was responsible for about 20 percent of all Federal spending. Spending on Medicare was about 12 percent of all Federal spending. Spending in 2005 by the Department of Defense, in the midst of 2 wars in Iraq and Afghanistan and a global war against terrorism, comprised about 19 percent of all Federal spending. Thus, if we do not change our current spending habits, the Government Accountability Office estimates that as a percentage of Federal spending, interest costs in 2035 will be larger than defense costs today, Social Security costs today, Medicare costs today, and education costs today.

(9) Congress has raided the Social Security and Medicare Trust Funds for decades to hide the true size of the annual budget deficit. This practice has undermined the solvency of these programs and threatens both the retirement security of today's workers and the economic opportunities of future generations of Americans.

(10) It is irresponsible for Congress to create or expand Government programs that will result in borrowing from Social Security, Medicare, foreign nations, or future generations of Americans without reductions in spending elsewhere within the Federal budget.

(11) Last month, Congress approved a $2,900,000,000,000 budget resolution that includes $23,000,000,000 more in spending than was requested by the President.

(12) Congress has repeatedly demonstrated its inability to prioritize spending. The Senate has approved the authorization of hundreds of billions of dollars in new spending this year alone while repeatedly rejecting amendments to cut wasteful spending.

(13) The Senate has twice this year rejected amendments stating that Congress has a moral obligation to offset the cost of new Government programs and initiatives.

(14) Among the projects that Congress has authorized spending for this year include a new visitors center in Louisiana and beach enhancement in southern California. When posed with the question to first house displaced Louisiana storm survivors before spending money to construct the visitors center, the Senate overwhelming voted to construct the visitors center. When given the option to first protect the millions of citizens who live in the Sacramento area from floods before adding sand to a southern California beach, the Senate overwhelming voted for sandy beaches.

(15) Congress's inability to prioritize spending may be best epitomized by the Senate's vote to build a controversial bridge in Alaska. When given the choice to spend nearly half a billion dollars to repair the Twin Spans Bridge in New Orleans damaged by Hurricane Katrina or to construct a new bridge nearly as long as the Golden Gate Bridge and higher than the Brooklyn Bridge to an island with 50 residents in Alaska, the Senate voted overwhelming in favor of the new Alaska bridge.

(16) The cost of Congressional pork projects, known as earmarks, has more than doubled from $19,500,000,000 in 1996 to more than $47,400,000,000 in 2005. Earmarks have been linked to a number of recent Congressional investigations and convicted lobbyist Jack Abramoff boasted that earmarks were a form of political currency doled out from what he called the earmark ''favor factory''. In December of last year, the public was promised by the newly elected majority that ''We will place a moratorium on all earmarks until a reformed process is put in place'' and that ''We will work to restore an accountable, above-board, transparent process for funding decisions and put an end to the abuses that have harmed the credibility of Congress''. Yet, the Senate has already approved hundreds of earmarks this year while failing to adopt earmark reform rules changes. The House adopted earmark rule changes but the appropriations committee has said it will circumvent these reforms by adding earmarks after bills are passed behind closed doors when bills can no longer be amended or debated.

(17) This lack of ability to prioritize Federal spending underscores the ''borrow and spend'' binge behavior of Congress that has contributed to the national debt which exceeds $8,500,000,000,000.

(18) Polls have repeatedly found that Americans overwhelming oppose new spending and bigger Government. A February 2007 poll released by Democracy Corps found that 80 percent of likely voters disapprove of the Federal Government's handling of spending. Of all of the issues polled, the Government's handling of spending scored the highest rate of voter disapproval, more than health care (71 percent disapproval), energy (64 percent disapproval), or the environment (59 percent disapproval). One specific poll question asked respondents which of 2 statements they agreed with: ''I want Congress to first invest in areas like health care, education, and energy, even if it means spending additional money'' or ''I want Congress to first focus on cutting wasteful spending and making government more accountable.'' Fifty-eight percent of respondents agreed with the statement about cutting wasteful spending, while only 36 percent agreed with spending additional money first. When asked who they trusted more on the issue of spending, only 18 percent picked Congress. A December 2006 Gallup Poll found that 61 percent of Americans thought ''big government'' was the biggest threat to the country's future. This included 56 percent of Democrats and 63 percent of Republicans.

(19) Congress has ignored the public's views on spending which may explain its declining approval ratings in several different independent polls released in the last month. Only 35 percent of respondents of a poll released by the Associated Press approve of the way Congress is handling its job, down 5 points since April. In the study released by Fox News, 32 percent of respondents approve of the job Congress is doing, down 3 points in a month. In a poll by Gallup released by USA Today, the approval rating for Congress stands at 29 percent, down 4 points since early April.

(b) NO CONFIDENCE.—It is the sense of the Senate that Congress neither has the will nor the desire to cut frivolous, excessive, or wasteful spending and therefore the American people should have no confidence in the ability of Congress or its members to balance the budget or protect the long term financial solvency of Social Security, Medicare, or the Nation itself.

SA 1492. Mr. REID proposed an amendment to amendment SA 1235 proposed by Mr. SESSIONS 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 amendment add the following:

Notwithstanding any other provision of this act the following shall take effect for the Z Nonimmigration category:

(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 1493. Mr. REID proposed an amendment to amendment SA 1199 proposed by Mr. DODD (for himself and Mr. MENENDEZ) 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 appropriate place, insert the following:

SEC. ___. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—A petition by an employer for any visa authorizing employment in the United States may not be approved until the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to such Act after a visa described in subsection (a) has been approved, such visa shall expire on the date that is 60 days after the date on which such notice is provided.

(c) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, that the total number of the employer's employees in the United States will not be reduced as a result of a mass layoff.

SA 1494. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 1235 proposed by Mr. SESSIONS 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; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, add 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 1495. 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:

At the appropriate place:

Notwithstanding any provisions of this act, it is amended as follows:

SECTION 1. EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

''(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.

(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.

(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.''

''(D) knowingly exceeds by 60 days or more the period of the alien's admission or parole into the United States.''

''(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.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, 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.''

Strike section 401(d)

(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).''

''or Y nonimmigrant status if the alien is

(A) (i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) 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;

(C) 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

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child agues, child neglect, or child abandonment

(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

(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

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

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

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and (G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

(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''.

(d) 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

''(ii) 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).

(e) 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 50,000

(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.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(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 or 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

(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. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act

SECTION 5. IMMIGRATION BENEFITS.

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

''(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.''.

''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SECTION 6. NON-IMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS.

''(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:

''(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 (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;

''(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 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 in (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.''.

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 rescinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to 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 of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 237(a)(1)(E), (1)(G), (2), or (4) of the Act 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 rescinded 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 rescinded 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 Z nonimmigrant 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 application filed under sections 601 or 602, for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

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)(1)(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.

Add a new subsection (z) to section 286 of Immigration and Nationality Act 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:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(iii) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

SA 1496. 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:

At the appropriate place, insert Nothwithstanding any provisions of this act, it is amended as follows:

SECTION 1.—EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

''(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.

(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.

(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;

''(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.''

SEC. 2. INTERIOR ENFORCEMENT.

''(D) knowingly exceeds by 60 days or more the period of the alien's admission or parole into the United States.''

''(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.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, 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.''

SECTION 4. NEW TEMPORARY WORKER PROGRAM STRIKE SECTION 401(d)

On p. 147: paragraph 18(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).''

''or Y nonimmigrant status if the alien is

(A)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) 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;

(C) 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

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment

(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

(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

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later than five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

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

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

Beginning on page 238, strike line 13, and all that follows 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''.

(d) 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).

(e) 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 50,000

(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.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amendmend to add the following:

''(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 or 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.

(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. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

Section 5. Immigration Benefits

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

''(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.''.

''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 10I(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

''(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 doumentary 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 (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;

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

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

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

(cc) other verification or information.

(D) ADDTIONAL DOCUMENTS—The Secretary may—

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

(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 in (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.''

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.—

''(I) Subsection (a) shall not apply with respect to—

''(A) an alien whose application has been denied, terminated or rescinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to 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 of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 237(a)(I)(E), (I)(G), (2), or (4) of the Act 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 rescinded under section 601(d)(1)(F);

''(C) an alien whom the Secretary determines has ordered, incit assisted, or otherwise participated in the persecution of any person on account of race, I relgon, 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 02, 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 rescinded 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—

(I) 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 infonnation 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 Z nonimmigrant 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, for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

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)(I).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

Add a new subsection (z) to section 286 of Immigration and Nationality Act 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:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(iii) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

(d) Limit on Percentage of H–1B Employees.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(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 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. If the Secretary has not decided whether to grant or deny a waiver 45 days after the waiver application is filed, the waiver shall be deemed an attestation. 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.

(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.

(e) DOCUMENTATION REQUIREMENT;—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

(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 1497. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 1323 submitted by Mr. SESSIONS (for himself, Mr. ISAKSON, and Mr. CHAMBLISS) 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 5, strike line 16 and insert the following:

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 221A. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Notwithstanding any provision under section 604, except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

(1) use the information furnished by the applicant under title VI or the fact that the applicant applied for status for any purpose other than to make a determination on the application, any subsequent application to extend such status, or to adjust status to that of an alien lawfully admitted for permanent residences under this Act;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn 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) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to—

(1) a law enforcement entity, 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, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(c) APPLICABILITY.—The limitations described under subsection (a) shall remain in effect until the alien—

(1) makes a request under section 603(b)(1);

(2) is determined to be ineligible due to a criminal conviction under section 603(b)(2);

(3) is determined by the Secretary of Homeland Security to have 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;

(4) is determined by the Secretary to have, in connection with the alien's application under title VI, engaged in fraud or willful misrepresentation, concealed of a material fact or knowingly offered a false statement; or

(5) is an alien for whom the Secretary has adjusted the alien's status to that of an alien lawfully admitted for permanent residence pursuant to the provisions of title VI, and who any time thereafter submits an application or petition.

(d) SUBSEQUENT DISCLOSURES OR USE.—

(1) DISCLOSURE OF CRIMINAL INFORMATION.—Notwithstanding any other provision of this section, information concerning any activity

described in paragraph (2), (3), or (4) of subsection (c) may be used or released for immigration enforcement and law enforcement purposes.

(2) SAVINGS PROVISION.—Nothing in this section may be construed to require the Secretary to initiate proceedings under section 240.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary of Homeland Security may audit and evaluate information furnished as part of any application filed under sections 601 and 602, any application to extend such status under section 601(k), or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602, 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, 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) CRIMINAL PENALTY.—Any person who 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 may 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.

(i) REFERENCES.—References in this section to section 601 or 602 are references to sections 601 and 602 of this Act and the amendments made by those sections.

SEC. 221B. H-1B STREAMLINING AND SIMPLIFICATION.

(a) 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.

(b) CLARIFYING THE IMMIGRANT INTENT PROVISION.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)), as amended by section 419(c) of this Act, is further amended—

(1) by inserting ''(other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) (except subclause (b1) of such section)'' after ''Every alien''; and

(2) by striking ''under the immigration laws'' and inserting ''under section 101(a)(15)''.

SEC. 221C. H–1B EMPLOYER REQUIREMENTS.

(a) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of the Immigration and Nationality Act, as amended by section 420, 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.

(b) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of the Immigration and Nationality Act, as amended by subsection (a) and section 420, 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.

(c) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of the Immigration and Nationality Act, as amended by this section and section 420, is further 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 and section 420, 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. 221D. 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 and section 420, 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. 221E. 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.

SEC. 221F. PROMPT REMOVAL PROCEEDINGS.

It is the sense of Congress that the Secretary of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien admitted into the United States under sections 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 Immigration and Nationality Act, and who exceeds the alien's period of authorized admission or otherwise violates any terms of the nonimmigrant classification in which the aline was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to the national security, homeland security, or public safety.

SEC. 221G. EXIT TRACKING FEES.

Subsection (e)(3) of section 218A of the Immigration and Nationality Act, as added by section 402, is amended by adding at the end the following:

''(F) EXIT TRACKING FEE.—An alien entering the United States on a Y nonimmigrant visa shall pay, upon entry, an exit tracking fee in an amount set by Secretary at a level that will ensure recovery of the full costs of 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.

''(G) DEPOSIT AND DISPOSITION OF DEPARTURE FEE.—The funds described in subparagraph (F) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in such subparagraph.''.

SEC. 221H. Z NONIMMIGRANTS.

(a) AFFIDAVIT REQUIREMENTS.—Notwithstanding section 601(i)(2)(D)(ii), the Secretary of Homeland Security may set by notice in the Federal Register such terms, conditions, and minimum standards for affidavits described in subparagraph (C)(VI) of section 601(i)(2) as are necessary, when such affidavits are reviewed in combination with the other documentation as described in subparagraph (A) or (C) of such section, 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.

(b) CONTENT OF APPLICATIONS.—Notwithstanding section 601(g)(3)(B), the Secretary shall utilize fingerprints and other biometric data provided by the alien and any other appropriate information 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 such section.

(c) TREATMENT OF APPLICANTS.—Notwithstanding section 601(h)(2), no probationary benefits shall be issued to an alien under section 601 until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner unless the Secretary determines, in the Secretary's 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 the eligibility of the alien for Z nonimmigrant status as expeditiously as possible.

(d) ELECTRONIC SYSTEM FOR PREREGISTRATION OF APPLICANTS FOR Z AND Z–A NONIMMIGRANT STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security may establish a voluntary online registration process allowing applicants for Z and Z–A nonimmigrant status to provide, in advance of submitting the application described in section 601(f), such biographical information and other information as the Secretary shall prescribe—

(A) for the purpose of providing applicants with an appointment to provide fingerprints and other biometric data at a facility of the Department of Homeland Security;

(B) to initiate background checks based on such information; and

(C) for other purposes consistent with this Act.

(2) USE.—Use of information recorded in the databse shall be governed by the procedures set forth in section 604.

SEC. 221I. COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security shall require an alien who was admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)) of the Immigration and Nationality Act, section 101(a)(15)(H)(ii) of such Act, or section 101(a)(15)(Y) of such Act to record the alien's departure at a designated port of entry or at a designated United States consulate abroad.

(b) FAILURE TO RECORD DEPARTURE.—An alien who does not record the alien's departure as required by subsection (a) shall be entered into a database of the Department of Homeland Security as having overstayed the alien's period of authorized admission not later than 48 hours after the expiration of the alien's period of authorized admission.

(c) INFORMATION SHARING WITH LAW ENFORCEMENT AGENCIES.—The information in the database described in subsection (b) shall be made available to State and local law enforcement agencies pursuant to the provisions of section 240D of such Act.

SEC. 221J. ENFORCEMENT PERSONNEL.

Notwithstanding section 101(a)(2), the Secretary of Homeland Security shall hire personnel as follows:

(1) 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.

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

SEC. 221K. PERSONNEL OF DHS.

Notwithstanding section 310(a)(1), 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 the number of personnel of the Department of Homeland Security assigned exclusively or principally to an office or offices dedicated to monitoring and enforcing compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c), including compliance with the requirements of the EEVS. These personnel shall perform the compliance and monitoring activities set out in clauses (i) through (xiii) of such section.

SEC. 221L. DEPARTURE REGISTRATION.

Notwithstanding any other provision of this Act or any amendment made by this Act:

(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.

(4) RECORDING.—The Secretary shall ensure that the invalidation of such documentation is recorded in the employment eligibility verification system described in section 301.

(5) NOTIFICATION.—Fourteen days prior to employment eligibility expiration employers shall provide, in writing, notification to aliens of the expiration of the aliens's employment eligibility.

(6) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—The Y Visa Program shall continue irrespective of any references to sunset. Not later five years after the date of enactment, submit a report resident and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

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

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

(b) DOCUMENTATION REQUIREMENT.—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

(c) 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 1498. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

Notwithstanding any other provisions of this Act the following sections shall be deemed to be amended as follows:

SECTION 1. EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

(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.

On page 3, line 38 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.

On page 7, 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.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, 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.''

SEC. 4 NEW TEMPORARY WORKER PROGRAM.

Strike section 401 (d).

On p. 147, 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 l(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 (O) 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).''

On page 151, strike line 30 and 31 and insert the following:

''or Y nonimmigrant status if the alien is

(A)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) 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;

(C) 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

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child agues, child neglect, or child abandonment

(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 lOl(h) of the Act

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

On page 229, add a section 412(b)(3) to read as follows:

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

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

(D) the impact ofY nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

Beginning on page 238, strike line 13, and all that follows 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''.

(d) H–1b AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—(1) in paragraph (l)(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).

(e) 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) 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

''(B) 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.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(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 or 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.''.

(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. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

SEC. 5. IMMIGRATION BENEFITS.

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1)(as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 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.''.

On page 266, line 4, insert ''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SEC. 6. NONIMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS.

On page 291, strike lines 40 and all that follows through page 293, line 22, and insert the following:

''(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:

(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 (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;

(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

On page 312, strike Section 604 and insert the following:

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 Title 6 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 Title 6 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under Title 6 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 revokscinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under title 6 of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 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 rescinded under this title;

''(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 title 6, 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 rescinded 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) maybe 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 title 6 of [—], any application to extend such status under title 6 of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under title 6 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 title 6, 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 Z nonimmigrant status pursuant to title 6 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 application filed under title 6 for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

On p. 317, 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)(1)(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)(I).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

Add a new subsection (z) to section 286 of Immigration and Nationality Act 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:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(Hi) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

(d) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(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 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. If the Secretary has not decided whether to grant or deny a waiver 45 days after the waiver application is filed, the waiver shall be deemed an attestation. 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.

(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.

(e) DOCUMENTATION REQUIREMENT.—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

(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 1499. Mr. KYL (for himself, Ms. CANTWELL, Ms. COLLINS, and 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:

Nothwithstanding any provisions of this act, it is amended as follows:

Beginning on page 238, strike line 13, and all that follows 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''.

(d) 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).

(e) 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 50,000

(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.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(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 or at least 15 percent of the number of such full-time employees, may file no more than 1,000 new petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year

(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. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(I) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 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.''.

On page 266, line 4, insert ''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

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

(e) DOCUMENTATION REQUIREMENT.—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 non-immigrant—

''(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.''.

(f) FRAUD ASSESSMENT.—Not later than 60 days after the date of the enactment of the Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 7, 2007, at 9:30 a.m., in open session to consider the nomination of Lieutenant General Douglas E. Lute, USA, to be assistant to the President and Deputy National Security Advisor for Iraq and Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, June 7, 2007, at 2 p.m., in room 253 of the Russell Senate Office Building.

The hearing will serve as an investigation of NASA Inspector General, Robert W. Cobb.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 7, 2007 at 10 a.m. in Room 406 of the Dirksen Senate Office Building to conduct a hearing entitled ''An Examination of the Views of Religious Organizations Regarding Global Warming.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 7, 2007, at 10 a.m. in Dirksen Room 226.

Agenda

I. Bills: S. 185, Habeas Corpus Restoration Act of 2007 (Specter, Leahy, Feinstein, Feingold, Whitehouse, Durbin, Biden); S. 720, Army Specialist Joseph P. Micks Federal Flag Code Amendment Act of 2007 (Levin); H.R. 692, Army Specialist Joseph P. Micks Federal Flag Code Amendment Act of 2007; S. 535, Emmett Till Unsolved Civil Rights Crime Act (Dodd, Leahy, Schumer, Kennedy); S.456, Gang Abatement and Prevention Act of 2007 (Feinstein, Hatch, Schumer, Specter, Biden, Kyl, Cornyn, Kohl).

II. Nominations: Leslie Southwick to be United States Circuit Judge for the Fifth Circuit; Robert James Jonker to be a United States District Judge for the Western District of Michigan.

III. Resolutions: S. Res. 171, Memorializing fallen firefighters by lowering the U.S. flag (Collins, Biden, Kennedy); S. Res. 82, Designating August 16, 2007 as National Airborne Day (Hagel, Graham, Sessions, Feinstein, Feingold); S. Res. 173, Designating August 11,2007 as National Marina Day (Stabenow).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Prevention of Deceptive Practices and Voter Intimidation in Federal Elections: S. 453'' on Thursday, June 7, 2007 at 2 p.m. in Dirksen Senate Office Building Room 226.

Witness list

Panel I: The Honorable Charles Schumer, United States Senator [D–NY]; The Honorable Barack Obama, United States Senator [D–IL].

Panel II: The Honorable Douglas F. Gansler, Attorney General, State of Maryland, Baltimore, MD; The Honorable Jack B. Johnson, County Executive, Prince George's County, MD, Upper Marlboro, MD.

Panel III: Hilary O. Shelton, Director, Washington Bureau, National Association for the Advancement of Colored People [NAACP], Washington, DC; John Trasviña, President and General Counsel, Mexican American Legal Defense and Education Fund [MALDEF], Los Angeles, CA; Richard Briffault, Joseph P. Chamberlain Professor of Legislation, Columbia Law School, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 7, 2007 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, June 7, 2007 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building. The purpose of this hearing is to receive testimony on Alternate Energy-Related Uses on the Outer Continental Shelf: Opportunities, Issues and Implementation of Section 388 of the Energy Policy Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.