

to the bill S. 744, supra; which was ordered to lie on the table.

SA 1701. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1702. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1703. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1704. Mr. UDALL of New Mexico (for himself, Mr. HEINRICH, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1705. Ms. COLLINS (for herself and Mr. KING) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1706. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1707. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1708. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1709. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1710. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1711. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1712. Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. FRANKEN, Mr. LEAHY, Ms. MIKULSKI, Mrs. SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, Mr. DURBIN, Mr. BENNET, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1713. Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. LEAHY, Mr. FRANKEN, Ms. MIKULSKI, Mrs. SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, Mr. DURBIN, Mr. BENNET, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1714. Mr. BROWN (for himself, Mr. ENZI, Mr. CASEY, Mr. BEGICH, Mr. PRYOR, Mr. TESTER, and Mr. JOHNSON of South Dakota) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1715. Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1716. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1717. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1718. Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. LEAHY, Mr. FRANKEN, Ms. MIKULSKI, Mrs.

SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1719. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1720. Mrs. MURRAY (for herself, Mr. PORTMAN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1663.** Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . EMPLOYMENT VERIFICATION SYSTEM IMPROVEMENTS.

(a) **TRIGGER.**—In addition to the conditions set forth in section 3(c)(2)(A), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, unless the Secretary, after consultation with the Comptroller General of the United States, and as part of the written certification submitted to the President and Congress pursuant to section 3(c)(2)(A), certifies that the Secretary has implemented the mandatory employment verification system, including the full incorporation of the photo tool and additional security measures, required by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3101, and has required the system's use by all employers to prevent unauthorized workers from obtaining employment in the United States.

(b) **EMPLOYMENT VERIFICATION SYSTEM.**—Section 274A (8 U.S.C. 1324a), as amended by section 3101, is further amended—

(1) in subsection (a)(5)(A)(ii), by inserting “, by clear and convincing evidence,” after demonstrates; and

(2) by striking subsections (c) and (d) and inserting the following:

“(c) **DOCUMENT VERIFICATION REQUIREMENTS.**—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

“(1) **ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.**—

“(A) **IN GENERAL.**—

“(i) **EXAMINATION BY EMPLOYER.**—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

“(I) by examining—

“(aa) a document specified in subparagraph (C); or

“(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

“(II) by utilizing an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

“(ii) **PUBLICATION OF DOCUMENTS.**—The Secretary shall publish a picture of each docu-

ment specified in subparagraphs (C) and (E) on the U.S. Citizenship and Immigration Services website.

“(B) **REQUIREMENTS.**—

“(i) **FORM.**—The form referred to in subparagraph (A)(i)—

“(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act;

“(II) shall be available as—

“(aa) a paper form;

“(bb) a form that may be completed by an employer via telephone or video conference;

“(cc) an electronic form; and

“(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

“(ii) **ATTESTATION.**—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

“(iii) **COMPLIANCE.**—An employer has complied with the requirements under this paragraph with respect to examination of the documents included in subclauses (I) and (II) of subparagraph (A)(i) if—

“(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

“(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

“(C) **DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.**—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

“(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled An Act to regulate the issue and validity of passports, and for other purposes, approved July 3, 1926 (22 U.S.C. 211a).

“(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

“(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

“(II) is evidence of employment authorized status; and

“(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(iii) An enhanced driver's license or identification card issued to a national of the United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

“(I) meets the requirements under section 202 of the REAL ID Act of 2005 (division B of Public Law 109-13; 49 U.S.C. 30301 note); and

“(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

“(iv) A passport issued by the appropriate authority of a foreign country accompanied

by a Form I-94 or Form I-94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

“(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of non-immigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

“(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

“(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

“(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

“(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

“(ii) A voter registration card.

“(iii) A document that complies with the requirements under section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note).

“(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

“(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

“(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card is not valid to evidence employment authorized status or has other similar words of limitation.

“(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

“(F) IDENTITY AUTHENTICATION MECHANISM.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) COVERED IDENTITY DOCUMENT.—The term ‘covered identity document’ means a valid—

“(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

“(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

“(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

“(II) PARTICIPATING STATE.—The term ‘participating State’ means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

“(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify the identity of each new hire using the identity authentication mechanism described in clause (iii) or, for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

“(iii) PHOTO TOOL.—

“(I) USE REQUIREMENT.—An employer that hires an individual who has a presented a covered identity document to establish his or her identity and employment authorization under subsection (c) shall verify the identity of such individual using the photo tool described in subclause (II).

“(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document provided to the employer to a photo maintained by a U.S. Citizenship and Immigration Services or other appropriate database.

“(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

“(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from State motor vehicle databases through the photo tool developed under subclause (II)—

“(aa) may only be used for matching photos to a covered identity document for the purposes of employment verification;

“(bb) shall not be collected or stored by the Federal Government; and

“(cc) may only be disseminated in response to an individual photo tool query.

“(iv) ADDITIONAL SECURITY MEASURES.—

“(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii), because the employee did not present a covered document for employment eligibility verification purposes, shall verify the identity of such individual using the additional security measures described in subclause (II).

“(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

“(aa) shall be kept up-to-date with technological advances;

“(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

“(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

“(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

“(v) AUTOMATED VERIFICATION.—The Secretary—

“(I) may establish a program, in addition to the identity authentication mechanism described in subparagraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

“(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

“(III) may not utilize or disclose such information, except as authorized under this section.

“(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

“(i) may prohibit or restrict the use of such document or class of documents for purposes of this subsection; and

“(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

“(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

“(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

“(ii) shall publish a description of any such document or class of documents on the U.S. Citizenship and Immigration Services website; and

“(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

“(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

“(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

“(i) a citizen of the United States;

“(ii) an alien lawfully admitted for permanent residence;

“(iii) an alien who has employment authorized status; or

“(iv) otherwise authorized by the Secretary to be hired for such employment;

“(B) provide such attestation by a handwritten, electronic, or digital signature; and

“(C) provide the individual's social security account number to the Secretary, unless

the individual has not yet been issued such a number, on such form as the Secretary may require.

“(3) RETENTION OF VERIFICATION RECORD.—

“(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

“(i) the date that is 3 years after such hiring date; or

“(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

“(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

“(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

“(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

“(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

“(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

“(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

“(5) PENALTIES.—An employer that fails to comply with any requirement under this subsection may be penalized under subsection (e)(4)(B).

“(6) PROTECTION OF CIVIL RIGHTS.—

“(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

“(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

“(7) RECEIPTS.—The Secretary may authorize the use of receipts for replacement documents, and temporary evidence of employment authorization by an individual to meet a documentation requirement under this subsection on a temporary basis not to exceed 1 year, after which time the individual shall provide documentation sufficient to satisfy the documentation requirements under this subsection.

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

“(d) EMPLOYMENT VERIFICATION SYSTEM.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

“(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

“(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, the speed and accuracy of responses;

“(ii) the misuse of the System, including the prevention of fraud or identity theft;

“(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

“(iv) the security, integrity, and privacy of the System.

“(C) PROCEDURES.—The Secretary—

“(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

“(I) the identities of all persons or entities that have queried the individual through the System;

“(II) the date of each such query; and

“(III) the System response for each such query; and

“(ii) in consultation with the Commissioner, shall develop—

“(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

“(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

“(2) PARTICIPATION REQUIREMENTS.—

“(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

“(i) the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

“(ii) the date that is 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

“(C) CRITICAL INFRASTRUCTURE.—

“(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

“(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

“(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

“(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

“(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

“(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A of this Act and section 2202 of the Border Security, Economic Opportunity, and Immigration Modernization Act) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

“(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

“(I) TRIBAL GOVERNMENT EMPLOYERS.—

“(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

“(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

“(II) consult with the governments of federally recognized Indian tribes.

“(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

“(J) IMMIGRATION LAW VIOLATORS.—

“(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

“(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

“(K) VOLUNTARY PARTICIPATION.—The Secretary may permit any employer that is not required to participate in the System under this section to do so on a voluntary basis.

“(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the failure, other than a de minimis or inadvertent failure, of an employer that is required to participate in the System to comply with the requirements of the System with respect to an individual—

“(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

“(ii) creates a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

“(B) EXCEPTION.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply in a criminal prosecution.

“(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

“(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

“(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

“(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

“(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

“(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

“(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

“(I) will be used by the employer;

“(II) may be used for immigration enforcement purposes; and

“(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

“(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

“(I) the individual's social security account number;

“(II) if the individual does not attest to United States citizenship or status as a national of the United States under subsection (c)(2), such identification or authorization number established by the Department as the Secretary shall specify; and

“(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

“(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

“(B) SEEKING CONFIRMATION.—

“(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

“(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

“(II) such other reasonable period as the Secretary may prescribe.

“(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

“(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

“(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

“(v) NOTIFICATION.—

“(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a further action notice).

“(II) PROCEDURES.—The Secretary shall—

“(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

“(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

“(cc) establish procedures to directly notify the individual and the employer of a confirmation.

“(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(C) CONFIRMATION OR NONCONFIRMATION.—

“(i) INITIAL RESPONSE.—

“(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

“(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

“(bb) an appropriate code indicating such confirmation or such further action notice.

“(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

“(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

“(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

“(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the em-

ployer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

“(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

“(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

“(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

“(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

“(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

“(aa) a nonconfirmation has been issued;

“(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal

or the contestation to the further action notice is withdrawn; or

“(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

“(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

“(D) CONSEQUENCES OF NONCONFIRMATION.—

“(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

“(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

“(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

“(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

“(I) the name of such individual;

“(II) his or her social security number or alien file number;

“(III) the name and contact information for his or her current employer; and

“(IV) any other critical information that the Assistant Secretary determines to be appropriate.

“(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

“(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

“(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

“(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

“(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

“(ii) ACTION BY INDIVIDUALS.—

“(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

“(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

“(aa) notify the individual of any such requirement for further actions; and

“(bb) record the date and manner of such notification.

“(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

“(iii) RULEMAKING.—

“(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

“(aa) to facilitate the functioning, accuracy, and fairness of the System;

“(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

“(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

“(II) NOTICE.—The regulations issued under subclause (I) shall be—

“(aa) published in the Federal Register; and

“(bb) provided directly to all employers registered in the System.

“(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

“(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

“(ii) for ensuring that designated agents and other System service providers are sub-

ject to monitoring to the same extent as direct access users; and

“(iii) for establishing standards for certification of electronic I-9 programs.

“(G) REQUIREMENT TO PROVIDE INFORMATION.—

“(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

“(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

“(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

“(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

“(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

“(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

“(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$40,000,000 for each of the fiscal years 2014 through 2016.

“(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

“(i) the information that shall be presented to the employer by an individual;

“(ii) the information that shall be provided to the System by the employer; and

“(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

“(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

“(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local

criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

“(6) ADMINISTRATIVE APPEAL.—

“(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

“(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

“(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

“(D) PREPONDERANCE OF EVIDENCE.—Administrative appeal under this paragraph shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

“(E) DAMAGES, FEES, AND COSTS.—No money damages, fees or costs may be awarded in the administrative appeal process under this paragraph.

“(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

“(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

“(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

“(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

“(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

“(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

“(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

“(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

“(II) adduce evidence at a hearing;

“(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

“(IV) resolve claims of identity theft; and

“(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

“(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

“(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

“(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

“(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

“(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

“(F) COMPENSATION FOR ERROR.—

“(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

“(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

“(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

“(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during

which the individual was not in employment authorized status.

“(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

“(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

“(8) MANAGEMENT OF THE SYSTEM.—

“(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

“(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

“(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

“(iii) provide information to, and require action by, employers and individuals using the System.

“(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

“(i) to maximize its reliability and ease of use by employers consistent with protecting the privacy and security of the underlying information, and ensuring full notice of such use to employees;

“(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

“(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

“(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

“(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

“(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

“(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

“(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

“(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

“(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with



employers and employees, and obtain information concerning employment from the employer;

“(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

“(viii) to confirm electronically the issuance of the employment authorization or identity document and—

“(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

“(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using additional security measures set forth in subsection (c)(1)(F)(iv);

“(ix) to employ specific and effective additional security measures set forth in subsection (c)(1)(F)(iv) to adequately verify the identity of an individual that are designed and operated—

“(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

“(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

“(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

“(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

“(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

“(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through Internet, mobile phone, and landline telephone connections to facilitate identity proofing;

“(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

“(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals whose identities are being verified, as appropriate;

“(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

“(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

“(XI) to include, if feasible, a capability for permitting document or other inputs

that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

“(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

“(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

“(C) SAFEGUARDS TO THE SYSTEM.—

“(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

“(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the Department's compliance with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

“(iii) ACCURACY AUDITS.—

“(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

“(II) ERROR RATE DEFINED.—In this clause, the term error rate means the percentage determined by dividing—

“(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

“(bb) the number of System inquiries submitted for employment authorized individuals.

“(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

“(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standards as for employment authorization; and

“(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV).

“(IV) REDUCTION OF PENALTIES FOR RECORD-KEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that

the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed \$1,000.

“(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

“(I) ensures that only authorized personnel have access to document verification or System data; and

“(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

“(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

“(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

“(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

“(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

“(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

“(E) RESPONSIBILITIES OF THE SECRETARY.—

“(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

“(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

“(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

“(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

“(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

“(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual’s social security account number or other identifying information for verification by the System; and

“(II) for each individual being verified through the System—

“(aa) notify the individual that the individual has the option to limit the use of the individual’s social security account number or other identifying information for verification by the System; and

“(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

“(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD’S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

“(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

“(viii) MONITORING AND COMPLIANCE UNIT.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

“(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

“(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

“(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

“(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

“(F) GRANTS TO STATES.—

“(i) IN GENERAL.—The Secretary shall create and administer a grant program to help

provide funding for reimbursement of the actual costs to States that grant—

“(I) the Secretary access to driver’s license information as needed to confirm that a driver’s license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver’s license matches the State’s records; and

“(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

“(ii) CONSTRUCTION WITH THE DRIVER’S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

“(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), \$500,000,000 to carry out this subparagraph.

“(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State’s records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

“(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

“(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity shall utilize, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and non-discriminatory use of the System.

“(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

“(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

“(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

“(C) An assessment of any challenges faced by small employers in utilizing the System.

“(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

“(i) Taking adverse action based on a further action notice.

“(ii) Use of the System for nonemployees or other individuals before they are offered employment.

“(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

“(iv) Use of the System selectively, except in cases in which such use is authorized.

“(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

“(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

“(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

“(E) An assessment of the rate of employee noncompliance in each of the following categories:

“(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

“(ii) Failure to provide required documents in a timely manner.

“(iii) Attempting to use fraudulent documents or documents not related to the individual.

“(iv) Misuse of the administrative appeal and judicial review process.

“(F) An assessment of the amount of time taken for—

“(i) the System to provide the confirmation or further action notice;

“(ii) individuals to contest further action notices;

“(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

“(iv) individuals to file an administrative appeal of a nonconfirmation; and

“(v) resolving administrative appeals regarding nonconfirmations.

“(11) ANNUAL GAO STUDY AND REPORT.—

“(A) REQUIREMENT.—The Comptroller General shall, for each year, undertake a study to evaluate the accuracy, efficiency, integrity, and impact of the System.

“(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

“(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

“(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

“(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

“(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

“(v) The recommendations of the Comptroller General regarding System improvements.

“(vi) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.



“(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

“(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

“(ix) An assessment of the effect of the identity authentication mechanism and any other security measures set forth in subsection (c)(1)(F)(iv) to verify identity incorporated into the System or otherwise used by employers on employees.

“(12) OUTREACH AND PARTNERSHIP.—

“(A) OUTREACH.—The Secretary is authorized to conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

“(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.”

(C) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.”

(d) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) to the extent resources are available, information in the Commissioner’s records indicating that a query was submitted to the employment verification system established under section 274A (d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual’s name or social security number; and

“(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act.”

(e) GOOD FAITH COMPLIANCE.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 3105(a) of this Act, is further amended by adding at the end the following:

“(10) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4), (6), and (7), a person, other entity, or employment agency shall not be liable for civil penalties described in section 274B(g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

“(A) was, for similar conduct, subject to—

“(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

“(ii) a finding by an administrative law judge that a violation of this section has occurred; or

“(B) committed the violation in order to interfere with ‘workplace rights’ (as defined in section 274A(b)(8)).

“(11) GOOD FAITH.—As used in paragraph (10), the term ‘good faith’ shall not include any action taken in order to interfere with ‘workplace rights’ (as defined in section 274A(b)(8)). Neither the Office of Special Counsel nor an administrative law judge hearing a claim under this section shall have any authority to assess workplace rights other than those guaranteed under this section.

“(12) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

“(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

“(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

“(i) is used in a uniform manner for all newly hired employees;

“(ii) is not used for the purpose or with the intent of discriminating against any individual;

“(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

“(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

“(13) LIABILITY.—A person, entity, or employment agency that uses an identity verification system, service, or method in a way that conflicts with the requirements set forth in paragraph (10) shall be subject to liability under paragraph (4)(I).”

(F) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Notwithstanding section 3301(b)(1), amounts appropriated pursuant to such section shall be used to maintain reasonable levels of service and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.

**SA 1664.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

This Act shall become effective 8 days after enactment.

**SA 1665.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the amendment, strike “8 days” and insert “7 days”.

**SA 1666.** Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. BORDER PATROL RATE OF PAY.

(a) PURPOSE.—The purposes of this section are—

(1) to strengthen U.S. Customs and Border Protection and ensure border patrol agents are sufficiently ready to conduct necessary work and that agents will perform overtime hours in excess of a 40 hour work week based on the needs of the employing agency; and

(2) to ensure U.S. Customs and Border Protection has the flexibility to cover shift changes and retains the right to assign scheduled and unscheduled work for mission requirements and planning based on operational need.

(b) RATES OF PAY.—Subchapter V of chapter 55 of title 5, United States Code, is amended by inserting after section 5549 the following:

## “§ 5550. Border patrol rate of pay

“(a) DEFINITIONS.—In this section—

(1) the term ‘available to work’ means a border patrol agent is generally and reasonably accessible by U.S. Customs and Border Protection to perform unscheduled duty based on the needs of U.S. Customs and Border Protection;

(2) the term ‘border patrol agent’ means an individual who is performing functions included under position classification series 1896 (Border Patrol Enforcement) of the Office of Personnel Management, or any successor thereto, including performing covered border patrol activities;

(3) the term ‘covered border patrol activities’ means a border patrol agent is—

(A) detecting and preventing illegal entry and smuggling of aliens, commercial goods, narcotics, weapons, or contraband into the United States;

(B) arresting individuals suspected of conduct described in subparagraph (A);

(C) attending training authorized by U.S. Customs and Border Protection;

(D) on approved annual, sick, or administrative leave;

(E) on ordered travel status;

(F) on official time, within the meaning of section 7131;

(G) on excused absence with pay for relocation purposes;

(H) on light duty due to injury or disability;

(I) performing administrative duties or mission critical work assignments while maintaining law enforcement authority;

(J) caring for the canine assigned to the border patrol agent, which may not exceed 1 hour per day; or

(K) engaged in an activity similar to an activity described in subparagraphs (A) through (J) while temporarily away from the regular duty assignment of the border patrol agent;

(4) the term ‘level 1 border patrol rate of pay’ means the hourly rate of pay equal to 1.25 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent;

(5) the term ‘level 2 border patrol rate of pay’ means the hourly rate of pay equal to 1.125 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent; and

(6) the term ‘work period’ means a 14-day biweekly pay period.

(b) RECEIPT OF BORDER PATROL RATE OF PAY.—

(1) VOLUNTARY ELECTION.—

(A) IN GENERAL.—Not later than 30 days before the first day of each year beginning after the date of enactment of this section, a

border patrol agent shall make an election whether the border patrol agent shall, for the following year—

“(i) be assigned to the level 1 border patrol rate of pay;

“(ii) be assigned the level 2 border patrol rate of pay; or

“(iii) decline to be assigned the level 1 border patrol rate of pay or the level 2 border patrol rate of pay.

“(B) PROCEDURES.—The Director of the Office of Personnel Management shall establish procedures for elections under subparagraph (A).

“(C) INFORMATION REGARDING ELECTION.—Not later than 60 days before the first day of each year beginning after the date of enactment of this section, U.S. Customs and Border Protection shall provide each border patrol agent with information regarding each type of election available under subparagraph (A) and how to make such an election.

“(D) FAILURE TO ELECT.—A border patrol agent who fails to make a timely election under subparagraph (A) shall be deemed to have made an election to be assigned to the level 1 border patrol rate of pay under subparagraph (A)(i).

“(E) SENSE OF CONGRESS.—It is the sense of Congress that U.S. Customs and Border Protection should take such action as is necessary to ensure that not more than 10 percent of the border patrol agents stationed at a location decline to be assigned to the level 1 border patrol rate of pay or the level 2 border patrol rate of pay.

“(2) LEVEL 1 BORDER PATROL RATE OF PAY.—For a border patrol agent who has in effect an election under paragraph (1)(A)(i)—

“(A) the border patrol agent shall be scheduled to work, for 5 days per week—

“(i) 8 hours of regular time per day; and

“(ii) 2 additional hours of scheduled overtime during each day the border patrol agent is scheduled to work under clause (i);

“(B) for the hours of regular time work described in subparagraph (A)(i), the border patrol agent shall receive pay at the level 1 border patrol rate of pay;

“(C) for the hours of regularly scheduled overtime work described in subparagraph (A)(ii), the border patrol agent shall not receive—

“(i) additional compensation under this section or any other provision of law; or

“(ii) compensatory time off;

“(D) any hours during which the border patrol agent is available to work during a work period shall be included in the hours of regular time or regularly scheduled overtime scheduled under subparagraph (A); and

“(E) shall receive compensatory time off or pay at the overtime hourly rate of pay for hours of work in excess of 100 hours during a work period, as determined in accordance with section 5542(a)(7).

“(3) LEVEL 2 BORDER PATROL RATE OF PAY.—For a border patrol agent who has in effect an election under paragraph (1)(A)(ii)—

“(A) the border patrol agent shall be scheduled to work, for 5 days per week—

“(i) 8 hours of regular time per day; and

“(ii) 1 additional hour of scheduled overtime during each day the border patrol agent is scheduled to work under clause (i);

“(B) for the hours of regular time work described in subparagraph (A)(i), the border patrol agent shall receive pay at the level 2 border patrol rate of pay;

“(C) for the hours of regularly scheduled overtime work described in subparagraph (A)(ii), the border patrol agent shall not receive—

“(i) additional compensation under this section or any other provision of law; or

“(ii) compensatory time off;

“(D) any hours during which the border patrol agent is available to work during a work

period shall be included in the hours of regular time or regularly scheduled overtime scheduled under subparagraph (A); and

“(E) shall receive compensatory time off or pay at the overtime hourly rate of pay for hours of work in excess of 90 hours during a work period, as determined in accordance with section 5542(a)(7).

“(4) BASIC BORDER PATROL RATE OF PAY.—For a border patrol agent who has in effect an election under paragraph (1)(A)(iii)—

“(A) the border patrol agent shall be scheduled to work 8 hours of regular time per day and 5 days per week;

“(B) any hours during which the border patrol agent is available to work during a work period shall be included in the hours of regular time scheduled under subparagraph (A); and

“(C) the border patrol agent shall receive compensatory time off or pay at the overtime hourly rate of pay for hours of work in excess of 80 hours during a work period, as determined in accordance with section 5542(a)(7).

“(c) ELIGIBILITY FOR OTHER PREMIUM PAY.—A border patrol agent—

“(1) shall receive premium pay for night work in accordance with subsections (a) and (b) of section 5545 and Sunday and holiday pay in accordance with section 5546, without regard to the election of the border patrol agent under subsection (b)(1)(A), except that section 5546(d) shall not apply and eligibility for pay for, and the rate of pay for, any overtime work shall be determined in accordance with this section and section 5542(a)(7); and

“(2) shall not be eligible for any other form of premium pay under this title, except as provided in section 5542(a)(7).

“(d) TREATMENT AS BASIC PAY.—Any pay received at the level 1 border patrol rate of pay or the level 2 border patrol rate of pay or pay described in subsection (b)(3)(B) shall be treated as part of basic pay for—

“(1) purposes of sections 5595(c), 8114(e), 8331(3), and 8704(c);

“(2) any other purpose that the Office of Personnel Management may by regulation prescribe; and

“(3) any other purpose expressly provided for by law.

“(e) AUTHORITY TO REQUIRE OVERTIME WORK.—Nothing in this section shall be construed to limit the authority of U.S. Customs and Border Protection to require a border patrol agent to perform hours of overtime work in accordance with the needs of U.S. Customs and Border Protection, including if needed in the event of a local or national emergency.”

(c) OVERTIME WORK.—Section 5542(a) of title 5, United States Code, is amended by adding at the end the following:

“(7)(A) In this paragraph, the term ‘border patrol agent’ has the meaning given that term in section 5550.

“(B) Notwithstanding the matter preceding paragraph (1) or paragraphs (1) and (2), for a border patrol agent who has in effect an election to be assigned to the level 1 border patrol rate of pay under section 5550(b)(1)(A)(i)—

“(i) except as provided in subparagraph (E), hours of work in excess of 100 hours during a 14-day biweekly pay period shall be overtime work; and

“(ii) the border patrol agent—

“(I) shall receive pay at the overtime hourly rate of pay (as determined in accordance with paragraphs (1) and (2)) for hours of overtime work that are officially ordered or approved in advance of the work assignment; and

“(II) shall receive compensatory time off for any hours of overtime work that are not hours of overtime work described in subclause (I).

“(C) Notwithstanding the matter preceding paragraph (1) or paragraphs (1) and (2), for a border patrol agent who has in effect an election to be eligible for the level 2 border patrol rate of pay under section 5550(b)(1)(A)(ii)—

“(i) except as provided in subparagraph (E), hours of work in excess of 90 hours during a 14-day biweekly pay period shall be overtime work; and

“(ii) the border patrol agent—

“(I) shall receive pay at the overtime hourly rate of pay (as determined in accordance with paragraphs (1) and (2)) for hours of overtime work that are officially ordered or approved in advance of the work assignment; and

“(II) shall receive compensatory time off for any hours of overtime work that are not hours of overtime work described in subclause (I).

“(D) Notwithstanding the matter preceding paragraph (1) or paragraphs (1) and (2), for a border patrol agent who has in effect an election under section 5550(b)(1)(A)(iii)—

“(i) except as provided in subparagraph (E), hours of work in excess of 80 hours during a 14-day biweekly pay period shall be overtime work; and

“(ii) the border patrol agent—

“(I) shall receive pay at the overtime hourly rate of pay (as determined in accordance with paragraphs (1) and (2)) for hours of overtime work that are officially ordered or approved in advance of the work assignment; and

“(II) shall receive compensatory time off for any hours of overtime work that are not hours of overtime work described in subclause (I).

“(E)(i) Except as provided in clause (ii), during a 14-day biweekly pay period, a border patrol agent shall not perform and may not receive compensatory time off for more than 8 hours of overtime work.

“(ii) U.S. Customs and Border Protection may, as it determines appropriate, waive the limitation under clause (i) for hours of overtime work, but such waiver must be approved in advance of any work being performed that would be subject to compensatory time under subsection (B)(ii)(II), (C)(ii)(II), or (D)(ii)(II).

“(F) A border patrol agent—

“(i) may not earn more than 240 hours of compensatory time off during a year; and

“(ii) shall use any hours of compensatory time off not later than 1 year after the date on which the compensatory time off is accrued.”

(d) STEP INCREASES.—

(1) IN GENERAL.—Effective on the first day of the first pay period beginning after December 31, 2013, each border patrol agent (as defined in section 5550 of title 5, United States Code, as added by subsection (b)) who was employed as a border patrol agent on December 31, 2013 and is in a position at or below GS-12 of the General Schedule under section 5332 of title 5, United States Code, shall be granted a step-increase of 2 steps, except that an increase under this section may not increase the rate of pay of a border patrol agent to be more than the highest pay rate within the GS grade of the border patrol agent on the date of enactment of this Act.

(2) EFFECT ON PERIODIC STEP-INCREASES.—The date on which a border patrol agent who receives a step-increase under paragraph (1) is eligible for a periodic step-increase under section 5335 of title 5, United States Code, shall be determined based on the effective date of the step-increase under paragraph (1).

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(A) in paragraph (16), by striking “or” after the semicolon;

(B) in paragraph (17), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(18) any employee who is a border patrol agent, as defined in section 5550(a) of title 5, United States Code.”.

(2) The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5549 the following:

“5550. Border patrol rate of pay.”.

(f) **AVAILABILITY OF FUNDS.**—In addition to any amounts provided in an appropriations Act or otherwise made available to U.S. Customs and Border Protection, amounts made available pursuant to section 6 of this Act may be used for pay authorized under this section or an amendment made by this section, including for paying basic pay under subsection (d)(1).

**SA 1667.** Mr. BLUMENTHAL (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1000, strike line 20 and all that follows through page 1001, line 20, and insert the following:

“(ii) was younger than 16 years of age on the date on which the alien initially entered the United States; and

“(iii)(I)(aa) has earned a high school diploma, a commensurate alternative award from a public or private high school or secondary school, or has obtained a general education development certificate recognized under State law, or a high school equivalency diploma in the United States and has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States; and

“(bb)(AA) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor’s degree or higher degree in the United States; or

“(BB) has served in the Uniformed Services for at least 4 years and, if discharged, received an honorable discharge; or

“(II) is under 18 years of age on the date the immigrant submits an application for such adjustment and is enrolled in school or has completed a general education development certificate on the date the immigrant submits an application for adjustment.

“(B) **SPECIAL PROVISIONS.**—

“(i) **EXCEPTION TO AGE REQUIREMENT.**—An alien lawfully admitted for permanent residence pursuant to subparagraph (A)(iii)(II) may be naturalized notwithstanding the age requirements in section 334.

“(ii) **REQUIREMENTS UNDER SECTION 316.**—An alien may naturalize under section 316 no sooner than 5 years after the date on which the alien was lawfully admitted for permanent residence pursuant to subparagraph (A)(iii)(II).

“(C) **HARDSHIP EXCEPTION.**—”.

**SA 1668.** Mr. WARNER (for himself, Ms. MIKULSKI, Mr. WICKER, Mr. KAINE, Ms. MURKOWSKI, Ms. LANDRIEU, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . FLEXIBILITY WITH RESPECT TO CROSSING OF H-2B NONIMMIGRANTS WORKING IN THE SEAFOOD INDUSTRY.**

(a) **IN GENERAL.**—Subject to subsection (b), if an employer in the seafood industry files a petition for H-2B nonimmigrants and that petition is granted, the employer may bring the H-2B nonimmigrants for which the petition was granted into the United States at any time during the 120-day period beginning on the start date for which the employer is seeking the services of the nonimmigrants without filing another petition.

(b) **REQUIREMENTS FOR CROSSINGS AFTER 90TH DAY.**—An employer in the seafood industry may not bring H-2B nonimmigrants into the United States under subsection (a) after the date that is 90 days after the start date for which the employer is seeking the services of the nonimmigrants unless the employer—

(1) completes a new assessment of the local labor market by—

(A) listing job orders on local newspapers on 2 separate Sundays; and

(B) posting the job opportunity on the appropriate Department of Labor Electronic Job Registry and at the employer’s place of employment; and

(2) offers the job to an equally or better qualified United States worker who will be available at the time and place of need and who applies for the job.

(c) **EXEMPTION FROM RULES WITH RESPECT TO STAGGERING.**—The Secretary of Labor shall not consider an employer in the seafood industry who brings H-2B nonimmigrants into the United States during the 120-day period specified in subsection (a) to be staggering the date of need in violation of any applicable provision of law.

(d) **H-2B NONIMMIGRANT DEFINED.**—In this section, the term “H-2B nonimmigrant” means an alien admitted to the United States pursuant to section 101(a)(15)(H)(ii)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B)).

**SA 1669.** Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REQUIREMENTS FOR ADJUSTMENT OF STATUS FOR CERTAIN ALIENS WHO ENTERED THE UNITED STATES AS CHILDREN.**

Notwithstanding paragraph (1)(A)(iv)(I) of section 245D(b) of the Immigration and Nationality Act, as added by section 2103, an alien is not eligible for an adjustment of status under that section 245D(b) unless the alien has acquired a degree from an institution of higher education.

**SA 1670.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1071, strike line 24 and all that follows through page 1072, line 5, and insert the following:

“(C) **SUFFICIENT EVIDENCE.**—An alien who cannot meet the burden of proof otherwise required by subparagraph (A) may, in an interview with the Secretary, establish that the alien has performed the days or hours of work referred to in subparagraph (A) by pro-

ducing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

**SA 1671.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1140, line 7, strike “1 year” and insert “3 years”.

On page 1140, strike lines 10 through 13.

On page 1141, line 6, strike “1 year” and insert “3 years”.

**SA 1672.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1062 after line 2 insert: “An employer shall not be required to provide such written record to the alien or to the Secretary of Agriculture more than once per year.”

**SA 1673.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . OUTREACH TO IMMIGRANT COMMUNITIES.**

(a) **AUTHORITY TO CONDUCT.**—The Attorney General, acting through the Director of the Executive Office for Immigration Review, shall carry out a program to educate aliens regarding who may provide legal services and representation to aliens in immigration proceedings through cost-effective outreach to immigrant communities.

(b) **PURPOSE.**—The purpose of the program authorized under subsection (a) is to prevent aliens from being subjected to fraud by immigration consultants, visa consultants, and other individuals who are not authorized to provide legal services or representation to aliens.

(c) **AVAILABILITY.**—The Attorney General shall, to the extent practicable, make information regarding fraud by immigration consultants, visa consultants, and other individuals who are not authorized to provide legal services or representation to aliens available—

(1) at appropriate offices that provide services or information to aliens; and

(2) through websites that are—

(A) maintained by the Attorney General; and

(B) intended to provide information regarding immigration matters to aliens.

(d) **FOREIGN LANGUAGE MATERIALS.**—Any educational materials used to carry out the program authorized under subsection (a) shall, to the extent practicable, be made available to immigrant communities in appropriate languages, including English and Spanish.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For each of fiscal years 2014 through 2018, there is authorized to be appropriated \$1,000,000 from the Comprehensive Immigration Reform Trust Fund established under section 6 to carry out this section.

**SA 1674.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 744, to

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

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. RELIEF FOR VICTIMS OF NOTARIO FRAUD.**

(a) WITHDRAWAL OF SUBMISSION.—

(1) IN GENERAL.—An alien may withdraw, without prejudice, an application or other submission for immigration status or other immigration benefit if the alien demonstrates the application or submission was prepared or submitted by an individual engaged in the unauthorized practice of law or immigration practitioner fraud.

(2) CORRECTED FILINGS.—The Secretary, the Secretary of State, and the Attorney General shall develop a mechanism for submitting corrected applications or other submissions withdrawn under paragraph (1).

(b) WAIVER OF BAR TO REENTRY.—Section 212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(ii)), as amended by section 2315(a), is further amended by adding at the end the following:

“(VII) IMMIGRATION PRACTITIONER FRAUD.—Clause (i) shall not apply to an alien who departed the United States based on the erroneous advice of an individual engaged in the unauthorized practice of law or immigration practitioner fraud.”.

(c) REVIEW OF DENIAL OF RPI STATUS.—Section 245B of the Immigration and Nationality Act, as added by section 2101(a), is amended by adding at the end of subsection (c)(11) the following:

“(C) REVIEW FOR IMMIGRATION PRACTITIONER FRAUD.—The Secretary shall establish a procedure for the review or reconsideration of an application for registered provisional immigrant status that was denied if the applicant demonstrates that the application was prepared or submitted by an individual engaged in the unauthorized practice of law or immigration practitioner fraud.”.

**SA 1675.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2108 and insert the following:

**SEC. 2108. HIRING.**

(a) HIRING RULES EXEMPTION.—The Secretary is authorized to make term, temporary limited, and part-time appointments of employees who will implement this title and the amendments made by this title without regard to the number of such employees, their ratio to permanent full-time employees, and the duration of their employment.

(b) AUTHORITY TO WAIVE ANNUITY LIMITATIONS.—Section 824(g)(2)(B) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)(2)(B)) is amended by striking “2009” and inserting “2017”.

**SA 1676.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. OVERSIGHT OF TRUST FUND.**

(a) OFFICE OF INSPECTOR GENERAL.—

(1) PLAN.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department, in consultation with the Inspectors General of other relevant agencies, shall submit a plan for oversight of

the implementation of this Act and the amendments made by this Act. In developing the plan under this paragraph, the Inspector General shall give particular emphasis to management of the Comprehensive Immigration Reform Trust Fund established under section 6 (in this section referred to as the “Trust Fund”) and oversight of the deployment of resources, infrastructure, and funds under the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy and to implement the Employment Verification System established under section 274A(d)(1)(A) of the Immigration and Nationality Act (as amended by section 3101 of this Act).

(2) AVAILABILITY OF FUNDS.—In addition to the amounts made available under subsection (c), there are authorized to be appropriated to the Inspector General of the Department such sums as are necessary to conduct oversight under the plan submitted under paragraph (1).

(b) DEPARTMENT PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a plan that describes the actions the Department shall take, the employees the Department shall assign, and the procedures the Department shall implement to ensure that funds from the Trust Fund are—

(1) spent efficiently and effectively;

(2) well managed, including with respect to the awarding and administration of contracts and the validation of technology; and

(3) managed so as to comply with all applicable financial audit standards.

(c) AVAILABILITY OF FUNDS.—For the purposes of ensuring the funds in the Trust Fund are spent efficiently and effectively and are well managed and for the cost of conducting the audits required under section 6(c), 0.5 percent of funds deposited in the Trust Fund each fiscal year under section 6(a)(2) shall be provided in each such fiscal year to the Secretary, who shall transfer half of the amount received each fiscal year to the Inspector General of the Department. Amounts made available under this subsection shall remain available until the end of the 10th fiscal year beginning after the date on which the amounts are made available to the Secretary.

**SA 1677.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. IMMIGRATION REFORM IMPLEMENTATION COUNCIL.**

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a coordinating body, to be known as the Immigration Reform Implementation Council (in this section referred to as the “Implementation Council”), to oversee implementation of those portions of this Act and the amendments made by this Act that lie within the responsibilities of the Department.

(b) CHAIRPERSON.—The Deputy Secretary of Homeland Security shall serve as Chairperson of the Implementation Council, reporting to and under the authority of the Secretary and in keeping with the authorities specified by the Homeland Security Act of 2002 (Public Law 107–296).

(c) MEMBERSHIP.—The members of the Implementation Council shall include the following:

(1) The Commissioner for Customs and Border Protection.

(2) The Assistant Secretary for Immigration and Customs Enforcement.

(3) The Director of U.S. Citizenship and Immigration Services.

(4) The Under Secretary for Management.

(5) The General Counsel of the Department.

(6) The Assistant Secretary for Policy.

(7) The Director of the Office of International Affairs.

(8) The Officer for Civil Rights and Civil Liberties.

(9) The Privacy Officer.

(10) The Director of the Office of Biometric Identity Management.

(11) Other appropriate officers or employees of the Department, as determined by the Secretary or the Chairperson of the Implementation Council.

(d) DUTIES.—The Implementation Council shall—

(1) meet regularly to coordinate implementation of this Act and the amendments made by this Act, with particular regard to—

(A) broad policy coordination of immigration reform under this Act and the amendments made by this Act;

(B) policy and operational concerns regarding the Comprehensive Immigration Reform Trust Fund established under section 6;

(C) timely development of regulations required by this Act or an amendment made by this Act and related guidance; and

(D) participating in interagency decision-making with the Executive Office of the President, the Office of Management and Budget, the Department of State, the Department of Justice, the Department of Labor, and other agencies regarding implementation of this Act and the amendments made by this Act;

(2) establish liaisons to other agencies responsible for implementing significant portions of this Act or the amendments made by this Act, including the Department of State, the Department of Justice, the Department of Labor;

(3) establish liaisons to key stakeholders, including employer associations and labor unions;

(4) provide regular briefings to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and other appropriate committees of Congress;

(5) provide timely information regarding Department-wide implementation of this Act and the amendments made by this Act through a single, centralized location on the website of the Department; and

(6) conduct such other activities as the Secretary or Chairperson of the Implementation Council determine appropriate.

(e) MAINTENANCE OF COUNCIL.—The Implementation Council shall terminate at the end of the period necessary for the Department to implement substantially the responsibilities of the Department under this Act and the amendments made by this Act, as determined by the Secretary, but in no event earlier than 10 years after the date of enactment of this Act.

(f) STAFF.—The Deputy Secretary of Homeland Security shall appoint a full-time executive director and such other employees as are necessary for the Implementation Council.

(g) AVAILABILITY OF FUNDS.—Amounts made available to the Secretary under section 6(b) may be used to support the activities of the Implementation Council in implementing this Act and the amendments made by this Act.

**SA 1678.** Mr. CARPER (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . BETTER ENFORCEMENT THROUGH TRANSPARENCY AND ENHANCED REPORTING ON THE BORDER ACT.**

(a) **SHORT TITLE.**—This section may be cited as the “Better Enforcement Through Transparency and Enhanced Reporting on the Border Act” or the “BETTER Border Act”.

(b) **OFFICE OF HOMELAND SECURITY STATISTICS.**—

(1) **ESTABLISHMENT.**—There is established within the Department an Office of Homeland Security Statistics (referred to in this section as the “Office”), which shall be headed by a Director.

(2) **TRANSFER OF FUNCTIONS.**—

(A) **ABOLISHMENT OF OFFICE OF IMMIGRATION STATISTICS.**—The Office of Immigration Statistics of the Department is abolished.

(B) **TRANSFER OF FUNCTIONS.**—All functions and responsibilities of the Office of Immigration Statistics as of the day before the date of the enactment of this Act, including all of the personnel, assets, components, authorities, programs, and liabilities of the Office of Immigration Statistics, are transferred to the Office of Homeland Security Statistics.

(3) **DUTIES.**—The Director of the Office shall—

(A) collect information from agencies of the Department, including internal databases used to—

(i) undertake border inspections;

(ii) identify visa overstays;

(iii) undertake immigration enforcement actions; and

(iv) grant immigration benefits;

(B) produce the annual report required to be submitted to Congress under subsection (c); and

(C) collect the information described in section 103(d) of the Immigration and Nationality Act (8 U.S.C. 1103(d)) and disseminate such information to Congress and to the public;

(D) produce any other reports and conduct any other work that the Office of Immigration Statistics was required to produce or conduct before the date of the enactment of this Act; and

(E) produce such other reports or conduct such other work as the Secretary determines to be necessary.

(4) **INTRADEPARTMENTAL DATA SHARING.**—Agencies and offices of the Department shall share any data that is required to comply with this section.

(5) **CONSULTATION.**—In carrying out this subsection, the Director of the Office shall consult with the Ombudsman for Immigration Related Concerns to the greatest extent practicable.

(6) **PLACEMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall notify Congress where the Office has been established within the Department.

(7) **CONFORMING AMENDMENT.**—Section 103(d) (8 U.S.C. 1103(d)) is amended by striking “Commissioner” and inserting “Director of the Office of Homeland Security Statistics”.

(c) **REPORT ON PERFORMANCE METRICS.**—

(1) **IN GENERAL.**—In addition to any reports required to be produced by the Office of Immigration Statistics before the date of enactment of this Act, the Director, on an an-

nual basis, shall submit to Congress a report on performance metrics that will enable—

(A) the Department to develop an understanding of—

(i) the security of the border;

(ii) efforts to enforce immigration laws within the United States; and

(iii) the overall working of the immigration system; and

(B) policy makers, including Congress—

(i) to make more effective investments in order to secure the border;

(ii) to enforce the immigration laws of the United States; and

(iii) to ensure that the Federal immigration system is working efficiently at every level.

(2) **CONTENTS.**—The report required under paragraph (1) shall contain outcome performance measures, for the year covered by the report, including—

(A) for the areas between ports of entry—

(i) the estimated number of attempted illegal entries, the estimated number of successful entries, and the number of apprehensions, categorized by sector;

(ii) the number of individuals that attempted to cross the border and information concerning how many times individuals attempted to cross, categorized by sector;

(iii) the number of individuals returned to Mexico voluntarily, criminally prosecuted, and receiving any other form of sanctions, categorized by sector; and

(iv) the recidivism rates for all classes of individuals apprehended, including individuals returned to Mexico voluntarily, criminally prosecuted, and receiving any other form of sanctions, categorized by sector;

(B) for ports of entry—

(i) the estimated number of attempted illegal entries, the number of apprehensions, and the estimated number of successful entries, categorized by field office; and

(ii) information compiled based on random samples of secondary inspections, including estimates of the effectiveness of inspectors in identifying civil and criminal immigration and customs violations, categorized by field office; and

(iii) enforcement outcomes for individuals denied admission, including the number of—

(I) individuals allowed to withdraw their application for admission or voluntarily return to their country of origin;

(II) individuals referred for criminal prosecution; and

(III) individuals receiving any other form of administrative sanction;

(C) for visa overstays—

(i) the number of people that overstay the terms of their admission into the United States, categorized by—

(I) nationality;

(II) type of visa or entry; and

(III) length of time an individual overstayed, including—

(aa) the number of individuals who overstayed less than 180 days;

(bb) the number of individuals who overstayed less than 1 year; and

(cc) the number of individuals who overstayed for 1 year or longer; and

(ii) estimates of the total number of unauthorized aliens in the United States that entered legally and overstayed the terms of their admission;

(D) for interior enforcement—

(i) the number of arrests made by U.S. Immigration and Customs Enforcement for civil violations of immigration laws and the number of arrests made for criminal violations, categorized by Special Agent in Charge field office;

(ii) the legal basis for the arrests pursuant to criminal statutes described in clause (i);

(iii) the ultimate disposition of the arrests described in clause (i);

(iv) the overall number of removals and the number of removals, by nationality;

(v) the overall average length of detention and the length of detention, by nationality; and

(vi) the number of referrals from U.S. Citizenship and Immigration Services to Immigration and Customs Enforcement, and the ultimate outcome of these referrals, including how many resulted in removal proceedings;

(E) for immigration benefits—

(i) the number of applications processed, rejected, and accepted each year for all categories of immigration benefits, categorized by visa type;

(ii) the mean and median processing times for all categories of immigration benefits, categorized by visa type; and

(iii) data relating to fraud uncovered in applications for all categories of immigration benefits, categorized by visa type; and

(F) for the Employment Verification System established under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)—

(i) the total number of tentative nonconfirmations (further action notices);

(ii) the number of tentative nonconfirmations issued to workers who were subsequently found to be authorized for employment in the United States;

(iii) the total number of final nonconfirmations;

(iv) the number of final nonconfirmations issued to workers who were subsequently found to be authorized for employment in the United States;

(v) the total number of confirmations; and

(vi) the estimated number of confirmations issued to unauthorized workers.

(d) **EARLY WARNING SYSTEM.**—Using the data collected by the Office under this section, the Secretary shall establish an early warning system to estimate future illegal immigration, which shall monitor the outcome performance measures described in subsection (c)(2), along with political, economic, demographic, law enforcement, and other trends that may affect such outcomes.

(e) **SYSTEMATIC MODELING OF ILLEGAL IMMIGRATION TRENDS.**—The Secretary shall provide for the systematic modeling of illegal immigration trends to develop forecast models of illegal immigration flows and estimates for the undocumented population residing within the United States.

(f) **EXTERNAL REVIEW OF HOMELAND SECURITY DATA.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the National Academy of Sciences, shall make raw data collected by the Department, including individual-level data subject to the requirements in paragraph (3), on border security, immigration enforcement, and immigration benefits available for research on immigration trends, to—

(A) appropriate academic institutions and centers of excellence;

(B) the Congressional Research Service; and

(C) the Government Accountability Office.

(2) **PUBLIC RELEASE OF DATA.**—The Secretary shall ensure that data of the Department on border security, immigration enforcement, and immigration benefits is released to the public to the maximum degree permissible under Federal law to increase the confidence of the public in the credibility and objectivity of measurements related to the management and outcomes of immigration and border control processes.

(3) **REQUIREMENTS.**—In carrying out this subsection, the Secretary, in consultation with the National Academy of Sciences—

(A) shall ensure that the data described in paragraphs (1) and (2) is anonymized to safeguard individual privacy;

(B) may mask location data below the sector, district field office, or special agent in charge office level to protect national security; and

(C) shall not be required to provided classified information to individuals other than to those individuals who have appropriate security clearances.

(g) **AVAILABILITY OF FUNDS.**—The Secretary may use such sums as may be necessary from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1)—

(1) to establish the Office; and

(2) to produce reports related to securing the border and enforcing the immigration laws of the United States.

**SA 1679.** Mr. CARPER (for himself, Mr. MCCAIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. DEPLOYING FORCE MULTIPLIERS AT AND BETWEEN PORTS OF ENTRY.**

(a) **ANALYSIS OF OPERATIONAL REQUIREMENTS AT PORTS OF ENTRY.**—

(1) **IN GENERAL.**—As part of the Comprehensive Southern Border Security Strategy required to be submitted section 5(a), and in order to inform the Secretary about the technologies that may need to be redeployed or replaced pursuant to paragraphs (4) and (5) of such section, the Commissioner of U.S. Customs and Border Protection shall undertake a sector by sector analysis of the border to determine the specific technologies that are most effective in identifying illegal cross-border traffic for each particular Border Patrol sector and station along the border in order to achieve the goal of persistent surveillance.

(2) **REQUIREMENTS.**—The analysis conducted under paragraph (1) shall—

(A) include a comparison of the costs and benefits for each type of technology;

(B) estimate total life cycle costs for each type of technology; and

(C) identify specific performance metrics for assessing the performance of the technologies.

(b) **ENHANCEMENTS.**—In order to achieve surveillance between ports of entry along the Southwest border for 24 hours per day and 7 days per week, and using the analysis conducted under subsection (a), the Commissioner of U.S. Customs and Border Protection shall—

(1) deploy additional mobile, video, and man-portable surveillance systems;

(2) ensure, to the extent practicable, that all aerial assets, including assets owned before the date of enactment of this Act, are outfitted with advanced sensors that can be used to detect cross-border activity, including infrared cameras, radars, or other technologies as appropriate;

(3) deploy tethered aerostat systems, including systems to detect low-flying aircraft across the entire border, as well as systems to detect the movement of people and vehicles;

(4) operate unarmed unmanned aerial vehicles equipped with advanced sensors in every Border Patrol sector to ensure coverage for 24 hours per day and 7 days a week, unless—

(A) severe or prevailing weather precludes operations in a given sector;

(B) the Secretary determines that national security requires unmanned aerial vehicles to be deployed elsewhere; or

(C) the Secretary determines that a request from the governor of a State to deploy unmanned aerial vehicles to assist with disaster recovery efforts or extraordinary law enforcement operations is in the national interest;

(5) attempt, to the greatest extent practicable, to provide an alternate form of surveillance in a sector from which the Secretary redeployed an unmanned aerial system pursuant to subparagraph (B) or (C) of paragraph (4);

(6) deploy unarmed additional fixed-wing aircraft and helicopters;

(7) increase horse patrols in the Southwest border region; and

(8) acquire and deploy watercraft and other equipment to provide support for border-related maritime anti-crime activities.

(c) **LIMITATION.**—

(1) **IN GENERAL.**—Notwithstanding subsection (b), U.S. Border Patrol may not operate unarmed, unmanned aerial vehicles in the San Diego and El Centro Sectors, except within 3 miles of the Southern border.

(2) **EXCEPTION.**—The limitation under paragraph (1) shall not restrict—

(A) the maritime operations of U.S. Customs and Border Protection; or

(B) the Secretary's authority to deploy unmanned aerial vehicles—

(i) during a national security emergency;

(ii) in response to a request from the governor of California for assistance during disaster recovery efforts; or

(iii) for other law enforcement purposes.

(d) **FLEET CONSOLIDATION.**—In acquiring technological assets under subsection (b) and section 5(a), the Commissioner of U.S. Customs and Border Protection shall, to the greatest extent practicable, implement a plan for streamlining the fleet of aircraft, helicopters, aerostats, and unmanned aerial vehicles of U.S. Customs and Border Protection to generate savings in maintenance costs and training costs for pilots and other personnel needed to operate the assets.

(e) **ANALYSIS OF OPERATIONAL REQUIREMENTS AT PORTS OF ENTRY.**—

(1) **IN GENERAL.**—To help facilitate cross-border traffic and provide increased situational awareness of inbound and outbound trade and travel, and in order to inform the Secretary about the technologies that may need to be redeployed or replaced pursuant to paragraphs (4) and (5) of section 5(a), the Commissioner of U.S. Customs and Border Protection shall—

(A) conduct an assessment of the technology needs at ports of entry; and

(B) prioritize such technology needs based on the results of the assessment conducted pursuant to subparagraph (A).

(2) **REQUIREMENTS.**—In carrying out subsection (a), the Commissioner of U.S. Customs and Border Protection shall—

(A) consult with officers and agents in the field; and

(B) consider a variety of fixed and mobile technologies, including—

(i) hand-held biometric and document readers;

(ii) fixed and mobile license plate readers;

(iii) radio frequency identification documents and readers;

(iv) interoperable communication devices;

(v) nonintrusive scanning equipment; and

(vi) document scanning kiosks.

(3) **IMPLEMENTATION.**—Based on the results of the assessment conducted under this subsection, the Commissioner of U.S. Customs and Border Protection shall deploy additional technologies to land, air, and sea ports of entry.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to carry out this section during the fiscal years 2014 through 2018.

**SA 1680.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. PROTECTION OF DOMESTIC VIOLENCE SURVIVORS.**

(a) **RELIEF FROM CERTAIN RESTRICTIONS ON ADJUSTMENT OF STATUS.**—

(1) **RELIEF FROM CERTAIN RESTRICTIONS FOR DOMESTIC VIOLENCE SURVIVORS.**—Section 245(d) (8 U.S.C. 1255(d)), as amended by section 2310(c) of this Act, is amended in paragraph (1) in the second sentence by striking the period at the end and inserting “, unless the alien is the spouse of an alien lawfully admitted for legal permanent residence or of a citizen of the United States and is a VAWA self-petitioner.”.

(2) **CONFORMING APPLICATION IN CANCELLATION OF REMOVAL.**—Section 240A(b)(2)(A)(i) (8 U.S.C. 1229b(b)(2)(A)(i)) is amended—

(A) in subclause (II), by striking “or” at the end;

(B) in subclause (III), by adding “or” at the end; and

(C) by adding at the end the following:

“(IV) the alien entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or the child of the alien who is described in such section) was battered or subject to extreme cruelty by the United States citizen who filed the petition to accord status under such section;”.

(3) **APPLICATION UNDER SUSPENSION OF DEPORTATION FOR DOMESTIC VIOLENCE SURVIVORS.**—The Secretary or the Attorney General may suspend the deportation of an alien who is in deportation proceedings initiated prior to March 1, 1997 and adjust to the status of an alien lawfully admitted for permanent residence, if the alien—

(A) has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such suspension;

(B) has been battered or subjected to extreme cruelty in the United States by a spouse or immediate family member who is a United States citizen or a lawful permanent resident, or the alien entered the United States as an alien described in section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) with the intent to enter into a valid marriage and the alien was battered or subject to extreme cruelty by the United States citizen who filed the petition to accord status under such section, or the child of the alien who is described in this subparagraph;

(C) demonstrates that during all of such time in the United States the alien was and is a person of good moral character; and

(D) is a person whose deportation would, in the opinion of the Secretary or Attorney General, result in extreme hardship to the alien or the alien's parent or child.

(4) **EFFECTIVE DATE.**—This subsection and the amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to aliens admitted before, on, or after such date.

(b) **RELIEF FOR DOMESTIC VIOLENCE SURVIVOR VISA WAIVER ENTRANTS.**—



(1) IN GENERAL.—Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by inserting “, as a VAWA self-petitioner or for relief under section 101(a)(15)(T), section 101(a)(15)(U), section 240A(b)(2), or under any prior statute providing comparable relief, notwithstanding any other provision of law,” after “asylum.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to waivers provided under section 217(b)(2) of the Immigration and Nationality Act before, on, or after such date as if it had been included in such waivers.

(c) APPLICABILITY OF SECTION 212(E) TO SPOUSES AND CHILDREN OF J-1 EXCHANGE VISITORS.—In addition to the individuals described in section 2405(c) of this Act, applicants approved for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act and VAWA self-petitioners, as defined in section 101(a)(51) of such Act, shall not be subject to the requirements of section 212(e) of such Act (8 U.S.C. 1182(e)).

(d) WAIVER RELATING TO CERTAIN CRIMES.—Section 212(h), as amended by section 3711(c)(1)(B) of this Act, is amended by striking “and (E)” and inserting “(E), and (K)”.

**SA 1681.** Mrs. MURRAY (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . PROHIBITION ON RESTRAINTS ON PREGNANT DETAINEES.**

(a) PROHIBITION ON RESTRAINT OF PREGNANT DETAINEES.—

(1) PROHIBITION.—A detention facility shall not use restraints on a detainee known to be pregnant, including during labor, transport to a medical facility or birthing center, delivery, and postpartum recovery, unless the facility administrator makes an individualized determination that the detainee presents an extraordinary circumstance as described in paragraph (2).

(2) EXTRAORDINARY CIRCUMSTANCE.—Restraints for an extraordinary circumstance are only permitted if a medical officer has directed the use of restraints for medical reasons or if the facility administrator makes an individualized determination that—

(A) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or

(B) reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

(3) REQUIREMENT FOR LEAST RESTRICTIVE RESTRAINTS.—In the rare event that one of the extraordinary circumstances in paragraph (2) applies, medical staff shall determine the safest method and duration for the use of restraints and the least restrictive restraints necessary shall be used for a pregnant detainee, except that—

(A) if a doctor, nurse, or other health professional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall immediately remove all restraints;

(B) under no circumstance shall leg or waist restraints be used;

(C) under no circumstance shall wrist restraints be used to bind the detainee's hands behind her back; and

(D) under no circumstances shall any restraints be used on any detainee in labor or childbirth.

(4) RECORD OF EXTRAORDINARY CIRCUMSTANCES.—

(A) REQUIREMENT.—If restraints are used on a detainee pursuant to paragraph (2), the facility administrator shall make a written finding within 10 days as to the extraordinary circumstance that dictated the use of the restraints.

(B) RETENTION.—A written find made under subparagraph (A) shall be kept on file by the detention facility for at least 5 years and be made available for public inspection, except that no individually identifying information of any detainee shall be made public without the detainee's prior written consent.

(b) PROHIBITION ON PRESENCE OF DETENTION OFFICERS DURING LABOR OR CHILDBIRTH.—Upon a detainee's admission to a medical facility or birthing center for labor or childbirth, no detention officer shall be present in the room during labor or childbirth, unless specifically requested by medical personnel. If a detention officer's presence is requested by medical personnel, the detention officer shall be female, if practicable. If restraints are used on a detainee pursuant to subsection (a)(2), a detention officer shall remain immediately outside the room at all times so that the officer may promptly remove the restraints if requested by medical personnel, as required by subsection (a)(3)(A).

(c) DEFINITIONS.—In this section:

(1) DETAINEE.—The term “detainee” includes any adult or juvenile person detained under the Immigration and Nationality Act (8 U.S.C. 1101) or held by any Federal, State, or local law enforcement agency under an immigration detainer.

(2) DETENTION FACILITY.—The term “detention facility” means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement or the Commissioner of U.S. Customs and Border Protection, including facilities that hold such individuals under a contract or agreement with the Director or Commissioner, or that is used, in whole or in part, to hold individuals pursuant to an immigration detainer.

(3) FACILITY ADMINISTRATOR.—The term “facility administrator” means the official that is responsible for oversight of a detention facility or the designee of such official.

(4) LABOR.—The term “labor” means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) POSTPARTUM RECOVERY.—The term “postpartum recovery” means, as determined by her physician, the period immediately following delivery, including the entire period a woman is in the hospital or infirmary after birth.

(6) RESTRAINT.—The term “restraint” means any physical restraint or mechanical device used to control the movement of a detainee's body or limbs, including flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a security (tether) chain, or a convex shield.

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—Not later than 30 days before the end of each fiscal year, the facility administrator of each detention facility in whose custody a pregnant detainee had been subject to the use of restraints during the previous fiscal year shall submit to the Secretary a written report that includes an account of every instance of such a use of restraints. No such report may contain any in-

dividually identifying information of any detainee.

(2) PUBLIC INSPECTION.—Each report submitted under paragraph (1) shall be made available for public inspection.

(e) RULEMAKING.—The Secretary shall adopt regulations or policies to carry out this section at every detention facility.

**SA 1682.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

Section 705 of the Homeland Security Act of 2002 (6 U.S.C. 345) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

“(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties by employees and officials of the Department or that are related to Departmental activities (unless the Inspector General of the Department determines that such a complaint or such information should be investigated by the Inspector General) and, using the information gained by such investigations, make recommendations to the Secretary and directorates, offices, and other components of the Department for improvements in policy, supervision, training, and practice related to civil rights or civil liberties, or for the relevant office to review the matter and take appropriate disciplinary or other action.”;

(2) by redesignating subsection (b) as subsection (e);

(3) by inserting after subsection (a) the following:

“(b) INVESTIGATION OF COMPLAINTS.—The head of each directorate, office, or component of the Department and the head of any other executive agency shall ensure that the directorate, office, or component provides the Officer for Civil Rights and Civil Liberties with speedy access, and in no event later than 30 days after the date on which the directorate, office, or component receives a request from the Officer, to any information determined by the Officer to be relevant to the exercise of the duties and responsibilities under subsection (a) or to any investigation carried out under this section, whether by providing relevant documents or access to facilities or personnel.

“(c) SUBPOENAS.—

“(1) IN GENERAL.—In carrying out the duties and responsibilities under subsection (a) or as part of an investigation carried out under this section, the Officer for Civil Rights and Civil Liberties may require by subpoena access to—

“(A) any institution or entity outside of the Federal Government that is the subject of or related to an investigation under this section; and

“(B) any individual, document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording or other media, or quality assurance report relating to any institution or entity outside of the Federal Government that is the subject of or related to an investigation under this section.

“(2) ISSUANCE AND SERVICE.—A subpoena issued under this subsection shall—

“(A) bear the signature of the Officer for Civil Rights and Civil Liberties; and

“(B) be served by any person or class of persons designated by the Officer or an officer or employee designated for that purpose.

“(3) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued

under this subsection, the United States district court for the judicial district in which the institution, entity, or individual is located may issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as contempt of that court.

“(4) USE OF INFORMATION.—Any material obtained under a subpoena issued under this subsection—

“(A) may not be used for any purpose other than a purpose set forth in subsection (a);

“(B) may not be transmitted by or within the Department for any purpose other than a purpose set forth in subsection (a); and

“(C) shall be redacted, obscured, or otherwise altered if used in any publicly available manner to the extent necessary to prevent the disclosure of any personally identifiable information.

“(d) RECOMMENDATIONS.—For any final recommendation or finding made under this section by the Officer for Civil Rights and Civil Liberties to the Secretary or a directorate, office, or other component of the Department—

“(1) the Secretary shall ensure that the Department—

“(A) responds to the recommendation or finding within 30 days after the date on which the Officer communicates the recommendation or finding; and

“(B) within 60 days after the date on which the Officer communicates the recommendation or finding, provides the Officer with a plan for implementation of the recommendation or finding;

“(2) within 30 days after the date on which the Officer receives an implementation plan under paragraph (1), the Officer shall assess the plan and determine whether the plan sufficiently addresses the underlying recommendation;

“(3) if the Officer determines under paragraph (2) that an implementation plan is insufficient, the Secretary shall ensure that the Department submits a revised implementation plan that complies with the underlying recommendation within 30 days after the date on which the Officer communicates the determination; and

“(4) absent any provision of law to the contrary, the Officer shall provide the complainant with a summary of any findings or recommendations made under this section by the Officer, which shall be redacted, obscured, or otherwise altered to protect the disclosure of any personally identifiable information, other than the complainant’s.”;

(4) in subsection (e), as so redesignated—

(A) by striking “The Secretary shall” and inserting the following:

“(1) IN GENERAL.—The Secretary shall”;

(B) by striking “and the appropriate committees and subcommittees of Congress” and inserting “the appropriate committees and subcommittees of Congress, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee)”;

(C) by striking “, and detailing any allegations” and all that follows through “such allegations,” and inserting “and a compilation of the information provided in the quarterly reports under paragraph (2).”; and

(D) by adding at the end the following:

“(2) QUARTERLY REPORTS.—

“(A) IN GENERAL.—The Officer for Civil Rights and Civil Liberties shall submit to the President of the Senate, the Speaker of the House of Representatives, the appropriate committees and subcommittees of Congress, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C.

2000ee), on a quarterly basis, a report detailing—

“(i) each nonfrivolous allegation of abuse received by the Officer during the quarter covered by the report; and

“(ii) each final recommendation made or carried out under subsection (a) that was completed during the quarter covered by the report.

“(B) CONTENTS.—Each report under this paragraph shall detail—

“(i) for each allegation described in subparagraph (A)(i) subject to a completed investigation, any final recommendation made by the Officer for Civil Rights and Civil Liberties and any action or response taken by the Department in response; and

“(ii) any matter or investigation carried out under this section that has been open or pending for more than 2 years.

“(3) INFORMING THE PUBLIC.—The Officer for Civil Rights and Civil Liberties shall—

“(A) make each report submitted under this subsection available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

“(B) otherwise inform the public of the activities of the Officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.”.

**SA 1683.** Mr. PORTMAN (for himself, Mr. CHIESA, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. INADMISSABILITY OF ALIENS WITH FELONY CONVICTIONS FOR DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE.**

Subparagraph (K)(i)(I) of section 212(a)(2) (8 U.S.C. 1182(a)(2)), as added by section 371(c)(1)(A) of this Act, is amended by striking “the alien served at least 1 year imprisonment” and inserting the following: “a sentence of 1 year imprisonment or more may be imposed”.

**SA 1684.** Mr. PORTMAN (for himself, Mr. CHIESA, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. NO DISCRETION FOR CRIMES INVOLVING MORAL TURPITUDE THAT ARE CERTAIN CRIMES AGAINST CHILDREN.**

(a) IMMIGRATION JUDGES.—Subparagraph (D)(ii) of section 240(c)(4) (8 U.S.C. 1229a(c)(4)), as added by section 2314(a) of this Act, is amended—

(1) in subclause (I), by striking “or” at the end;

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following:

“(II) been convicted of a crime involving moral turpitude that is a crime of child abuse, child neglect, contributing to the delinquency of a minor through sexual acts, or child abandonment; or”.

(b) SECRETARY.—Subsection (w)(2) of section 212 (8 U.S.C. 1182), as added by section 2314(b) of this Act, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

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

“(B) been convicted of a crime involving moral turpitude that is a crime of child abuse, child neglect, contributing to the delinquency of a minor through sexual acts, or child abandonment; or”.

**SA 1685.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_\_. SECURING CITIZENSHIP FOR OCCUPATIONS REQUIRING EXPEDITING.**

(a) SHORT TITLE.—This section may be cited as the “Securing Citizenship for Occupations Requiring Expediting Act” or the “SCORE Act”.

(b) PERSONS MAKING EXTRAORDINARY ATHLETIC CONTRIBUTIONS.—Section 316 (8 U.S.C. 1427), as amended by section 2307(d), is further amended—

(1) in subsection (a), by striking “or within the district of the Service in the United States”;

(2) in subsection (f)(1)—

(A) by striking “and the Commissioner of Immigration” and inserting “, Secretary of Homeland Security”; and

(B) by striking “or district of the Service in the United States”; and

(3) by adding at the end the following:

“(h)(1) Subject to paragraph (2), if the Secretary of Homeland Security determines that an applicant who is otherwise eligible for naturalization will make an extraordinary contribution to the United States by representing the United States in an imminent international athletic competition, the applicant may be naturalized without regard to the residence and physical presence requirements under this section.

“(2) Paragraph (1) shall not apply if—

“(A) the applicant has not resided continuously in the United States for at least 6 months between the date on which the applicant was lawfully admitted for permanent residence and the date on which the applicant is naturalized; or

“(B) the alien is described in clause (i), (ii), (iii), (iv), or (v) of section 208(b)(2)(A).

“(3) In making a determination under paragraph (1), the Secretary shall presume that the applicant meets the requirement under such paragraph if the alien is—

“(A) certified by the United States Olympic Committee as a probable future Olympic athlete; or

“(B) certified by an official United States governing body of a sport as a probable future player in an international tournament sponsored by that sport’s international governing body.

“(4) The Secretary shall charge each applicant under this subsection a processing fee in an amount that is 500 percent greater than the standard fee charged by the Secretary for processing naturalization applications.

“(5) The Secretary shall provide for the expedited consideration and adjudication of applications for naturalization under this subsection.

“(6) An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.

“(7) The number of aliens naturalized under this subsection in any fiscal year shall not exceed 50.

“(8) The Secretary shall notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives of the filing of an application for naturalization under this section within a reasonable time after such filing.”.

**SA 1686.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . EXTENSION OF IDENTITY THEFT OFFENSES.**

(a) **FRAUD AND RELATED ACTIVITIES RELATING TO IDENTIFICATION DOCUMENTS.**—Section 1028 of title 18, United States Code, is amended in subsection (a)(7), by striking “of another person” and inserting “that is not his or her own”.

(b) **AGGRAVATED IDENTITY THEFT.**—Section 1028A(a) of title 18, United States Code, is amended by striking “of another person” both places it appears and inserting “that is not his or her own”.

**SEC. \_\_\_\_ . WAIVER OF FEDERAL LAWS WITH RESPECT TO BORDER SECURITY ACTIONS ON DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE LANDS.**

(a) **PROHIBITION ON SECRETARIES OF THE INTERIOR AND AGRICULTURE.**—The Secretary of the Interior or the Secretary of Agriculture shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on Federal land located within 100 miles of an international land border that is under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, to execute search and rescue operations and to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through the international land borders of the United States.

(b) **AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND BORDER PROTECTION.**—U.S. Customs and Border Protection shall have immediate access to Federal land within 100 miles of the international land border under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture for purposes of conducting the following activities on such land that prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through the international land borders of the United States:

- (1) Construction and maintenance of roads.
- (2) Construction and maintenance of barriers.
- (3) Use of vehicles to patrol, apprehend, or rescue.
- (4) Installation, maintenance, and operation of communications and surveillance equipment and sensors.
- (5) Deployment of temporary tactical infrastructure.

(c) **CLARIFICATION RELATING TO WAIVER AUTHORITY.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law (including any termination date relating to the waiver referred to in this subsection), the waiver by the Secretary of Homeland Security on April 1, 2008, under section 102(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note; Public Law 104-208) of the laws described in paragraph (2) with respect to certain sections of the international border between the United States and Mexico and between the United

States and Canada shall be considered to apply to all Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture within 100 miles of the international land borders of the United States for the activities of U.S. Customs and Border Protection described in subsection (c).

(2) **DESCRIPTION OF LAWS WAIVED.**—The laws referred to in paragraph (1) are limited to the Wilderness Act (16 U.S.C. 1131 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), Public Law 86-523 (16 U.S.C. 469 et seq.), the Act of June 8, 1906 (commonly known as the “Antiquities Act of 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”), the National Park Service Organic Act (16 U.S.C. 1 et seq.), the General Authorities Act of 1970 (Public Law 91-383) (16 U.S.C. 1a-1 et seq.), sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95-625, 92 Stat. 3467), and the Arizona Desert Wilderness Act of 1990 (16 U.S.C. 1132 note; Public Law 101-628).

(d) **PROTECTION OF LEGAL USES.**—This section shall not be construed to provide—

- (1) authority to restrict legal uses, such as grazing, hunting, mining, or public-use recreational and backcountry airstrips on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or
- (2) any additional authority to restrict legal access to such land.

(e) **EFFECT ON STATE AND PRIVATE LAND.**—This Act shall—

- (1) have no force or effect on State or private lands; and
- (2) not provide authority on or access to State or private lands.

(f) **TRIBAL SOVEREIGNTY.**—Nothing in this section supersedes, replaces, negates, or diminishes treaties or other agreements between the United States and Indian tribes.

(g) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report describing the extent to which implementation of this section has affected the operations of U.S. Customs and Border Protection in the year preceding the report.

**Subtitle —Interior Enforcement**

**SEC. \_\_\_\_ . SHORT TITLE.**

This subtitle may be cited as the “Strengthen and Fortify Enforcement Act” or the “SAFE Act”.

**SEC. \_\_\_\_ . FUNDING.**

Of the amounts authorized to be appropriated pursuant to section 3301(b), \$300,000,000 to carry out title III and this subtitle and the amendments made by title III and this subtitle.

**CHAPTER 1—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES**

**SEC. \_\_\_\_ . DEFINITION AND SEVERABILITY.**

(a) **STATE DEFINED.**—For the purposes of this chapter, the term “State” has the meaning given to such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(b) **SEVERABILITY.**—If any provision of this chapter, or the application of such provision

to any person or circumstance, is held invalid, the remainder of this chapter, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

**SEC. \_\_\_\_ . 12. IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES.**

(a) **IN GENERAL.**—Subject to section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)), States, or political subdivisions of States, may enact, implement and enforce criminal penalties that penalize the same conduct that is prohibited in the criminal provisions of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), as long as the criminal penalties do not exceed the relevant Federal criminal penalties. States, or political subdivisions of States, may enact, implement and enforce civil penalties that penalize the same conduct that is prohibited in the civil violations of immigration laws (as defined in such section 101(a)(17)), as long as the civil penalties do not exceed the relevant Federal civil penalties.

(b) **LAW ENFORCEMENT PERSONNEL.**—Law enforcement personnel of a State, or of a political subdivision of a State, may investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens for the purposes of enforcing the immigration laws of the United States to the same extent as Federal law enforcement personnel. Law enforcement personnel of a State, or of a political subdivision of a State, may also investigate, identify, apprehend, arrest, or detain aliens for the purposes of enforcing the immigration laws of a State or of a political subdivision of State, as long as those immigration laws are permissible under this section. Law enforcement personnel of a State, or of a political subdivision of a State, may not remove aliens from the United States.

**SEC. \_\_\_\_ . 13. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.**

(a) **PROVISION OF INFORMATION TO THE NCIC.**—Not later than 180 days after the date of the enactment of this Act and periodically thereafter as updates may require, the Secretary shall provide the National Crime Information Center of the Department of Justice with all information that the Secretary may possess regarding any alien against whom a final order of removal has been issued, any alien who has entered into a voluntary departure agreement, any alien who has overstayed their authorized period of stay, and any alien whose visas has been revoked. The National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

- (1) the alien received notice of a final order of removal;
- (2) the alien has already been removed; or
- (3) sufficient identifying information is available with respect to the alien.

(b) **INCLUSION OF INFORMATION IN THE NCIC DATABASE.**—

(1) **IN GENERAL.**—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

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

“(4) acquire, collect, classify, and preserve records of violations by aliens of the immigration laws of the United States, regardless of whether any such alien has received notice of the violation or whether sufficient identifying information is available with respect to any such alien or whether any such

alien has already been removed from the United States; and”.

(2) **EFFECTIVE DATE.**—The Attorney General and the Secretary shall ensure that the amendment made by paragraph (1) is implemented by not later than 6 months after the date of the enactment of this Act.

#### SEC. 14. TECHNOLOGY ACCESS.

States shall have access to Federal programs or technology directed broadly at identifying inadmissible or deportable aliens.

#### SEC. 15. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ALIENS.

(a) **PROVISION OF INFORMATION.**—In compliance with section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each State, and each political subdivision of a State, shall provide the Secretary in a timely manner with the information specified in subsection (b) with respect to each alien apprehended in the jurisdiction of the State, or in the political subdivision of the State, who is believed to be inadmissible or deportable.

(b) **INFORMATION REQUIRED.**—The information referred to in subsection (a) is as follows:

- (1) The alien's name.
- (2) The alien's address or place of residence.
- (3) A physical description of the alien.
- (4) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.
- (5) If applicable, the alien's driver's license number and the State of issuance of such license.
- (6) If applicable, the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document.
- (7) If applicable, the license plate number, make, and model of any automobile registered to, or driven by, the alien.
- (8) A photo of the alien, if available or readily obtainable.
- (9) The alien's fingerprints, if available or readily obtainable.

(c) **ANNUAL REPORT ON REPORTING.**—The Secretary shall maintain and annually submit to the Congress a detailed report listing the States, or the political subdivisions of States, that have provided information under subsection (a) in the preceding year.

(d) **REIMBURSEMENT.**—The Secretary shall reimburse States, and political subdivisions of a State, for all reasonable costs, as determined by the Secretary, incurred by the State, or the political subdivision of a State, as a result of providing information under subsection (a).

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(f) **CONSTRUCTION.**—Nothing in this section shall require law enforcement officials of a State, or of a political subdivision of a State, to provide the Secretary with information related to a victim of a crime or witness to a criminal offense.

(g) **EFFECTIVE DATE.**—This section shall take effect on the date that is 120 days after the date of the enactment of this Act and shall apply with respect to aliens apprehended on or after such date.

#### SEC. 16. FINANCIAL ASSISTANCE TO STATE AND LOCAL POLICE AGENCIES THAT ASSIST IN THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING AND PROCESSING CERTAIN ALIENS.**—

From amounts made available to make grants under this section, the Secretary shall make grants to States, and to political subdivisions of States, for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting aliens who are inadmissible or deportable, including additional administrative costs incurred under this chapter.

(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a State, or a political subdivision of a State, must have the authority to, and shall have a written policy and a practice to, assist in the enforcement of the immigration laws of the United States in the course of carrying out the routine law enforcement duties of such State or political subdivision of a State. Entities covered under this section may not have any policy or practice that prevents local law enforcement from inquiring about a suspect's immigration status.

(c) **FUNDING.**—There is authorized to be appropriated for grants under this section such sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.

(d) **GAO AUDIT.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of funds distributed to States, and to political subdivisions of a State, under subsection (a).

#### SEC. 17. INCREASED FEDERAL DETENTION SPACE.

(a) **CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.**—

(1) **IN GENERAL.**—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, detention facilities in the United States, for aliens detained pending removal from the United States or a decision regarding such removal. Each facility shall have a number of beds necessary to effectuate this purposes of this chapter.

(2) **DETERMINATIONS.**—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Secretary.

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

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

#### SEC. 18. FEDERAL CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS IN THE UNITED STATES APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) **STATE APPREHENSION.**—

(1) **IN GENERAL.**—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 240C the following:

“CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS PRESENT IN THE UNITED STATES

“SEC. 240D. (a) **TRANSFER OF CUSTODY BY STATE AND LOCAL OFFICIALS.**—If a State, or a political subdivision of the State, exercising authority with respect with respect to the apprehension or arrest of an inadmissible or deportable alien submits to the Secretary of Homeland Security a request that the alien be taken into Federal custody, notwithstanding any other provision of law, regulation, or policy the Secretary—

“(1) shall take the alien into custody not later than 48 hours after the detainer has been issued following the conclusion of the State or local charging process or dismissal process, or if no State or local charging or

dismissal process is required, the Secretary should issue a detainer and take the alien into custody not later than 48 hours after the alien is apprehended; and

“(2) shall request that the relevant State or local law enforcement agency temporarily hold the alien in their custody or transport the alien for transfer to Federal custody.

“(b) **POLICY ON DETENTION IN FEDERAL, CONTRACT, STATE, OR LOCAL DETENTION FACILITIES.**—In carrying out section 241(g)(1), the Attorney General or Secretary of Homeland Security shall ensure that an alien arrested under this title shall be held in custody, pending the alien's examination under this section, in a Federal, contract, State, or local prison, jail, detention center, or other comparable facility. Notwithstanding any other provision of law, regulation or policy, such facility is adequate for detention, if—

“(1) such a facility is the most suitably located Federal, contract, State, or local facility available for such purpose under the circumstances;

“(2) an appropriate arrangement for such use of the facility can be made; and

“(3) the facility satisfies the standards for the housing, care, and security of persons held in custody by a United States Marshal.

“(c) **REIMBURSEMENT.**—The Secretary of Homeland Security shall reimburse a State, and a political subdivision of a State, for all reasonable expenses, as determined by the Secretary, incurred by the State, or political subdivision, as a result of the incarceration and transportation of an alien who is inadmissible or deportable as described in subsections (a) and (b). Compensation provided for costs incurred under such subsections shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State, or of a political subdivision of a State, plus the cost of transporting the alien from the point of apprehension to the place of detention, and to the custody transfer point if the place of detention and place of custody are different.

“(d) **SECURE FACILITIES.**—The Secretary of Homeland Security shall ensure that aliens incarcerated pursuant to this title are held in facilities that provide an appropriate level of security.

“(e) **TRANSFER.**—

“(1) **IN GENERAL.**—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transfer of apprehended aliens from the custody of States, and political subdivisions of a State, to Federal custody.

“(2) **CONTRACTS.**—The Secretary may enter into contracts, including appropriate private contracts, to implement this subsection.”.

(2) **CLERICAL AMENDMENT.**—The table of contents of such Act is amended by inserting after the item relating to section 240C the following new item:

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

(b) **GAO AUDIT.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of compensation to States, and to political subdivisions of a State, for the incarceration of inadmissible or deportable aliens under section 240D(a) of the Immigration and Nationality Act (as added by subsection (a)(1)).

(c) **EFFECTIVE DATE.**—Section 240D of the Immigration and Nationality Act, as added by subsection (a), shall take effect on the date of the enactment of this Act, except that subsection (e) of such section shall take effect on the date that is 120 day after the date of the enactment of this Act.

**SEC. 19. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.**

(a) **ESTABLISHMENT OF TRAINING MANUAL AND POCKET GUIDE.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish—

(1) a training manual for law enforcement personnel of a State, or of a political subdivision of a State, to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of inadmissible and deportable aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(2) an immigration enforcement pocket guide for law enforcement personnel of a State, or of a political subdivision of a State, to provide a quick reference for such personnel in the course of duty.

(b) **AVAILABILITY.**—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(c) **APPLICABILITY.**—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide with them while on duty.

(d) **COSTS.**—The Secretary shall be responsible for any costs incurred in establishing the training manual and pocket guide.

(e) **TRAINING FLEXIBILITY.**—

(1) **IN GENERAL.**—The Secretary shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act, shall be made available by the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) **FEDERAL PERSONNEL TRAINING.**—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(3) **CLARIFICATION.**—Nothing in this chapter or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws.

(4) **PRIORITY.**—In carrying out this subsection, priority funding shall be given for existing web-based immigration enforcement training systems.

**SEC. 20. IMMUNITY.**

Notwithstanding any other provision of law, a law enforcement officer of a State or local law enforcement agency who is acting within the scope of the officer's official duties shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the performance of any duty described in this chapter, including the authorities to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody, an alien for the purposes of enforcing the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) or the immigration laws of a State or a political subdivision of a State.

**SEC. 21. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

(a) **CONTINUATION AND EXPANSION.**—

(1) **IN GENERAL.**—The Secretary shall continue to operate and implement a program that—

(A) identifies removable criminal aliens in Federal and State correctional facilities;

(B) ensures such aliens are not released into the community; and

(C) removes such aliens from the United States after the completion of their sentences.

(2) **EXPANSION.**—The program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens (pursuant to the State Criminal Alien Assistance Program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or other similar program) shall—

(A) cooperate with officials of the program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition of receiving such funds.

(b) **AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law enforcement officers of a State, or of a political subdivision of a State, are authorized to—

(1) hold a criminal alien for a period of up to 14 days after the alien has completed the alien's sentence under State or local law in order to effectuate the transfer of the alien to Federal custody when the alien is inadmissible or deportable; or

(2) issue a detainer that would allow aliens who have served a prison sentence under State or local law to be detained by the State or local prison or jail until the Secretary can take the alien into custody.

(c) **TECHNOLOGY USAGE.**—Technology, such as video conferencing, shall be used to the maximum extent practicable in order to make the program available in remote locations. Mobile access to Federal databases of aliens and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) **EFFECTIVE DATE.**—This section shall take effect of the date of the enactment of this Act, except that subsection (a)(2) shall take effect on the date that is 180 days after such date.

**SEC. 22. CLARIFICATION OF CONGRESSIONAL INTENT.**

Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (1) by striking “may enter” and all that follows through the period at the end and inserting the following: “shall enter into a written agreement with a State, or any political subdivision of a State, upon request of the State or political subdivision, pursuant to which an officer or employee of the State or subdivision, who is determined by the Secretary to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to extent consistent with State and local law. No request from a bona fide State or political subdivision or bona fide law enforcement agency shall be denied absent a compelling reason. No limit on the number of agreements under this subsection may be imposed. The Secretary shall process requests for such agreements with all due haste, and in no case shall take not more than 90 days

from the date the request is made until the agreement is consummated.”;

(2) by redesignating paragraph (2) as paragraph (5) and paragraphs (3) through (10) as paragraphs (7) through (14), respectively;

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

“(2) An agreement under this subsection shall accommodate a requesting State or political subdivision with respect to the enforcement model or combination of models, and shall accommodate a patrol model, task force model, jail model, any combination thereof, or any other reasonable model the State or political subdivision believes is best suited to the immigration enforcement needs of its jurisdiction.

“(3) No Federal program or technology directed broadly at identifying inadmissible or deportable aliens shall substitute for such agreements, including those establishing a jail model, and shall operate in addition to any agreement under this subsection.

“(4)(A) No agreement under this subsection shall be terminated absent a compelling reason.

“(B)(i) The Secretary shall provide a State or political subdivision written notice of intent to terminate at least 180 days prior to date of intended termination, and the notice shall fully explain the grounds for termination, along with providing evidence substantiating the Secretary's allegations.

“(ii) The State or political subdivision shall have the right to a hearing before an administrative law judge and, if the ruling is against the State or political subdivision, to appeal the ruling to the Federal Circuit Court of Appeals and, if the ruling is against the State or political subdivision, to the Supreme Court.

“(C) The agreement shall remain in full effect during the course of any and all legal proceedings.”; and

(4) by inserting after paragraph (5) (as redesignated) the following:

“(6) The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness and the Federal Law Enforcement Training Center, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. Distance learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act, shall be made available by the COPS Office of the Department of Justice and the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel. Preference shall be given to private sector-based web-based immigration enforcement training programs for which the Federal Government has already provided support to develop.”.

**SEC. 23. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).**

Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended—

(1) by striking “Attorney General” the first place such term appears and inserting “Secretary of Homeland Security”;

(2) by striking “Attorney General” each place such term appears thereafter and inserting “Secretary”;

(3) in paragraph (3)(A), by inserting “charged with or” before “convicted”; and

(4) by amending paragraph (5) to read as follows:

“(5) There are authorized to be appropriated to carry out this subsection such

sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.”.

**SEC. 14. STATE VIOLATIONS OF ENFORCEMENT OF IMMIGRATION LAWS.**

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking “Immigration and Naturalization Service” in each place it appears and inserting “Department of Homeland Security”;

(2) in subsection (a), by striking “may” and inserting “shall”;

(3) in subsection (b)—

(A) by striking “no person or agency may” and inserting “a person or agency shall not”;

(B) by striking “doing any of the following with respect to information” and inserting “undertaking any of the following law enforcement activities”;

(C) by striking paragraphs (1) through (3) and inserting the following:

“(1) Notifying the Federal Government regarding the presence of inadmissible and deportable aliens who are encountered by law enforcement personnel of a State or political subdivision of a State.

“(2) Complying with requests for information from Federal law enforcement.

“(3) Complying with detainers issued by the Department of Homeland Security.

“(4) Issuing policies in the form of a resolutions, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal law or restrict a State or political subdivision of a State from complying with Federal law or coordinating with Federal law enforcement.”; and

(4) by adding at the end the following:

“(d) COMPLIANCE.—

“(1) IN GENERAL.—A State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers’ routine law enforcement duties shall not be eligible to receive—

“(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or the ‘Cops on the Beat’ program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.); or

“(B) any other law enforcement or Department of Homeland Security grant.

“(2) ANNUAL DETERMINATION.—The Secretary shall determine annually which State or political subdivision of a State are not in compliance with section and shall report such determinations to Congress on March 1 of each year.

“(3) REPORTS.—The Attorney General shall issue a report concerning the compliance of any particular State or political subdivision at the request of the House or Senate Judiciary Committee. Any jurisdiction that is found to be out of compliance shall be ineligible to receive Federal financial assistance as provided in paragraph (1) for a minimum period of 1 year, and shall only become eligible again after the Attorney General certifies that the jurisdiction is in compliance.

“(4) REALLOCATION.—Any funds that are not allocated to a State or to a political subdivision of a State, due to the failure of the State, or of the political subdivision of the State, to comply with subsection (c) shall be reallocated to States, or to political subdivisions of States, that comply with such subsection.

“(e) CONSTRUCTION.—Nothing in this section shall require law enforcement officials from States, or from political subdivisions of

States, to report or arrest victims or witnesses of a criminal offense.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that subsection (d) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), as added by this section, shall take effect beginning one year after the date of the enactment of this Act.

**SEC. 25. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

Except as otherwise provided by Federal law or rule of procedure, the Secretary shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute the Secretary’s duties.

**CHAPTER 2—NATIONAL SECURITY**

**SEC. 31. REMOVAL OF, AND DENIAL OF BENEFITS TO, TERRORIST ALIENS.**

(a) ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “if the Attorney General”; and

(2) by amending clause (v) to read as follows:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV), (V), or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in the discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a);”.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “Attorney General” wherever that term appears;

(2) in clause (iii), by striking “or” at the end;

(3) in clause (iv), by striking the period at the end and inserting “; or”;

(4) by inserting after clause (iv) the following:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV), (V), or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.”; and

(5) by striking the final sentence.

(e) RECORD OF ADMISSION.—

(1) IN GENERAL.—Section 249 of such Act (8 U.S.C. 1259) is amended to read as follows:

“RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972

“SEC. 249. The Secretary of Homeland Security, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of lawful ad-

mission for permanent residence in the case of any alien, if no such record is otherwise available and the alien—

“(1) entered the United States before January 1, 1972;

“(2) has continuously resided in the United States since such entry;

“(3) has been a person of good moral character since such entry;

“(4) is not ineligible for citizenship;

“(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

“(6) did not, at any time, without reasonable cause fail or refuse to attend or remain in attendance at a proceeding to determine the alien’s inadmissibility or deportability. Such recordation shall be effective as of the date of approval of the application or as of the date of entry if such entry occurred prior to July 1, 1924.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by amending the item relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to January 1, 1972.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3), and 249 of the Immigration and Nationality Act, as so amended, shall apply to—

(1) all aliens in removal, deportation, or exclusion proceedings;

(2) all applications pending on, or filed after, the date of the enactment of this Act; and

(3) with respect to aliens and applications described in paragraph (1) or (2) of this subsection, acts and conditions constituting a ground for exclusion, deportation, or removal occurring or existing before, on, or after the date of the enactment of this Act.

**SEC. 32. TERRORIST BAR TO GOOD MORAL CHARACTER.**

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by redesignating paragraphs (1) through (9) as paragraphs (2) through (10), respectively;

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

“(2) one who the Secretary of Homeland Security or Attorney General determines to have been at any time an alien described in section 212(a)(3) or 237(a)(4), which determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information;”;

(3) in paragraph (9) (as redesignated), by inserting “, regardless whether the crime was classified as an aggravated felony at the time of conviction, except that the Secretary of Homeland Security or Attorney General may, in the unreviewable discretion of the Secretary or Attorney General, determine that this paragraph shall not apply in the case of a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 10 or more years prior to the date of application” after “(as defined in subsection (a)(43))”; and

(4) by striking the first sentence the follows paragraph (10) (as redesignated) and inserting following: “The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for



other reasons that such a person is or was not of good moral character. The Secretary or the Attorney General shall not be limited to the applicant's conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant's conduct and acts at any time."

(b) **AGGRAVATED FELONS.**—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note) is amended to read as follows:

"(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on or after such date."

(c) **TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM ACT.**—Section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is amended by striking "adding at the end" and inserting "inserting after paragraph (8)".

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act, shall apply to any act that occurred before, on, or after such date and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after such date. The amendments made by subsection (c) shall take effect as if enacted in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458).

### SEC. 33. TERRORIST BAR TO NATURALIZATION.

(a) **NATURALIZATION OF PERSONS ENDANGERING THE NATIONAL SECURITY.**—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1426) is amended by adding at the end the following:

"(g) **PERSONS ENDANGERING THE NATIONAL SECURITY.**—No person shall be naturalized who the Secretary of Homeland Security determines to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information."

(b) **CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.**—Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended by striking "other Act;" and inserting "other Act; and no application for naturalization shall be considered by the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced: *Provided*, That the findings of the Attorney General in terminating removal proceedings or in canceling the removal of an alien pursuant to the provisions of this Act, shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established his eligibility for naturalization as required by this title;"

(c) **PENDING DENATURALIZATION OR REMOVAL PROCEEDINGS.**—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended by adding at the end the following: "No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status."

(d) **CONDITIONAL PERMANENT RESIDENTS.**—Sections 216(e) and section 216A(e) of the Im-

migration and Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are each amended by striking the period at the end and inserting "if the alien has had the conditional basis removed pursuant to this section."

(e) **DISTRICT COURT JURISDICTION.**—Subsection 336(b) of the Immigration and Nationality Act, 8 U.S.C. 1447(b), is amended to read as follows:

"(b) If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section, as such terms are defined by the Secretary of Homeland Security pursuant to regulations, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary's determination on the application."

(f) **CONFORMING AMENDMENT.**—Section 310(c) of the Immigration and Nationality Act (8 U.S.C. 1421(c)) is amended—

(1) by inserting "not later than the date that is 120 days after the Secretary of Homeland Security's final determination," after "seek"; and

(2) by striking the second sentence and inserting the following: "The burden shall be upon the petitioner to show that the Secretary's denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, whether, for purposes of an application for naturalization, an alien is a person of good moral character, whether the alien understands and is attached to the principles of the Constitution of the United States, or whether an alien is well disposed to the good order and happiness of the United States."

(g) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed after, such date.

### SEC. 34. DENATURALIZATION FOR TERRORISTS.

(a) **IN GENERAL.**—Section 340 of the Immigration and Nationality Act is amended—

(1) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively; and

(2) by inserting after subsection (e) the following:

"(f)(1) If a person who has been naturalized participates in any act described in paragraph (2), the Attorney General is authorized to find that, as of the date of such naturalization, such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and upon such finding shall set aside the order admitting such person to citizenship and cancel the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively."

"(2) The acts described in this paragraph are the following:

"(A) Any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means.

"(B) Engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section 212(a)(3)(B)).

"(C) Incitement of terrorist activity under circumstances indicating an intention to cause death or serious bodily harm.

"(D) Receiving military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi))."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur on or after such date.

### SEC. 35. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) **SPECIAL AGRICULTURAL WORKERS.**—Section 210(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(2) in subparagraph (A), by striking "Department of Justice," and inserting "Department of Homeland Security,";

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:

"(C) **AUTHORIZED DISCLOSURES.**—

"(i) **CENSUS PURPOSE.**—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

"(ii) **NATIONAL SECURITY PURPOSE.**—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.";

(5) in subparagraph (D), as redesignated, by striking "Service" and inserting "Department of Homeland Security";

(b) **ADJUSTMENT OF STATUS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.**—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)), is amended—

(1) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(2) in subparagraph (A), by striking "Department of Justice," and inserting "Department of Homeland Security,";

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

"(C) **AUTHORIZED DISCLOSURES.**—

"(i) **CENSUS PURPOSE.**—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

"(ii) **NATIONAL SECURITY PURPOSE.**—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.";

(4) in subparagraph (D), striking “Service” and inserting “Department of Homeland Security”.

#### SEC. 36. BACKGROUND AND SECURITY CHECKS.

(a) REQUIREMENT TO COMPLETE BACKGROUND AND SECURITY CHECKS.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(h) Notwithstanding any other provision of law (statutory or nonstatutory), including but not limited to section 309 of Public Law 107-173, sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, neither the Secretary of Homeland Security, the Attorney General, nor any court may—

“(1) grant, or order the grant of or adjudication of an application for adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant, or order the grant of or adjudication of an application for United States citizenship or any other status, relief, protection from removal, employment authorization, or other benefit under the immigration laws;

“(3) grant, or order the grant of or adjudication of, any immigrant or nonimmigrant petition; or

“(4) issue or order the issuance of any documentation evidencing or related to any such grant, until such background and security checks as the Secretary may in his discretion require have been completed or updated to the satisfaction of the Secretary.

“(i) Notwithstanding any other provision of law (statutory or nonstatutory), including but not limited to section 309 of Public Law 107-173, sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, neither the Secretary of Homeland Security nor the Attorney General may be required to—

“(1) grant, or order the grant of or adjudication of an application for adjustment of status to that of an alien lawfully admitted for permanent residence,

“(2) grant, or order the grant of or adjudication of an application for United States citizenship or any other status, relief, protection from removal, employment authorization, or other benefit under the immigration laws,

“(3) grant, or order the grant of or adjudication of, any immigrant or nonimmigrant petition, or

“(4) issue or order the issuance of any documentation evidencing or related to any such grant, until any suspected or alleged materially false information, material misrepresentation or omission, concealment of a material fact, fraud or forgery, counterfeiting, or alteration, or falsification of a document, as determined by the Secretary, relating to the adjudication of an application or petition for any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this subsection has been investigated and resolved to the Secretary’s satisfaction.

“(j) Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to require any of the acts in subsection (h) or (i) to be completed by a certain time or award any relief for failure to complete or delay in completing such acts.”.

#### (b) CONSTRUCTION.—

(1) IN GENERAL.—Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

#### “CONSTRUCTION

“SEC. 362. (a) IN GENERAL.—Nothing in this Act or any other law, except as provided in subsection (d), shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer to grant any application, approve any petition, or grant or continue any relief, protection from removal, employment authorization, or any other status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien deemed by the Secretary to be described in section 212(a)(3) or section 237(a)(4); or

“(2) any alien with respect to whom a criminal or other proceeding or investigation is open or pending (including, but not limited to, issuance of an arrest warrant, detainer, or indictment), where such proceeding or investigation is deemed by the official described in subsection (a) to be material to the alien’s eligibility for the status or benefit sought.

“(b) DENIAL OR WITHHOLDING OF ADJUDICATION.—An official described in subsection (a) may, in the discretion of the official, deny (with respect to an alien described in paragraph (1) or (2) of subsection (a)) or withhold adjudication of pending resolution of the investigation or case (with respect to an alien described in subsection (a)(2) of this section) any application, petition, relief, protection from removal, employment authorization, status or benefit.

“(c) JURISDICTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to review a decision to deny or withhold adjudication pursuant to subsection (b) of this section.

“(d) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This section does not limit or modify the applicability of section 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277) with respect to an alien otherwise eligible for protection under such provisions.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 361 the following:

“362. Construction.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications for immigration benefits pending on or after such date.

#### SEC. 37. TECHNICAL AMENDMENTS RELATING TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) TRANSIT WITHOUT VISA PROGRAM.—Section 7209(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking “the Secretary, in conjunction with the Secretary of Homeland Security,” and inserting “the Secretary of Homeland Security, in consultation with the Secretary of State.”.

(b) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Section 7201(c)(1) of such Act is amended by inserting “and the Department of State” after “used by the Department of Homeland Security”.

#### CHAPTER 3—REMOVAL OF CRIMINAL ALIENS

#### SEC. 41. DEFINITION OF AGGRAVATED FELONY AND CONVICTION.

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

(1) by striking “The term ‘aggravated felony’ means—” and inserting “Notwithstanding any other provision of law, the term ‘aggravated felony’ applies to an offense described in this paragraph, whether in violation of Federal or State law, or in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—”;

(2) in subparagraph (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, manslaughter, homicide, rape (whether the victim was conscious or unconscious), or any offense of a sexual nature involving a victim under the age of 18 years;”;

(3) in subparagraph (I), by striking “or 2252” and inserting “2252, or 2252A”.

(4) in subparagraph (F), by striking “at least one year;” and inserting “is at least one year, except that if the conviction records do not conclusively establish whether a crime constitutes a crime of violence, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence;”

(5) in subparagraph (N), by striking paragraph “(1)(A) or (2) of”;

(6) in subparagraph (O), by striking “section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph” and inserting “section 275 or 276 for which the term of imprisonment is at least 1 year”;

(7) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense described in this paragraph” and inserting “attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense.”; and

(8) by striking the undesignated matter following subparagraph (U).

(b) DEFINITION OF CONVICTION.—Section 101(a)(48) of such Act (8 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

“(C) Any reversal, vacatur, expungement, or modification to a conviction, sentence, or conviction record that was granted to ameliorate the consequences of the conviction, sentence, or conviction record, or was granted for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a determination of guilt or of a guilty plea (except in the case of a guilty plea that was made on or after March 31, 2010, shall have no effect on the immigration consequences resulting from the original conviction. The alien shall have the burden of demonstrating that any reversal, vacatur, expungement, or modification was not granted to ameliorate the consequences of the conviction, sentence, or conviction record, for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a determination of guilt or of a guilty plea (except in the case of a guilty plea that was made on or after March 31, 2010), except where the alien establishes a pardon consistent with section 237(a)(2)(A)(vi).”.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendments made by subsection (a)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any act or conviction that occurred before, on, or after such date.

(2) APPLICATION OF IRIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

**SEC. 42. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.**

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subparagraph (a)(2)(A)(i)—

(A) in subclause (I), by striking “or” at the end;

(B) in subclause (II), by adding “or” at the end; and

(C) by inserting after subclause (II) the following:

“(III) a violation of (or a conspiracy or attempt to violate) an offense described in section 408 of title 42, United States Code (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification documents, authentication features, and information);”.

(2) by adding at the end of subsection (a)(2) the following:

“(J) PROCUREMENT OF CITIZENSHIP OR NATURALIZATION UNLAWFULLY.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the procurement of citizenship or naturalization unlawfully) is inadmissible.

“(K) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

“(L) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

“(M) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS, CRIMES AGAINST CHILDREN.—

“(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term ‘crime of domestic violence’ means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohab-

iting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual’s acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

“(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term ‘protection order’ means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.

“(iii) WAIVER AUTHORIZED.—The waiver authority available under section 237(a)(7) with respect to section 237(a)(2)(E)(i) shall be available on a comparable basis with respect to this subparagraph.

“(iv) CLARIFICATION.—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence.”; and

(3) in subsection (h)—

(A) by striking “The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)” and inserting “The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the Secretary, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), (K), and (M) of subsection (a)(2)”;

(B) by striking “a criminal act involving torture.” and inserting “a criminal act involving torture, or has been convicted of an aggravated felony.”;

(C) by striking “if either since the date of such admission the alien has been convicted of an aggravated felony or the alien” and inserting “if since the date of such admission the alien”; and

(D) by inserting “or Secretary of Homeland Security” after “the Attorney General” wherever that phrase appears.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (ii), by striking “or” at the end;

(2) in clause (iii), by inserting “or” at the end; and

(3) by inserting after clause (iii) the following:

“(iv) of a violation of, or an attempt or a conspiracy to violate, section 1425(a) or (b) of Title 18 (relating to the procurement of citizenship or naturalization unlawfully).”.

(c) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(G) Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) section 408 of title 42, United States Code (relat-

ing to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification) is deportable.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(e) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration and Nationality Act where such eligibility did not exist before these amendments became effective.

**SEC. 43. ESPIONAGE CLARIFICATION.**

Section 212(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read as follows:

“(A) Any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in, or who is engaged in, or with respect to clauses (i) and (iii) of this subparagraph has engaged in—

“(i) any activity—

“(I) to violate any law of the United States relating to espionage or sabotage; or

“(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;

“(ii) any other unlawful activity; or

“(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means;

is inadmissible.”.

**SEC. 44. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.**

Section 3291 of title 18, United States Code, is amended by striking “No person” through the period at the end and inserting the following: “No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses) and 75 (relating to passport, visa, and immigration offenses), or for a violation of any criminal provision of sections 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act, or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information is filed within ten years after the commission of the offense.”.

**SEC. 45. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.**

Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” through “section 1546 (relating to fraud and misuse of visas, permits, and other documents)” and inserting “sections 1541-1548 (relating to passports and visas)”.

**SEC. 46. CONFORMING AMENDMENTS FOR THE AGGRAVATED FELONY DEFINITION.**

(a) IN GENERAL.—Subparagraph (P) of section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking “(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)” and inserting “which is described in any

section of chapter 75 of title 18, United States Code.”; and

(2) by inserting after “first offense” the following: “(i) that is not described in section 1548 of such title (relating to increased penalties), and (ii)”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 47. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT OF STATUS FOR AGGRAVATED FELONS.**

(a) **IN GENERAL.**—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by adding at the end thereof the following: “However, an alien who is convicted of an aggravated felony is not eligible for a waiver or for adjustment of status under this section.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

**SEC. 48. INADMISSIBILITY AND DEPORTABILITY OF DRUNK DRIVERS.**

(a) **IN GENERAL.**—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (T), by striking “and”;

(2) in subparagraph (U); by striking the period at the end and inserting “; and”;

(3) by inserting after subparagraph (U) the following:.

“(V) A second conviction for driving while intoxicated (including a conviction for driving while under the influence of or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to convictions entered on or after such date.

**SEC. 49. DETENTION OF DANGEROUS ALIENS.**

(a) **IN GENERAL.**—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”;

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

“(B) **BEGINNING OF PERIOD.**—The removal period begins on the latest of the following:

“(i) The date the order of removal becomes administratively final.

“(ii) If the alien is not in the custody of the Secretary on the date the order of removal becomes administratively final, the date the alien is taken into such custody.

“(iii) If the alien is detained or confined (except under an immigration process) on the date the order of removal becomes administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.”;

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

“(C) **SUSPENSION OF PERIOD.**—

“(i) **EXTENSION.**—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary’s sole discretion, keep the alien in detention during such extended period if—

“(I) the alien fails or refuses to make all reasonable efforts to comply with the re-

moval order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal that is subject to an order of removal;

“(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal;

“(III) the Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

“(IV) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period when the case is pending a decision on remand (with the removal period beginning anew on the date that the alien is ordered removed on remand).

“(ii) **RENEWAL.**—If the removal period has been extended under clause (C)(i), a new removal period shall be deemed to have begun on the date—

“(I) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order;

“(II) the stay of removal is no longer in effect; or

“(III) the alien is returned to the custody of the Secretary.

“(iii) **MANDATORY DETENTION FOR CERTAIN ALIENS.**—In the case of an alien described in subparagraphs (A) through (D) of section 236(c)(1), the Secretary shall keep that alien in detention during the extended period described in clause (i).

“(iv) **SOLE FORM OF RELIEF.**—An alien may seek relief from detention under this subparagraph only by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this subparagraph shall have the right to seek release on bond.”;

(4) in paragraph (3)—

(A) by adding after “If the alien does not leave or is not removed within the removal period” the following: “or is not detained pursuant to paragraph (6) of this subsection”;

(B) by striking subparagraph (D) and inserting the following:

“(D) to obey reasonable restrictions on the alien’s conduct or activities that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.”;

(5) in paragraph (4)(A), by striking “paragraph (2)” and inserting “subparagraph (B)”;

and

(6) by striking paragraph (6) and inserting the following:

“(6) **ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.**—

“(A) **DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.**—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, and who has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine

whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with subparagraph (B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal official and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

“(B) **AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.**—

“(i) **IN GENERAL.**—The Secretary of Homeland Security, in the exercise of the Secretary’s sole discretion, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C)). An alien whose detention is extended under this subparagraph shall have no right to seek release on bond.

“(ii) **SPECIFIC CIRCUMSTANCES.**—The Secretary of Homeland Security, in the exercise of the Secretary’s sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i)—

“(I) until the alien is removed, if the Secretary, in the Secretary’s sole discretion, determines that there is a significant likelihood that the alien—

“(aa) will be removed in the reasonably foreseeable future; or

“(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien’s failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, or conspires or acts to prevent removal;

“(II) until the alien is removed, if the Secretary of Homeland Security certifies in writing—

“(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

“(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

“(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

“(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more aggravated felonies (as defined in section 101(a)(43)(A)) or of one or more crimes identified by the Secretary of Homeland Security by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or (BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

“(III) pending a certification under subclause (II), so long as the Secretary of Homeland Security has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period, as provided in paragraph (1)(C)).

“(iii) NO RIGHT TO BOND HEARING.—An alien whose detention is extended under this subparagraph shall have no right to seek release on bond, including by reason of a certification under clause (ii)(II).

“(C) RENEWAL AND DELEGATION OF CERTIFICATION.—

“(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under subparagraph (B)(ii)(II).

“(ii) DELEGATION.—Notwithstanding section 103, the Secretary of Homeland Security may not delegate the authority to make or renew a certification described in item (bb), (cc), or (dd) of subparagraph (B)(ii)(II) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

“(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or the Attorney General’s designee provide for a hearing to make the determination described in item (dd)(BB) of subparagraph (B)(ii)(II).

“(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention by a Federal court, the Board of Immigration Appeals, or if an immigration judge orders a stay of removal, the Secretary of Homeland Security, in the exercise of the Secretary’s discretion, may impose conditions on release as provided in paragraph (3).

“(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary’s discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody, if removal becomes likely in the reasonably foreseeable future, the alien fails to comply with the conditions of release, or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary, in the Secretary’s sole discretion, determines that the alien can be detained under subparagraph (B). This section shall apply to any alien returned to custody pursuant to this subparagraph, as if the removal period terminated on the day of the redetention.

“(F) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under this paragraph shall not be subject to review by any other agency.”

(b) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENT.—(A) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking “Attorney General” each place it appears (except in the second place that term appears in section 236(a)) and inserting “Secretary of Homeland Security”.

(B) Section 236(a) of such Act (8 U.S.C. 1226(a)) is amended by inserting “the Secretary of Homeland Security or” before “the Attorney General—”.

(C) Section 236(e) of such Act (8 U.S.C. 1226(e)) is amended by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”.

(2) LENGTH OF DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) LENGTH OF DETENTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, an alien may be detained under this section for any period, without limitation, except as provided in subsection (h), until the alien is subject to a final order of removal.

“(2) CONSTRUCTION.—The length of detention under this section shall not affect detention under section 241.”

(3) DETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended, in the matter following subparagraph (D) to read as follows:

“any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, supervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, then when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody, the Secretary shall take such alien into custody.”

(4) ADMINISTRATIVE REVIEW.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as amended by paragraph (2), is further amended by adding at the end the following:

“(g) ADMINISTRATIVE REVIEW.—

“(1) IN GENERAL.—The Attorney General’s review of the Secretary’s custody determinations under subsection (a) for the following classes of aliens shall be limited to whether the alien may be detained, released on bond (of at least \$1,500 with security approved by the Secretary), or released with no bond:

“(A) Aliens in exclusion proceedings.

“(B) Aliens described in section 212(a)(3) or 237(a)(4).

“(C) Aliens described in subsection (c).

“(2) SPECIAL RULE.—The Attorney General’s review of the Secretary’s custody determinations under subsection (a) for aliens in deportation proceedings subject to section 242(a)(2) of the Act (as in effect prior to April 1, 1997, and as amended by section 440(c) of Public Law 104-132) shall be limited to a determination of whether the alien is properly included in such category.

“(h) RELEASE ON BOND.—

“(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. No bond may be granted except to an alien who establishes by clear and convincing evidence that the alien is not a flight risk or a risk to another person or the community.

“(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.”

(5) CLERICAL AMENDMENTS.—(A) Section 236(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)(B)) is amended by striking “conditional parole” and inserting “recognizance”.

(B) Section 236(b) of such Act (8 U.S.C. 1226(b)) is amended by striking “parole” and inserting “recognizance”.

(c) SEVERABILITY.—If any of the provisions of this section or any amendment by this section, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this section and of amendments made by this section, and the application of the provisions and of the amendments made by this section to any other person or circumstance shall not be affected by such holding.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect upon the date of enactment of this Act, and section 241 of the Im-

migration and Nationality Act, as so amended, shall in addition apply to—

(A) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(B) acts and conditions occurring or existing before, on, or after such date.

(2) The amendments made by subsection (b) shall take effect upon the date of the enactment of this Act, and section 236 of the Immigration and Nationality Act, as so amended, shall in addition apply to any alien in detention under provisions of such section on or after such date.

## SEC. 50. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

(a) DEFINITION OF GANG MEMBER.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(53)(A) The term ‘criminal gang’ means an ongoing group, club, organization, or association of 5 or more persons that has as one of its primary purposes the commission of 1 or more of the following criminal offenses and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the Attorney General, as meeting these criteria. The offenses described, whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, are the following:

“(i) A ‘felony drug offense’ (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

“(iii) A crime of violence (as defined in section 16 of title 18, United States Code).

“(iv) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

“(v) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

“(vi) A conspiracy to commit an offense described in clauses (i) through (v).

“(B) Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conduct occurred before, on, or after the date of the enactment of this paragraph.”

(b) INADMISSIBILITY.—Section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2) of this Act, is further amended by adding at the end the following:

“(N) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is inadmissible who a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe—

“(i) to be or to have been a member of a criminal gang (as defined in section 101(a)(53)); or

“(ii) to have participated in the activities of a criminal gang (as defined in section 101(a)(53)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.”.

(c) **DEPORTABILITY.**—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)), as amended by section 302(c) of this Act, is further amended by adding at the end the following:

“(H) **ALIENS ASSOCIATED WITH CRIMINAL GANGS.**—Any alien is deportable who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

“(i) is or has been a member of a criminal gang (as defined in section 101(a)(53)); or

“(ii) has participated in the activities of a criminal gang (as so defined), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.”.

(d) **DESIGNATION.**—

(1) **IN GENERAL.**—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

“**DESIGNATION**

“**SEC. 220. (a) IN GENERAL.**—The Secretary of Homeland Security, in consultation with the Attorney General, and the Secretary of State may designate a group or association as a criminal street gang if their conduct is described in section 101(a)(53) or if the group or association conduct poses a significant risk that threatens the security and the public safety of United States nationals or the national security, homeland security, foreign policy, or economy of the United States.

“(b) **EFFECTIVE DATE.**—Designations under subsection (a) shall remain in effect until the designation is revoked after consultation between the Secretary of Homeland Security, the Attorney General, and the Secretary of State or is terminated in accordance with Federal law.”.

(2) **CLERICAL AMENDMENT.**—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

“220. Designation.”.

(e) **MANDATORY DETENTION OF CRIMINAL STREET GANG MEMBERS.**—

(1) **IN GENERAL.**—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(A) by inserting “or 212(a)(2)(N)” after “212(a)(3)(B)”;

(B) by inserting “or 237(a)(2)(H)” before “237(a)(4)(B)”.

(2) **ANNUAL REPORT.**—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

(f) **ASYLUM CLAIMS BASED ON GANG AFFILIATION.**—

(1) **INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.**—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “who is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) or who is” after “to an alien”.

(2) **INELIGIBILITY FOR ASYLUM.**—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(A) in clause (v), by striking “or” at the end;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following:

“(vi) the alien is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) (relating to participation in criminal street gangs); or”.

(g) **TEMPORARY PROTECTED STATUS.**—Section 244 of such Act (8 U.S.C. 1254a) is amended—

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

(2) in subparagraph (c)(2)(B), by adding at the end the following:

“(iii) the alien is, or at any time after admission has been, a member of a criminal gang (as defined in section 101(a)(53)).”; and

(3) in subsection (d)—

(A) by striking paragraph (3); and

(B) in paragraph (4), by adding at the end the following: “The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.”.

(h) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 51. LAUNDERING OF MONETARY INSTRUMENTS.**

(a) **ADDITIONAL PREDICATE OFFENSES.**—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting “section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” after “section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction).”; and

(2) by inserting “section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) (relating to bringing in and harboring certain aliens),” after “section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling).”.

(b) **INTENT TO CONCEAL OR DISGUISE.**—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1) so that subparagraph (B) reads as follows:

“(B) knowing that the transaction—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law.”; and

(2) in paragraph (2) so that subparagraph (B) reads as follows:

“(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law.”.

**SEC. 52. INCREASED CRIMINAL PENALTIES RELATING TO ALIEN SMUGGLING AND RELATED OFFENSES.**

(a) **IN GENERAL.**—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), is amended to read as follows:

“**SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

“(a) **CRIMINAL OFFENSES AND PENALTIES.**—

“(1) **PROHIBITED ACTIVITIES.**—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

“(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

“(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

“(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from one country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or lawful authority;

“(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

“(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien’s illegal entry into or illegal presence in the United States;

“(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

“(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

“(2) **CRIMINAL PENALTIES.**—A person who violates any provision under paragraph (1) shall, for each alien in respect to whom a violation of paragraph (1) occurs—

“(A) except as provided in subparagraphs (C) through (G), if the violation was not committed for commercial advantage, profit, or private financial gain, be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

“(B) except as provided in subparagraphs (C) through (G), if the violation was committed for commercial advantage, profit, or private financial gain—

“(i) be fined under such title, imprisoned for not more than 20 years, or both, if the violation is the offender’s first violation under this subparagraph; or

“(ii) be fined under such title, imprisoned for not more than 25 years, or both, if the violation is the offender’s second or subsequent violation of this subparagraph;

“(C) if the violation furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under such title, imprisoned for not more than 20 years, or both;

“(D) be fined under such title, imprisoned not more than 20 years, or both, if the violation created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

“(i) transporting the person in an engine compartment, storage compartment, or other confined space;



“(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

“(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

“(E) if the violation caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, be fined under such title, imprisoned for not more than 30 years, or both;

“(F) be fined under such title and imprisoned for not more than 30 years if the violation involved an alien who the offender knew or had reason to believe was—

“(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

“(ii) intending to engage in terrorist activity;

“(G) if the violation caused or resulted in the death of any person, be punished by death or imprisoned for a term of years up to life, and fined under title 18, United States Code.

“(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year.

“(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

“(b) SEIZURE AND FORFEITURE.—

“(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

“(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

“(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law may include:

“(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

“(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

“(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

“(c) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except:

“(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

“(2) other officers responsible for the enforcement of Federal criminal laws.

“(d) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if:

“(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

“(2) the deposition otherwise complies with the Federal Rules of Evidence.

“(e) DEFINITIONS.—In this section:

“(1) CROSS THE BORDER TO THE UNITED STATES.—The term ‘cross the border’ refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

“(2) LAWFUL AUTHORITY.—The term ‘lawful authority’ means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

“(3) PROCEEDS.—The term ‘proceeds’ includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

“(4) UNLAWFUL TRANSIT.—The term ‘unlawful transit’ means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which or to which the alien is traveling or moving.”

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by striking the item relating to section 274 and inserting the following:

“Sec. 274. Alien smuggling and related offenses.”

(c) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting “, alien smuggling crime,” after “any crime of violence”; and

(ii) by inserting “, alien smuggling crime,” after “such crime of violence”; and

(B) in subparagraph (D)(ii), by inserting “, alien smuggling crime,” after “crime of violence”; and

(2) by adding at the end the following:

“(6) For purposes of this subsection, the term ‘alien smuggling crime’ means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).”

**SEC. 53. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended to read as follows:

“ILLEGAL ENTRY

“SEC. 275. (a) IN GENERAL.—

“(1) ILLEGAL ENTRY OR PRESENCE.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

“(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

“(B) knowingly eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including by failing to stop at the command of such officer);

“(C) knowingly enters or crosses the border to the United States and, upon examination or inspection, knowingly makes a false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws);

“(D) knowingly violates the terms or conditions of the alien's admission or parole into the United States; or

“(E) knowingly is unlawfully present in the United States (as defined in section 212(a)(9)(B)(ii) subject to the exceptions set forth in section 212(a)(9)(B)(iii)).

“(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1):

“(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

“(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

“(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

“(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

“(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

“(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(A) alleged in the indictment or information; and

“(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

“(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

“(A) not less than \$50 or more than \$250 for each such entry, crossing, attempted entry, or attempted crossing; or

“(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by striking the item relating to section 275 and inserting the following:

“275. Illegal entry.”.

#### SEC. 54. ILLEGAL REENTRY.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

##### “REENTRY OF REMOVED ALIEN

“SEC. 276. (a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

“(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure:

“(1) for 3 or more misdemeanors or for a felony, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(2) for a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

“(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

“(4) for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, or for 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not more than 25 years, or both.

“(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

“(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(1) alleged in the indictment or information; and

“(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

“(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to re-apply for admission into the United States; or

“(2) with respect to an alien previously denied admission and removed, the alien—

“(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

“(B) had complied with all other laws and regulations governing the alien's admission into the United States.

“(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

“(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

“(h) DEFINITIONS.—For purposes of this section and section 275, the following definitions shall apply:

“(1) CROSSES THE BORDER TO THE UNITED STATES.—The term ‘crosses the border’ refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

“(2) FELONY.—The term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(3) MISDEMEANOR.—The term ‘misdemeanor’ means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

“(4) REMOVAL.—The term ‘removal’ includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

“(5) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

#### SEC. 55. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

Chapter 75 of title 18, United States Code, is amended to read as follows:

##### “CHAPTER 75—PASSPORTS AND VISAS

“Sec.

“1541. Issuance without authority.

“1542. False statement in application and use of passport.

“1543. Forgery or false use of passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Attempts and conspiracies.

“1548. Alternative penalties for certain offenses.

“1549. Definitions.

##### “§ 1541. Issuance without authority

“(a) IN GENERAL.—Whoever—

“(1) acting or claiming to act in any office or capacity under the United States, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person; or

“(2) being a consular officer authorized to grant, issue, or verify passports, knowingly grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not; shall be fined under this title or imprisoned not more than 15 years, or both.

“(b) DEFINITION.—In this section, the term ‘State’ means a State of the United States,

the District of Columbia, and any commonwealth, territory, or possession of the United States.

##### “§ 1542. False statement in application and use of passport

“Whoever knowingly—

“(1) makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

“(2) uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement; shall be fined under this title or imprisoned not more than 15 years, or both.

##### “§ 1543. Forgery or false use of passport

“Whoever—

“(1) falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

“(2) knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same;

shall be fined under this title or imprisoned not more than 15 years, or both.

##### “§ 1544. Misuse of a passport

“Whoever knowingly—

“(1) uses any passport issued or designed for the use of another;

“(2) uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

“(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, stolen, or produced or issued without lawful authority; or

“(4) violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States;

shall be fined under this title, imprisoned not more than 15 years, or both.

##### “§ 1545. Schemes to defraud aliens

“Whoever inside the United States, or in or affecting interstate or foreign commerce, in connection with any matter that is authorized by or arises under the immigration laws of the United States or any matter the offender claims or represents is authorized by or arises under the immigration laws of the United States, knowingly executes a scheme or artifice—

“(1) to defraud any person, or

“(2) to obtain or receive money or anything else of value from any person by means of false or fraudulent pretenses, representations, or promises; shall be fined under this title, imprisoned not more than 15 years, or both.

##### “§ 1546. Immigration and visa fraud

“Whoever knowingly—

“(1) uses any immigration document issued or designed for the use of another;

“(2) forges, counterfeits, alters, or falsely makes any immigration document;

“(3) mails, prepares, presents, or signs any immigration document knowing it to contain any materially false statement or representation;

“(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged,

counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

“(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws;

“(6) transfers or furnishes, without lawful authority, an immigration document to another person for use by a person other than the person for whom the immigration document was issued or designed; or

“(7) produces, issues, authorizes, or verifies, without lawful authority, an immigration document;

shall be fined under this title, imprisoned not more than 15 years, or both.

#### “§ 1547. Attempts and conspiracies

“Whoever attempts or conspires to violate this chapter shall be punished in the same manner as a person who completes that violation.

#### “§ 1548. Alternative penalties for certain offenses

“(a) **TERRORISM.**—Whoever violates any section in this chapter to facilitate an act of international terrorism or domestic terrorism (as such terms are defined in section 2331), shall be fined under this title or imprisoned not more than 25 years, or both.

“(b) **DRUG TRAFFICKING OFFENSES.**—Whoever violates any section in this chapter to facilitate a drug trafficking crime (as defined in section 929(a)) shall be fined under this title or imprisoned not more than 20 years, or both.

#### “§ 1549. Definitions

“In this chapter:

“(1) An ‘application for a United States passport’ includes any document, photograph, or other piece of evidence attached to or submitted in support of the application.

“(2) The term ‘immigration document’ means any instrument on which is recorded, by means of letters, figures, or marks, matters which may be used to fulfill any requirement of the Immigration and Nationality Act.”.

#### SEC. 56. FORFEITURE.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

“(I) Any property, real or personal, that has been used to commit or facilitate the commission of a violation of chapter 75, the gross proceeds of such violation, and any property traceable to any such property or proceeds.”.

#### SEC. 57. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) **IN GENERAL.**—Section 238(b) of the Immigration and Nationality Act (8 U.S.C. 1228(b)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security in the exercise of discretion”; and

(B) by striking “set forth in this subsection or” and inserting “set forth in this subsection, in lieu of removal proceedings under”;

(2) in paragraph (3), by striking “paragraph (1) until 14 calendar days” and inserting “paragraph (1) or (3) until 7 calendar days”;

(3) by striking “Attorney General” each place it appears in paragraphs (3) and (4) and inserting “Secretary of Homeland Security”;

(4) in paragraph (5)—

(A) by striking “described in this section” and inserting “described in paragraph (1) or (2)”;

(B) by striking “the Attorney General may grant in the Attorney General’s discretion” and inserting “the Secretary of Homeland Security or the Attorney General may grant, in the discretion of the Secretary or Attorney General, in any proceeding”;

(5) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(6) by inserting after paragraph (2) the following new paragraph:

“(3) The Secretary of Homeland Security in the exercise of discretion may determine inadmissibility under section 212(a)(2) (relating to criminal offenses) and issue an order of removal pursuant to the procedures set forth in this subsection, in lieu of removal proceedings under section 240, with respect to an alien who

“(A) has not been admitted or paroled;

“(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in section 235(b)(1)(B); and

“(C) is not eligible for a waiver of inadmissibility or relief from removal.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act as of such date.

#### SEC. 58. INCREASED PENALTIES BARRING THE ADMISSION OF CONVICTED SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER.

(a) **INADMISSIBILITY.**—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)), as amended by section 302(a) of this Act, is further amended—

(1) in subclause (II), by striking “or” at the end;

(2) in subclause (III), by adding “or” at the end; and

(3) by inserting after subclause (III) the following:

“(IV) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender);”.

(b) **DEPORTABILITY.**—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and 311(c) of this Act, is further amended—

(1) in subparagraph (A), by striking clause (v); and

(2) by adding at the end the following:

“(I) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender) is deportable.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

#### SEC. 59. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) **IMMIGRANTS.**—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), is amended—

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

“(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary’s sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.”; and

(2) in subparagraph (B)(i)—

(A) by redesignating the second subclause (I) as subclause (II); and

(B) by amending such subclause (II) to read as follows:

“(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of

Homeland Security, in the Secretary’s sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.”.

(b) **NONIMMIGRANTS.**—Section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)), is amended by striking “204(a)(1)(A)(viii)(I)” each place such term appears and inserting “204(a)(1)(A)(viii)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

#### SEC. 60. CLARIFICATION TO CRIMES OF VIOLENCE AND CRIMES INVOLVING MORAL TURPITUDE.

(a) **INADMISSIBLE ALIENS.**—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

“(iii) **CLARIFICATION.**—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.”.

(b) **DEPORTABLE ALIENS.**—

(1) **GENERAL CRIMES.**—Section 237(a)(2)(A) of such Act (8 U.S.C. 1227(a)(2)(A)), as amended by section 320(b) of this Act, is further amended by inserting after clause (iv) the following:

“(v) **CRIMES INVOLVING MORAL TURPITUDE.**—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.”.

(2) **DOMESTIC VIOLENCE.**—Section 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

“(iii) **CRIMES OF VIOLENCE.**—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

#### SEC. 61. PENALTIES FOR FAILURE TO OBEY REMOVAL ORDERS.

(a) **IN GENERAL.**—Section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) is amended—

(1) by inserting “212(a) or” before “237(a),” ; and

(2) by striking paragraph (3).

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that are described in subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after the date of the enactment of this Act.

#### SEC. 62. PARDONS.

(a) **DEFINITION.**—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by section 311(a) of this Act, is further amended by adding at the end the following:

“(54) The term ‘pardon’ means a full and unconditional pardon granted by the President of the United States, Governor of any of

the several States or constitutionally recognized body.”.

(b) DEPORTABILITY.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in paragraph (2)(A), by striking clause (vi); and

(2) by adding at the end the following:

“(8) PARDONS.—

“(A) IN GENERAL.—In the case of an alien who has been convicted of a crime and is subject to removal due to that conviction, if the alien, subsequent to receiving the criminal conviction, is granted a pardon, the alien shall not be deportable by reason of that criminal conviction.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an alien granted a pardon if the pardon is granted in whole or in part to eliminate that alien’s condition of deportability.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to a pardon granted before, on, or after such date.

#### CHAPTER 4—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

##### SEC. 71. ICE IMMIGRATION ENFORCEMENT AGENTS.

(a) IN GENERAL.—The Secretary shall authorize all immigration enforcement agents and deportation officers of the Department who have successfully completed basic immigration law enforcement training to exercise the powers conferred by—

(1) section 287(a)(5)(A) of the Immigration and Nationality Act to arrest for any offense against the United States;

(2) section 287(a)(5)(B) of such Act to arrest for any felony;

(3) section 274(a) of such Act to arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;

(4) section 287(a) of such Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States; and

(5) section 287(a) of such Act to carry firearms, provided that they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force.

(b) PAY.—Immigration enforcement agents shall be paid on the same scale as Immigration and Customs Enforcement deportation officers and shall receive the same benefits.

##### SEC. 72. ICE DETENTION ENFORCEMENT OFFICERS.

(a) AUTHORIZATION.—The Secretary is authorized to hire 2,500 Immigration and Customs Enforcement detention enforcement officers.

(b) DUTIES.—Immigration and Customs Enforcement detention enforcement officers who have successfully completed detention enforcement officers’ basic training shall be responsible for—

(1) taking and maintaining custody of any person who has been arrested by an immigration officer;

(2) transporting and guarding immigration detainees;

(3) securing Department detention facilities; and

(4) assisting in the processing of detainees.

##### SEC. 73. ENSURING THE SAFETY OF ICE OFFICERS AND AGENTS.

(a) BODY ARMOR.—The Secretary shall ensure that every Immigration and Customs Enforcement deportation officer and immigration enforcement agent on duty is issued high-quality body armor that is appropriate

for the climate and risks faced by the agent. Enough body armor must be purchased to cover every agent in the field.

(b) WEAPONS.—Such Secretary shall ensure that Immigration and Customs Enforcement deportation officers and immigration enforcement agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. Such weapons shall include, at a minimum, standard-issue handguns, M-4 (or equivalent) rifles, and Tasers.

(c) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

##### SEC. 74. ICE ADVISORY COUNCIL.

(a) ESTABLISHMENT.—An ICE Advisory Council shall be established not later than 3 months after the date of the enactment of this Act.

(b) MEMBERSHIP.—The ICE Advisory Council shall be comprised of 7 members.

(c) APPOINTMENT.—Members shall to be appointed in the following manner:

(1) One member shall be appointed by the President;

(2) One member shall be appointed by the Chairman of the Judiciary Committee of the House of Representatives;

(3) One member shall be appointed by the Chairman of the Judiciary Committee of the Senate;

(4) One member shall be appointed by the Local 511, the ICE prosecutor’s union; and

(5) Three members shall be appointed by the National Immigration and Customs Enforcement Council.

(d) TERM.—Members shall serve renewable, 2-year terms.

(e) VOLUNTARY.—Membership shall be voluntary and non-remunerated, except that members will receive reimbursement from the Secretary for travel and other related expenses.

(f) RETALIATION PROTECTION.—Members who are employed by the Secretary shall be protected from retaliation by their supervisors, managers, and other Department employees for their participation on the Council.

(g) PURPOSE.—The purpose of the Council is to advise Congress and the Secretary on issues including the following:

(1) The current status of immigration enforcement efforts, including prosecutions and removals, the effectiveness of such efforts, and how enforcement could be improved;

(2) The effectiveness of cooperative efforts between the Secretary and other law enforcement agencies, including additional types of enforcement activities that the Secretary should be engaged in, such as State and local criminal task forces;

(3) Personnel, equipment, and other resource needs of field personnel;

(4) Improvements that should be made to the organizational structure of the Department, including whether the position of immigration enforcement agent should be merged into the deportation officer position; and

(5) The effectiveness of specific enforcement policies and regulations promulgated by the Secretary, and whether other enforcement priorities should be considered.

(h) REPORTS.—The Council shall provide quarterly reports to the Chairmen and Ranking Members of the Judiciary Committees of the Senate and the House of Representatives and to the Secretary. The Council members shall meet directly with the Chairmen and Ranking Members (or their designated representatives) and with the Secretary to discuss their reports every 6 months.

##### SEC. 75. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.

(a) IN GENERAL.—The Secretary shall establish a pilot program in at least five of the 10 Immigration and Customs Enforcement field offices with the largest removal case-loads to allow Immigration and Customs deportation officers and immigration enforcement agents to—

(1) electronically process and serve charging documents, including Notices to Appear, while in the field; and

(2) electronically process and place detainees while in the field.

(b) DUTIES.—The pilot program described in subsection (a) shall be designed to allow deportation officers and immigration enforcement agents to use handheld or vehicle-mounted computers to—

(1) enter any required data, including personal information about the alien subject and the reason for issuing the document;

(2) apply the electronic signature of the issuing officer or agent;

(3) set the date the alien is required to appear before an immigration judge, in the case of Notices to Appear;

(4) print any documents the alien subject may be required to sign, along with additional copies of documents to be served on the alien; and

(5) interface with the ENFORCE database so that all data is stored and retrievable.

(c) CONSTRUCTION.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data-entry process used for issuing such charging documents and detainees.

(d) DEADLINE.—The Secretary shall initiate the pilot program described in subsection (a) within 6 months of the date of enactment of this Act.

(e) REPORT.—The Government Accountability Office shall report to the Judiciary Committee of the Senate and the House of Representatives no later than 18 months after the date of enactment of this Act on the effectiveness of the pilot program and provide recommendations for improving it.

(f) ADVISORY COUNCIL.—The ICE Advisory Council established by section 3764 shall include an recommendations on how the pilot program should work in the first quarterly report of the Council, and shall include assessments of the program and recommendations for improvement in each subsequent report.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.

##### SEC. 76. ADDITIONAL ICE DEPORTATION OFFICERS AND SUPPORT STAFF.

(a) IN GENERAL.—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty Immigration and Customs Enforcement deportation officers by 5,000 above the number of full-time positions for which funds were appropriated for fiscal year 2013.

(b) SUPPORT STAFF.—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time support staff for Immigration and Customs Enforcement deportation officers by 700 above the number of full-time positions for which funds were appropriated for fiscal year 2013.

##### SEC. 77. ADDITIONAL ICE PROSECUTORS.

The Secretary shall increase by 60 the number of full-time trial attorneys working for the Immigration and Customs Enforcement Office of the Principal Legal Advisor.

# CHAPTER 5—MISCELLANEOUS ENFORCEMENT PROVISIONS

## SEC. 81. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

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

“(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.”;

(B) by striking paragraph (3);

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

(D) by adding after paragraph (1) the following:

“(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.”;

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

“(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.”;

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

“(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.”;

(iv) in subparagraph (C), as redesignated, by striking “subparagraphs (C) and (D)(ii)” and inserting “subparagraphs (D) and (E)(ii)”;

(v) in subparagraph (D), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(F) in paragraph (4), by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”;

(2) in subsection (b)(2), by striking “a period exceeding 60 days” and inserting “any period in excess of 45 days”;

(3) by amending subsection (c) to read as follows:

“(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

“(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

“(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

“(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

“(4) FAILURE TO COMPLY WITH AGREEMENT.—

“(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

“(i) ineligible for the benefits of the agreement;

“(ii) subject to the penalties described in subsection (d); and

“(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

“(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

“(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.”;

(4) by amending subsection (d) to read as follows:

“(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

“(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of \$3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be

necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

“(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

“(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.”; and

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

“(e) ELIGIBILITY.—

“(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

“(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.”.

(6) in subsection (f), by adding at the end the following: “Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.”.

(b) RULEMAKING.—The Secretary shall within one year of the date of enactment of this Act promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

**SEC. 82. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.**

(a) **INADMISSIBLE ALIENS.**—Section 212(a)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking “seeks admission within 5 years of the date of such removal (or within 20 years)” and inserting “seeks admission not later than 5 years after the date of the alien’s removal (or not later than 20 years after the alien’s removal)”;

(2) in clause (ii), by striking “seeks admission within 10 years of the date of such alien’s departure or removal (or within 20 years of)” and inserting “seeks admission not later than 10 years after the date of the alien’s departure or removal (or not later than 20 years after)”.

(b) **BAR ON DISCRETIONARY RELIEF.**—Section 274D of such Act (8 U.S.C. 324d) is amended—

(1) in subsection (a), by striking “Commissioner” and inserting “Secretary of Homeland Security”;

(2) by adding at the end the following:

“(c) **INELIGIBILITY FOR RELIEF.**—

“(1) **IN GENERAL.**—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien’s departure from the United States.

“(2) **SAVINGS PROVISION.**—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.”.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered before, on, or after such date.

**SEC. 83. REINSTATEMENT OF REMOVAL ORDERS.**

(a) **IN GENERAL.**—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

“(5) **REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.**—If the Secretary of Homeland Security finds that an alien has entered the United States illegally after having been removed, deported, or excluded or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

“(A) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

“(B) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application or request for such relief may have been filed or made; and

“(C) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

Reinstatement under this paragraph shall not require proceedings under section 240 or other proceedings before an immigration judge”.

(b) **JUDICIAL REVIEW.**—Section 242 of the Immigration and Nationality Act (8 U.S.C.

1252) is amended by adding at the end the following:

“(h) **JUDICIAL REVIEW OF REINSTATEMENT UNDER SECTION 241(A)(5).**—

“(1) **REVIEW OF REINSTATEMENT.**—Judicial review of determinations under section 241(a)(5) is available in an action under subsection (a).

“(2) **NO REVIEW OF ORIGINAL ORDER.**—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from, or relating to, any challenge to the original order.”.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated or after that date by the Secretary (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

**SEC. 84. CLARIFICATION WITH RESPECT TO DEFINITION OF ADMISSION.**

Section 101(a)(13)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(A)) is amended by adding at the end the following: “An alien’s adjustment of status to that of lawful permanent resident status under any provision of this Act, or under any other provision of law, shall be considered an ‘admission’ for any purpose under this Act, even if the adjustment of status occurred while the alien was present in the United States.”.

**SEC. 85. REPORTS TO CONGRESS ON THE EXERCISE AND ABUSE OF PROSECUTORIAL DISCRETION.**

(a) **IN GENERAL.**—Not later than 180 days after the end of each fiscal year, the Secretary and the Attorney General shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the following:

(1) Aliens apprehended or arrested by State or local law enforcement agencies who were identified by the Department in the previous fiscal year and for whom the Department did not issue detainers and did not take into custody despite the Department’s findings that the aliens were inadmissible or deportable.

(2) Aliens who were applicants for admission in the previous fiscal year but not clearly and beyond a doubt entitled to be admitted by an immigration officer and who were not detained as required pursuant to section 235(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(2)(A)).

(3) Aliens who in the previous fiscal year were found by Department officials performing duties related to the adjudication of applications for immigration benefits or the enforcement of the immigration laws to be inadmissible or deportable who were not issued notices to appear pursuant to section 239 of such Act (8 U.S.C. 1229) or placed into removal proceedings pursuant to section 240 (8 U.S.C. 1229a), unless the aliens were placed into expedited removal proceedings pursuant to section 235(b)(1)(A)(i) (8 U.S.C. 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228), were granted voluntary departure pursuant to section 240B, were granted relief from removal pursuant to statute, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(4) Aliens issued notices to appear that were cancelled in the previous fiscal year despite the Department’s findings that the aliens were inadmissible or deportable, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B of such Act (8 U.S.C. 1229c), or were granted legal nonimmigrant or immigrant status pursuant to statute.

(5) Aliens who were placed into removal proceedings, whose removal proceedings were terminated in the previous fiscal year prior to their conclusion, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(6) Aliens granted parole pursuant to section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(7) Aliens granted deferred action, extended voluntary departure or any other type of relief from removal not specified in the Immigration and Nationality Act or where determined not to be inadmissible or deportable.

(b) **CONTENTS OF REPORT.**—The report shall include a listing of each alien described in each paragraph of subsection (a), including when in the possession of the Department their names, fingerprint identification numbers, alien registration numbers, and reason why each was granted the type of prosecutorial discretion received. The report shall also include current criminal histories on each alien from the Federal Bureau of Investigation.

**CHAPTER —OTHER MATTERS**

**SEC. 91. REQUIRING HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM PERSONS LISTED ON TERRORIST DATABASES.**

Section 222 (8 U.S.C. 1202), as amended by section 4410, is further amended by adding at the end the following:

“(j) **REQUIRING HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM PERSONS LISTED ON TERRORIST DATABASES.**—

“(1) **REQUIREMENT FOR BIOGRAPHIC AND BIOMETRIC SCREENING.**—Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for admission to the United States to submit to biographic and biometric screening to determine whether the alien’s name or biometric information is listed in any terrorist watch list or database maintained by any agency or department of the United States.

“(2) **EXCLUSIONS.**—No alien applying for a visa to the United States shall be granted such visa by a consular officer if the alien’s name or biometric information is listed in any terrorist watch list or database referred to in paragraph (1) unless—

“(A) screening of the alien’s visa application against interagency counterterrorism screening systems which compare the applicant’s information against data in all counterterrorism watch lists and databases reveals no potentially pertinent links to terrorism;

“(B) the consular officer submits the application for further review to the Secretary of State and the heads of other relevant agencies, including the Secretary of Homeland Security and the Director of National Intelligence; and

“(C) the Secretary of State, after consultation with the Secretary of Homeland Security, the Director of National Intelligence, and the heads of other relevant agencies, certifies that the alien is admissible to the United States.”.

**SEC. 92. VISA REVOCATION.**

(a) **AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY AND THE SECRETARY OF STATE.**—

(1) **IN GENERAL.**—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

“(b) **AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.**—

“(1) **IN GENERAL.**—Notwithstanding section 104(a) of the Immigration and Nationality



Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) and except for the authority of the Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

“(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and

“(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or designee, determines that such refusal or revocation is necessary or advisable in the security interests of the United States.

“(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

“(A) shall take effect immediately; and

“(B) shall automatically cancel any other valid visa that is in the alien's possession.

“(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a decision by the Secretary of Homeland Security to refuse or revoke a visa, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a refusal or revocation.

“(c) AUTHORITY OF THE SECRETARY OF STATE.—

“(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa requested by an alien if the Secretary of State determines such refusal to be necessary or advisable in the interests of the United States.

“(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary of Homeland Security under subsection (b).”.

(2) CONFORMING AMENDMENT.—Section 237(a)(1)(B) (8 U.S.C. 1227(a)(1)(B)) is amended by striking “under section 221(i)”.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to visa refusals and revocations occurring before, on, or after such date.

(b) TECHNICAL CORRECTIONS TO THE HOMELAND SECURITY ACT.—Section 428(a) of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by—

(1) striking “subsection” and inserting “section”; and

(2) striking “consular office” and inserting “consular officer”.

(c) VISA REVOCATION INFORMATION.—Section 428

**SEC. 93. CANCELLATION OF ADDITIONAL VISAS.**  
(a) IN GENERAL.—Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary”; and

(B) by inserting “and any other non-immigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and

(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality” and inserting “(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on

the date of the enactment of this Act and shall apply to a visa issued before, on, or after such date.

#### **SEC. 94. VISA INFORMATION SHARING.**

(a) IN GENERAL.—Section 222(f) (8 U.S.C. 1202(f)(2)) is amended—

(1) by striking “issuance or refusal” and inserting “issuance, refusal, or revocation”; and

(2) in paragraph (2), by striking “and on the basis of reciprocity”;

(3) in paragraph (2)(A)—

(A) by inserting “(i)” after “for the purpose of”; and

(B) by striking “illicit weapons; or” and inserting “illicit weapons, or (ii) determining a person's deportability or eligibility for a visa, admission, or other immigration benefit;”; and

(4) in paragraph (2)(B)—

(A) by striking “for the purposes” and inserting “for one of the purposes”; and

(B) by striking “or to deny visas to persons who would be inadmissible to the United States” and inserting “; or”; and

(5) by adding before the period at the end the following:

“(C) with regard to any or all aliens in the database specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date of the enactment of the Act.

#### **SEC. 95. AUTHORIZING THE DEPARTMENT OF STATE TO NOT INTERVIEW CERTAIN INELIGIBLE VISA APPLICANTS.**

(a) IN GENERAL.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is amended by inserting “the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application or” after “unless”.

(b) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall issue guidance to consular officers on the standards and processes for implementing the authority to deny visa applications without interview in cases where the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application.

(c) REPORTS.—Not less frequently than once each quarter, the Secretary of State shall submit to the Congress a report on the denial of visa applications without interview, including—

(1) the number of such denials; and

(2) a post-by-post breakdown of such denials.

#### **SEC. 96. FUNDING FOR THE VISA SECURITY PROGRAM.**

(a) IN GENERAL.—The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447) is amended, in the fourth paragraph under the heading “Diplomatic and Consular Programs”, by striking “Beginning” through the period at the end and inserting the following: “Beginning in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the immigrant visa fees in effect on January 1, 2004: Provided, That funds collected pursuant to this authority shall be credited to the appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the fees were collected, and shall be available until expended for the funding of the Visa Security Program established by the Secretary of Homeland Security under section 428(e) of the Homeland Security Act of 2002 (Public Law 107-296): Provided further, That such surcharges shall be 10 percent of the fee assessed on immigrant visa applications.”.

(b) REPAYMENT OF APPROPRIATED FUNDS.—Twenty percent of the funds collected each fiscal year under the heading “Diplomatic and Consular Programs” in the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447), as amended by subsection (a), shall be deposited into the general fund of the Treasury as repayment of funds appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been repaid.

#### **SEC. 97. EXPEDITIOUS EXPANSION OF VISA SECURITY PROGRAM TO HIGH-RISK POSTS.**

(a) IN GENERAL.—Section 428(i) of the Homeland Security Act of 2002 (6 U.S.C. 236(i)) is amended to read as follows:

“(i) VISA ISSUANCE AT DESIGNATED HIGH-RISK POSTS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall conduct an on-site review of all visa applications and supporting documentation before adjudication at the top 30 visa-issuing posts designated jointly by the Secretaries of State and Homeland Security as high-risk posts.”.

(b) ASSIGNMENT OF PERSONNEL.—Not later than one year after the date of enactment of this section, the Secretary of Homeland Security shall assign personnel to the visa-issuing posts referenced in section 428(i) of the Homeland Security Act of 2002 (6 U.S.C. 236(i)), as amended by this section, and communicate such assignments to the Secretary of State.

(c) APPROPRIATIONS.—There is authorized to be appropriated \$60,000,000 for each of the fiscal years 2014 and 2015, which shall be used to expedite the implementation of section 428(i) of the Homeland Security Act, as amended by this section.

#### **SEC. 98. EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.**

Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

“(j) EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwithstanding any other provision of law, and the processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the date on which the Secretary of Homeland Security communicates such assignment to the Secretary of State, that such personnel have been stationed and accommodated at post and are able to carry out their duties.”.

#### **SEC. 99. INCREASED CRIMINAL PENALTIES FOR STUDENT VISA INTEGRITY.**

Section 1546 of title 18, United States Code, is amended by striking “10 years” and inserting “15 years (if the offense was committed by an owner, official, or employee of an educational institution with respect to such institution's participation in the Student and exchange Visitor Program), 10 years”.

#### **SEC. 99A. VISA FRAUD.**

(a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is amended—

(1) in paragraph (1)(A), by striking “institution,” and inserting “institution,”; and

(2) by adding at the end the following:

“(3) EFFECT OF REASONABLE SUSPICION OF FRAUD.—If the Secretary of Homeland Security has reasonable suspicion that an owner of, or a designated school official at, an approved institution of higher education, an

other approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program, the Secretary may immediately suspend, without notice, such official's or such school's access to the Student and Exchange Visitor Information System (SEVIS), including the ability to issue Form I-20s, pending a final determination by the Secretary with respect to the institution's certification under the Student and Exchange Visitor Program."

(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Such section 641(d), as amended by subsection (a)(2), is further amended by adding at the end the following:

"(4) PERMANENT DISQUALIFICATION FOR FRAUD.—A designated school official at, or an owner of, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program who is convicted for fraud relating to any aspect of the Student and Exchange Visitor Program shall be permanently disqualified from filing future petitions and from having an ownership interest or a management role, including serving as a principal, owner, officer, board member, general partner, designated school official, or any other position of substantive authority for the operations or management of the institution, in any United States educational institution that enrolls nonimmigrant alien students described in subparagraph (F) or (M) of section 101(a)(15) the Immigration and Nationality Act (8 U.S.C. 1101(a)(15))."

#### SEC. 99B. BACKGROUND CHECKS.

(a) IN GENERAL.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)), as amended by section 411(b) of this Act, is further amended by adding at the end the following:

"(5) BACKGROUND CHECK REQUIREMENT.—

"(A) IN GENERAL.—An individual may not serve as a designated school official or be granted access to SEVIS unless the individual is a national of the United States or an alien lawfully admitted for permanent residence and during the most recent 3-year period—

"(i) the Secretary of Homeland Security has—

"(I) conducted a thorough background check on the individual, including a review of the individual's criminal and sex offender history and the verification of the individual's immigration status; and

"(II) determined that the individual has not been convicted of any violation of United States immigration law and is not a risk to national security of the United States; and

"(ii) the individual has successfully completed an on-line training course on SEVP and SEVIS, which has been developed by the Secretary.

"(B) INTERIM DESIGNATED SCHOOL OFFICIAL.—

"(i) IN GENERAL.—An individual may serve as an interim designated school official during the period that the Secretary is conducting the background check required by subparagraph (A)(i)(I).

"(ii) REVIEWS BY THE SECRETARY.—If an individual serving as an interim designated school official under clause (i) does not successfully complete the background check required by subparagraph (A)(i)(I), the Secretary shall review each Form I-20 issued by such interim designated school official.

"(6) FEE.—The Secretary is authorized to collect a fee from an approved school for each background check conducted under paragraph (6)(A)(i). The amount of such fee shall be equal to the average amount expended by the Secretary to conduct such background checks."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

#### SEC. 99C. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Homeland Security shall prohibit any flight school in the United States from accessing SEVIS or issuing a Form I-20 to an alien seeking a student visa pursuant to subparagraph (F)(i) or (M)(i) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) if the flight school has not been certified to the satisfaction of the Secretary and by the Federal Aviation Administration pursuant to part 141 or part 142 of title 14, Code of Federal Regulations (or similar successor regulations).

(b) TEMPORARY EXCEPTION.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary may waive the requirement under subsection (a) that a flight school be certified by the Federal Aviation Administration if such flight school—

(1) was certified under the Student and Exchange Visitor Program on the date of the enactment of this Act;

(2) submitted an application for certification with the Federal Aviation Administration during the 1-year period beginning on such date; and

(3) continues to progress toward certification by the Federal Aviation Administration.

#### SEC. 99D. REVOCATION OF ACCREDITATION.

At the time an accrediting agency or association is required to notify the Secretary of Education and the appropriate State licensing or authorizing agency of the final denial, withdrawal, suspension, or termination of accreditation of an institution pursuant to section 496 of the Higher Education Act of 1965 (20 U.S.C. 1099b), such accrediting agency or association shall notify the Secretary of Homeland Security of such determination and the Secretary of Homeland Security shall immediately withdraw the school from the SEVP and prohibit the school from accessing SEVIS.

#### SEC. 99E. REPORT ON RISK ASSESSMENT.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains the risk assessment strategy that will be employed by the Secretary to identify, investigate, and take appropriate action against schools and school officials that are facilitating the issuance of Form I-20 and the maintenance of student visa status in violation of the immigration laws of the United States.

#### SEC. 99F. IMPLEMENTATION OF GAO RECOMMENDATIONS.

Not later than 180 days after the date of the enactment of this act, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that describes—

(1) the process in place to identify and assess risks in the SEVP;

(2) a risk assessment process to allocate SEVP's resources based on risk;

(3) the procedures in place for consistently ensuring a school's eligibility, including consistently verifying in lieu of letters;

(4) how SEVP identified and addressed missing school case files;

(5) a plan to develop and implement a process to monitor state licensing and accreditation status of all SEVP-certified schools;

(6) whether all flight schools that have not been certified to the satisfaction of the Sec-

retary and by the Federal Aviation Administration have been removed from the program and have been restricted from accessing SEVIS;

(7) the standard operating procedures that govern coordination among SEVP, Counterterrorism and Criminal Exploitation Unit, and U.S. Immigration and Customs Enforcement field offices; and

(8) the established criteria for referring cases of a potentially criminal nature from SEVP to the counterterrorism and intelligence community.

#### SEC. 99G. IMPLEMENTATION OF SEVIS II.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the deployment of both phases of the 2nd generation Student and Exchange Visitor Information System (commonly known as "SEVIS II").

#### SEC. 99H. DEFINITIONS.

(a) DEFINITIONS.—In this subtitle:

(1) SEVIS.—The term "SEVIS" means the Student and Exchange Visitor Information System of the Department.

(2) SEVP.—The term "SEVP" means the Student and Exchange Visitor Program of the Department.

#### SEC. 99I. ACCREDITATION REQUIREMENTS.

(a) COLLEGES, UNIVERSITIES, AND LANGUAGE TRAINING PROGRAMS.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(F)(i)—

(A) by striking "section 214(1) at an established college, university, seminary, conservatory or in an accredited language training program in the United States" and inserting "section 214(m) at an accredited college, university, or language training program, or at an established seminary, conservatory, academic high school, elementary school, or other academic institution in the United States"; and

(B) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security"; and

(C) by amending paragraph (52) to read as follows:

"(52) Except as provided in section 214(m)(4), the term 'accredited college, university, or language training program' means a college, university, or language training program that is accredited by an accrediting agency recognized by the Secretary of Education."

(b) OTHER ACADEMIC INSTITUTIONS.—Section 214(m) (8 U.S.C. 1184(m)) is amended by adding at the end the following:

"(3) The Secretary of Homeland Security shall require accreditation of an academic institution (except for seminaries or other religious institutions) for purposes of section 101(a)(15)(F) if—

"(A) that institution is not already required to be accredited under section 101(a)(15)(F)(i); and

"(B) an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation.

"(4) The Secretary of Homeland Security, in the Secretary's discretion, may waive the accreditation requirement in paragraph (3) or section 101(a)(15)(F)(i) with respect to an institution if such institution—

"(A) is otherwise in compliance with the requirements of section 101(a)(15)(F)(i); and

"(B) has been a candidate for accreditation for at least 1 year and continues to progress toward accreditation by an accrediting agency recognized by the Secretary of Education."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall—

(A) take effect on the date that is 180 days after the date of enactment of this Act; and

(B) apply with respect to applications for nonimmigrant visas that are filed on or after the effective date described in subparagraph (A).

(2) **TEMPORARY EXCEPTION.**—During the 3-year period beginning on the effective date described in paragraph (1)(A), an institution that is newly required to be accredited under this section may continue to participate in the Student and Exchange Visitor Program notwithstanding the institution's lack of accreditation if the institution—

(A) was certified under the Student and Exchange Visitor Program on such date;

(B) submitted an application for accreditation to an accrediting agency recognized by the Secretary of Education during the 6-month period ending on such date; and

(C) continues to progress toward accreditation by such accrediting agency.

#### SEC. 99J. VISA FRAUD.

(a) **TEMPORARY SUSPENSION OF SEVIS ACCESS.**—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is amended—

(1) in paragraph (1)(A), by striking “institution,” and inserting “institution,”; and

(2) by adding at the end the following:

“(3) **EFFECT OF REASONABLE SUSPICION OF FRAUD.**—If the Secretary of Homeland Security has reasonable suspicion that an owner of, or a designated school official at, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program, the Secretary may immediately suspend, without notice, such official's or such school's access to the Student and Exchange Visitor Information System (SEVIS), including the ability to issue Form I-20s, pending a final determination by the Secretary with respect to the institution's certification under the Student and Exchange Visitor Program.”.

(b) **EFFECT OF CONVICTION FOR VISA FRAUD.**—Such section 641(d), as amended by subsection (a)(2), is further amended by adding at the end the following:

“(4) **PERMANENT DISQUALIFICATION FOR FRAUD.**—A designated school official at, or an owner of, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program who is convicted for fraud relating to any aspect of the Student and Exchange Visitor Program shall be permanently disqualified from filing future petitions and from having an ownership interest or a management role, including serving as a principal, owner, officer, board member, general partner, designated school official, or any other position of substantive authority for the operations or management of the institution, in any United States educational institution that enrolls nonimmigrant alien students described in subparagraph (F) or (M) of section 101(a)(15) the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).”.

**SA 1687.** Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . ACQUISITION OF ADDITIONAL UNMANNED AERIAL VEHICLES AND UNMANNED AERIAL SYSTEMS.

Notwithstanding paragraphs (1) and (2) of section 1106(a), the Commissioner of U.S. Customs and Border Protection may not ac-

quire additional unmanned aerial vehicles or unmanned aircraft systems until after the Inspector General of the Department submits a report to Congress, which certifies that U.S. Customs and Border Protection has implemented all the recommendations contained in the report submitted by the Office of the Inspector General of the Department to U.S. Customs and Border Protection on May 30, 2012, titled “CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security”, including—

(1) analyzing requirements and developing plans to achieve the unmanned aerial system mission availability objective and acquiring funding to provide necessary operations, maintenance, and equipment;

(2) developing and implementing procedures to coordinate and support stakeholders' mission requests; and

(3) establishing interagency agreements with external stakeholders for reimbursement of expenses incurred fulfilling mission requests, to the extent authorized by law.

**SA 1688.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . GROUNDS FOR INELIGIBILITY FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.

Section 245B(b) of the Immigration and Nationality Act, as added by section 2101, is further amended by striking paragraph (3) and inserting the following:

“(3) **GROUNDS FOR INELIGIBILITY.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), an alien is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

“(i) has a conviction for—

“(I) an offense classified as a felony in the convicting jurisdiction (other than a State or local offense for which an essential element was the alien's immigration status, or a violation of this Act);

“(II) an aggravated felony (as defined in section 101(a)(43) at the time of the conviction);

“(III) an offense (unless the applicant demonstrates, by clear and convincing evidence, that he or she is innocent of the offense, that he or she is the victim of such offense, or that no offense occurred), which is classified as a misdemeanor in the convicting jurisdiction, and which involved—

“(aa) domestic violence or child abuse and neglect (as such terms are defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)));

“(bb) assault resulting in bodily injury or the violation of a protection order (as such terms are defined in section 2266 of title 18, United States Code); or

“(cc) driving while intoxicated (as defined in section 164 of title 23, United States Code);

“(IV) 2 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status or violations of this Act);

“(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

“(VI) unlawful voting (as defined in section 237(a)(6));

“(ii) is inadmissible under section 212(a), except that in determining an alien's inadmissibility—

“(I) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply;

“(II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

“(III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant conduct began on or after the date on which the alien files an application for registered provisional immigrant status under this section;

“(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

“(iv) was, on April 16, 2013—

“(I) an alien lawfully admitted for permanent residence;

“(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

“(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110-229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status.

“(B) **WAIVER.**—

“(i) **IN GENERAL.**—The Secretary may waive the application of any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

“(ii) **EXCEPTIONS.**—The discretionary authority under clause (i) may not be used to waive—

“(I) subparagraph (B), (C), (D)(ii), (E), (G), (H), or (I) of section 212(a)(2);

“(II) section 212(a)(3);

“(III) subparagraph (A), (C), (D), or (E) of section 212(a)(10); or

“(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

“(C) **CONVICTION EXPLAINED.**—For purposes of this paragraph, the term ‘conviction’ does not include a judgment that has been expunged, set aside, or the equivalent.

“(D) **RULE OF CONSTRUCTION.**—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien.”.

**SA 1689.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . ELIMINATION OF GOVERNMENT-FUNDED COUNSEL FOR ALIENS IN IMMIGRATION PROCEEDINGS.

(a) **APPOINTMENT OF COUNSEL IN IMMIGRATION PROCEEDINGS.**—Section 292 (8 U.S.C.

1362), as amended by section 3502, is further amended—

(1) in subsection (a), by inserting “(at no expense to the Government)” after “being represented”;

(2) in subsection (b), by striking the second sentence; and

(3) by striking subsection (c).

(b) **APPOINTMENT OF COUNSEL IN REMOVAL PROCEEDINGS.**—Section 240(b)(4) (8 U.S.C. 1229a(b)(4)), as amended by section 3502, is further amended—

(1) in subparagraph (A), by inserting “, at no expense to the Government,” after “being represented”;

(2) in the flush text at the end, by striking the second sentence.

(c) **REPEAL.**—Subsections (b), (c), and (d) of section 2104 of this Act and the amendments to section 242 of the Immigration and Nationality Act made by section 2104(b) of this Act are repealed.

(d) **ELIMINATION OF OFFICE OF LEGAL ACCESS PROGRAMS.**—Notwithstanding section 3503, the Attorney General may not establish or maintain an Office of Legal Access Programs.

**SA 1690.** Mr. MORAN (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ADDITIONAL REQUIREMENTS FOR STEM EDUCATION PROGRAMS.**

(a) **LOW-INCOME STEM SCHOLARSHIP PROGRAM.**—For purposes of paragraph (3)(B) of 286(s) of the Immigration and Nationality Act, as added by section 4104(b), the Director of the National Science Foundation shall consider veterans to be an underrepresented group.

(b) **NATIONAL EVALUATION.**—In conducting the annual evaluation of the implementation and impact of the activities funded by the STEM Education and Training Account under section 4104(d), the Secretary of Education shall include an assessment of—

(1) engagement in STEM fields of underrepresented groups such as women and minorities; and

(2) achievement in STEM fields of underrepresented groups such as women and minorities.

(c) **IDENTIFYING AND DISSEMINATING BEST PRACTICES.**—The Secretary of Education shall, directly or through a grant or contract, identify State best practices with respect to STEM education and share that information broadly.

**SEC. \_\_\_\_ . USE OF H-1B VISA FEES.**

(a) **IN GENERAL.**—Section 214(c)(9)(C) (8 U.S.C. 1184(c)(9)(C)) is amended to read as follows:

“(C) Fees collected under this paragraph shall be deposited in the Treasury as follows:

“(i) Until the amount collected for a fiscal year under this paragraph equals \$275,000,000, in the H-1B Nonimmigrant Petitioner Account for use in accordance with section 286(s).

“(ii) After the amount collected for a fiscal year under this paragraph exceeds \$275,000,000—

“(I) 5 percent shall be deposited in the H-1B Nonimmigrant Petitioner Account for use as described in paragraph (5) of section 286(s);

“(II) 5 percent shall be deposited in the H-1B Nonimmigrant Petitioner Account for use as described in paragraph (6) of section 286(s); and

“(III) 90 percent shall be deposited in the STEM Education and Training Account for use as described in section 286(w).”.

(b) **CONFORMING AMENDMENT.**—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by striking “collected under paragraphs (9) and (11) of section 214(c).” and inserting “described in clause (i), (ii)(I), and (ii)(II) of paragraph (9)(C) of section 214(c) and collected under paragraph (11) of such section.”.

**SA 1691.** Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . DEPARTMENT OF HOMELAND SECURITY BORDER OVERSIGHT TASK FORCE MODIFICATIONS.**

(a) **HEARINGS AND EVIDENCE.**—

(1) **IN GENERAL.**—Notwithstanding section 1113(b)(1), the Department of Homeland Security Border Oversight Task Force established under section 1113 (referred to in this section as the “DHS Task Force”) or, on the authority of the DHS Task Force, any portion of the DHS Task Force, may, for the purpose of carrying out this section—

(A) hold hearings, sit and act, take testimony, receive evidence, administer oaths; and

(B) subject to subsection (b), require, by subpoena or otherwise provide for, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the DHS Task Force, or such portion thereof, may determine advisable.

(2) **OPEN TO THE PUBLIC.**—Hearings and other activities conducted under paragraph (1) shall be open to the public unless the DHS Task Force, or, on the authority of the DHS Task Force, determines that such is not appropriate, including for reasons relating to the disclosure of information or material regarding the national security interests of the United States or the disclosure of sensitive law enforcement data.

(b) **SUBPOENAS.**—

(1) **ISSUANCE.**—

(A) **IN GENERAL.**—A subpoena may be issued under this subsection only—

(i) by the agreement of the Chair and the Vice Chair; or

(ii) by the affirmative recorded vote of 16 members of the DHS Task Force.

(B) **SIGNATURE.**—Subpoenas issued under this subsection may be—

(i) issued under the signature of the Chair and Vice Chair or any member designated by a majority of the DHS Task Force; and

(ii) served by any person designated by the Chair and Vice Chair or by any member designated by a majority of the DHS Task Force.

(2) **ENFORCEMENT.**—

(A) **IN GENERAL.**—In the case of contumacy or failure to obey a subpoena issued under this subsection, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as contempt of that court.

(B) **ADDITIONAL ENFORCEMENT.**—In the case of any failure of any witness to comply with any subpoena, the Task Force may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before a grand jury for its action, under the same statutory authority and pro-

cedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(c) **SUNSET.**—Notwithstanding section 1113(e), the DHS Task Force shall continue operations indefinitely.

**SA 1692.** Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ADDITIONAL PERMANENT DISTRICT COURT JUDGESHIPS IN NEW MEXICO.**

(a) **IN GENERAL.**—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of New Mexico.

(b) **CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.**—The existing judgeship for the district of New Mexico authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note; Public Law 107-273; 116 Stat. 1788), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to the district of New Mexico and inserting the following:

“New Mexico ..... 8”.

**SA 1693.** Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed by him to the bill S. 744, 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. 5. BORDER ENFORCEMENT SECURITY TASK FORCE.**

(a) **IN GENERAL.**—The Secretary shall enhance law enforcement preparedness and operational readiness in the Southwest border region by expanding the Border Enforcement Security Task Force (referred to in this section as “BEST”), established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

(b) **UNITS TO BE EXPANDED.**—The Secretary shall expand the BEST units operating on the date of the enactment of this Act in New Mexico, Texas, Arizona, and California by increasing the funding available for operational, administrative, and technological costs associated with the participation of Federal, State, local, and tribal law enforcement agencies in BEST.

(c) **FUNDING.**—There are authorized to be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this subsection.

**SA 1694.** Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . ELIGIBLE USE OF GRANT FUNDS.**

In addition to the uses described in section 1104(c)(3), grants awarded under that section may be used for maintenance of, and improvements to, all public roads, including locally owned public roads and roads on tribal land—

- (a) that are located within 100 miles of—
  - (1) the Northern border; or
  - (2) the Southern border; and
- (b) on which federally owned motor vehicles comprise more than 50 percent of the vehicular traffic.

**SA 1695.** Mr. BROWN (for himself, Mr. MANCHIN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . HIRE QUALIFIED AMERICANS FIRST.**

Section 212(n)(1)(G) (8 U.S.C. 1182(n)(1)(G)), as amended by section 4211(c)(2) of this Act, is further amended by striking clause (iii) and inserting the following:

“(iii) has offered the job to any United States worker who applies and is equally or better qualified for the job for which the nonimmigrant or nonimmigrants is or are sought.”.

**SA 1696.** Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.**

(a) IN GENERAL.—None of the amounts appropriated or otherwise made available under this Act may be used for a project for the construction, alteration, maintenance, or repair of a fence along the Southern border unless all of the iron, steel, and manufactured goods used in the fence are produced in the United States.

(b) WAIVER.—Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) PUBLICATION OF WAIVER JUSTIFICATION.—If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) SAVINGS PROVISION.—This section shall be applied in a manner consistent with

United States obligations under international agreements.

**SA 1697.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . SECURE COMMUNITIES.**

(a) IN GENERAL.—The Secretary shall initiate removal proceedings, in accordance with chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), against all individuals who are arrested for an offense that poses a danger to the community and are identified through Secure Communities as—

- (1) unlawfully present in the United States;
- (2) having previously been removed and not lawfully reentered; or
- (3) otherwise removable.

(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the availability of any relief authorized under the Immigration and Nationality Act.

(c) SEMIANNUAL REPORT.—Every 6 months, the Secretary shall submit a report to Congress that identifies, for the most recent 6-month and 12-month periods—

- (1) the total number of individuals identified through Secure Communities as meeting 1 of the conditions set forth in paragraphs (1) through (3) of subsection (a);
- (2) the number of individuals described in paragraph (1) against whom removal proceedings were not initiated, categorized by immigration status;
- (3) of the individuals described in paragraph (2), the total number who U.S. Immigration and Customs Enforcement were authorized to take into custody and remove, including individuals who are—
  - (A) unlawfully present;
  - (B) unlawfully present and in removal proceedings;
  - (C) previously removed;
  - (D) under warrant for removal; or
  - (E) lawfully present and in removal proceedings; and
- (4) of the individuals described in paragraph (2), the total number who were rearrested on a separate occasion after previously being identified through Secure Communities as meeting 1 of the conditions set forth in paragraphs (1) through (3) of subsection (a), categorized by immigration status and the type of offense that led to such rearrest.

**SA 1698.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. \_\_\_\_ . PROTECTION OF NATIONAL SECURITY AND PUBLIC SAFETY.**

(a) DISCLOSURES.—Section 245E(a) (as amended by section 2104(a)) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished in an application filed under section 245B, 245C, 245D, or 245F of this Act or section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act, and any other information derived from such furnished information to—

“(A) a law enforcement agency, intelligence agency, national security agency, a component of the Department of Homeland

Security, court, or grand jury, in each instance about an individual suspect or group of suspects, consistent with law, in connection with—

- “(i) a criminal investigation or prosecution;
- “(ii) a national security investigation or prosecution; or
- “(iii) a duly authorized investigation of a civil violation; and

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

“(3) INAPPLICABILITY AFTER DENIAL.—The limitations set forth in paragraph (1)—

“(A) shall apply only until—

- “(i) an application filed under section 245B, 245C, 245D, or 245F of this Act or section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act is denied; and
- “(ii) all opportunities for administrative appeal of the denial have been exhausted; and

“(B) shall not apply to the use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

“(4) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this section, information concerning whether the applicant has, at any time, been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

“(5) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may—

“(A) audit and evaluate information furnished as part of any application filed under section 245B, 245C, 245D, or 245F for purposes of identifying immigration fraud or fraud schemes; and

“(B) use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting, referring for prosecution, or denying or terminating immigration benefits.

“(6) 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 245C, 245D, or 245F, the Secretary, at any time thereafter, may use the information furnished by the alien in the application for adjustment of status or in an application for status under section 245B, 245C, 245D, or 245F to make a determination on any petition or application.

“(7) 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 the Attorney General pertaining to applications filed under section 245B, 245C, 245D, or 245F other than information furnished by an applicant in the application, or any other information derived from the application, that is not available from any other source.”.

(b) VISA INFORMATION SHARING.—Section 222(f) (8 U.S.C. 1202(f)) is amended—

- (1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting “issuance, refusal, or revocation”; and
- (2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “discretion and on the basis of reciprocity,” and inserting “discretion,”;

(B) by striking subparagraph (A) and inserting the following:

“(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of—

“(i) preventing, investigating, or punishing acts that would constitute a crime in the United States, including terrorism or trafficking in controlled substances, persons, or illicit weapons; or

“(ii) determining a person’s removability or eligibility for a visa, admission, or other immigration benefit;”

(C) in subparagraph (B)—

(i) by striking “for the purposes” and inserting “for one of the purposes”; and

(ii) by striking “or to deny visas to persons who would be inadmissible to the United States,” and inserting “; or”; and

(D) by adding at the end the following:

“(C) with regard to any or all aliens in the database-specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.”.

**SA 1699.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . TARGETING TRANSNATIONAL CRIMINAL ORGANIZATIONS THAT ENGAGE IN MONEY LAUNDERING.**

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking “or” after the semicolon;

(2) in subparagraph (F), by inserting “or” after the semicolon; and

(3) by adding at the end the following:

“(G) any act that is indictable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including section 274 of such Act (relating to bringing in and harboring certain aliens), section 277 of such Act (relating to aiding or assisting certain aliens to enter the United States), or section 278 of such Act (relating to importation of an alien for an immoral purpose);”.

**SEC. \_\_\_\_ . DANGEROUS HUMAN SMUGGLING, HUMAN TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.**

(a) BRINGING IN AND HARBORING CERTAIN ALIENS.—Section 274 (8 U.S.C. 1324) is amended—

(1) in subsection (a)(1)(B)—

(A) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

(B) by inserting after clause (ii) the following:

“(iii) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) that is the third or subsequent offense committed by such person under this section, be fined under title 18, United States Code, imprisoned not less than 5 years and not more than 25 years, or both;

“(iv) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) that negligently, recklessly, knowingly, or intentionally results in a victim being involuntarily forced into labor or prostitution, be fined under title 18, United States Code, imprisoned not less than 5 years and not more than 25 years, or both;

“(v) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) during and in relation to which any person is subjected to an involuntary sexual act (as defined in section 2246(2) of title 18, United States Code), be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;” and

(C) in clause (vi), as redesignated, by striking inserting “and not less than 10” before “years”; and

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

“(1) IN GENERAL.—Any property, real or personal, involved in or used to facilitate the commission of a violation or attempted violation of subsection (a), the gross proceeds of such violation or attempted violation, and any property traceable to such property or proceeds, shall be seized and subject to forfeiture.”.

**SEC. \_\_\_\_ . RESPECT FOR VICTIMS OF HUMAN SMUGGLING.**

(a) VICTIM REMAINS.—The Attorney General shall appoint an official to ensure that information regarding missing aliens and unidentified remains found in the covered area are included in a database of the National Missing and Unidentified Persons System.

(b) REIMBURSEMENT.—The Secretary shall reimburse county, municipal, and tribal governments in the United States that are located in the covered area for costs associated with the transportation and processing of unidentified remains, found in the desert or on ranch lands, on the condition that the remains are transferred either to an official medical examiner’s office, or a local university with the capacity to analyze human remains using forensic best practices.

(c) BORDER CROSSING DATA.—The National Institute of Justice shall encourage genetic laboratories receiving Federal grant monies to process samples from unidentified remains discovered within the covered area and compare the resulting genetic profiles against samples from the relatives of any missing individual, including those provided by foreign consulates or authorized entities.

(d) COVERED AREA DEFINED.—In this section, the term “covered area” means the area of United States within 200 miles of the international border between the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2014 through 2018 to carry out this section.

**SEC. \_\_\_\_ . PUTTING THE BRAKES ON HUMAN SMUGGLING ACT.**

(a) SHORT TITLE.—This section may be cited as the “Putting the Brakes on Human Smuggling Act”.

(b) FIRST VIOLATION.—Paragraph (1) of section 31310(b) of title 49, United States Code, is amended—

(1) in subparagraph (D), by striking the “or” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon and “or”; and

(3) by adding at the end the following:

“(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal entry into the United States by transporting, guiding, directing, or attempting to assist the alien with the alien’s entry in violation of section 275 of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section.”.

(c) SECOND OR MULTIPLE VIOLATIONS.—Paragraph (1) of section 31310(c) of title 49, United States Code, is amended—

(1) in subparagraph (E), by striking the “or” at the end;

(2) by redesignating subparagraph (F) as subparagraph (G);

(3) in subparagraph (G), as so redesignated, by striking “(E)” and inserting “(F)”; and

(4) by inserting after subparagraph (E) the following:

“(F) using a commercial motor vehicle on more than one occasion in willfully aiding or abetting an alien’s illegal entry into the United States by transporting, guiding, directing and attempting to assist the alien with alien’s entry in violation of section 275

of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section; or”.

(d) LIFETIME DISQUALIFICATION.—Subsection (d) of section 31310 of title 49, United States Code, is amended to read as follows:

“(d) LIFETIME DISQUALIFICATION.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle—

“(1) in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possessing with the intent to manufacture, distribute, or dispense a controlled substance; or

“(2) in committing an act for which the individual is convicted under—

“(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

“(B) section 277 of such Act (8 U.S.C. 1327).”.

(e) REPORTING REQUIREMENTS.—

(1) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM.—Paragraph (1) of section 31309(b) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking “and” at the end;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and “and”; and

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

“(G) whether the operator was disqualified, either temporarily or for life, from operating a commercial motor vehicle under section 31310, including under subsection (b)(1)(F), (c)(1)(F), or (d) of such section.”.

(2) NOTIFICATION BY THE STATE.—Paragraph (8) of section 31311(a) of title 49, United States Code, is amended by inserting “including such a disqualification, revocation, suspension, or cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after “60 days.”.

**SEC. \_\_\_\_ . FREEZING BANK ACCOUNTS OF INTERNATIONAL CRIMINAL ORGANIZATIONS AND MONEY LAUNDERERS.**

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

“(5)(A) If a person is arrested or charged in connection with an offense described in subparagraph (C) involving the movement of funds into or out of the United States, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the arrest is made or where the charges are filed for an ex parte order restraining any account held by the person arrested or charged for not more than 30 days, except that such 30-day time period may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure. The court may receive and consider evidence and information submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

“(B) The application for the restraining order referred to in subparagraph (A) shall—

“(i) identify the offense for which the person has been arrested or charged;

“(ii) identify the location and description of the accounts to be restrained; and

“(iii) state that the restraining order is needed to prevent the removal of the funds in the account by the person arrested or charged, or by others associated with such person, during the time needed by the Government to conduct such investigation as may be necessary to establish whether there is probable cause to believe that the funds in the accounts are subject to forfeiture in connection with the commission of any criminal offense.



“(C) A restraining order may be issued pursuant to subparagraph (A) if a person is arrested or charged with any offense for which forfeiture is authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

“(D) For purposes of this section—

“(i) the term ‘account’ includes any safe deposit box and any account (as defined in paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial institution; and

“(ii) the term ‘account held by the person arrested or charged’ includes an account held in the name of such person, and any account over which such person has effective control as a signatory or otherwise.

“(E) Restraint pursuant to this paragraph shall not be deemed a ‘seizure’ for purposes of subsection 983(a) of this title.

“(F) A restraining order issued pursuant to this paragraph may be executed in any district in which the subject account is found, or transmitted to the central authority of any foreign State for service in accordance with any treaty or other international agreement.”.

**SEC. \_\_\_\_\_. CRIMINAL PROCEEDS LAUNDERED THROUGH PREPAID ACCESS DEVICES, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.**

(a) IN GENERAL.—Section 5312(a) of title 31, United States Code, is amended—

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

“(K) an issuer, redeemer, or cashier or travelers’ checks, checks, money orders, prepaid access devices, digital currencies, or other similar instruments;”;

(2) in paragraph (3)(B), by inserting “prepaid access devices,” after “delivery,”;

(3) by redesignating paragraph (6) as paragraph (7); and

(4) by inserting after paragraph (5) the following:

“(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future.”.

(b) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on—

(1) the impact the amendments made by subsection (a) has had on law enforcement, the prepaid access industry, and consumers; and

(2) the implementation and enforcement by the Department of Treasury of the final rule on Definitions and Other Regulations Relating to Prepaid Access (76 Fed. Reg. 45403), issued July 26, 2011.

(c) CUSTOMS AND BORDER PROTECTION STRATEGY FOR PREPAID ACCESS DEVICES.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Commissioner responsible for U.S. Customs and Border Protection, shall submit to Congress a report detailing a strategy to interdict and detect prepaid access devices, digital currencies, or other similar instruments, at border crossings and other ports of entry for the United States. The report shall include an assessment of infrastructure needs to carry out the strategy detailed in the report.

**SEC. \_\_\_\_\_. FIGHTING MONEY SMUGGLING THROUGH BLANK CHECKS IN BEARER FORM.**

Section 5316 of title 31, United States Code, is amended by adding at the end the following:

“(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank, such that the amount could be filled in by the bearer, shall be considered to have a value in excess of \$10,000 if the instrument was drawn on an account that contained or was intended to contain more than \$10,000 at the time the instrument was transported or the time period it was negotiated or was intended to be negotiated.”.

**SEC. \_\_\_\_\_. CLOSING THE LOOPHOLE ON DRUG CARTEL ASSOCIATES ENGAGED IN MONEY LAUNDERING.**

(a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of title 18, United States Code, is amended by inserting “, and regardless of whether or not the person knew that the activity constituted a felony” before the semicolon at the end.

(b) INTENT TO CONCEAL OR DISGUISE.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through “Federal law,” and inserting the following:

“(B) knowing that the transaction—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law.”; and

(2) in paragraph (2)(B), by striking “(B) knowing that” and all that follows through “Federal law,” and inserting the following:

“(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law.”.

**SEC. \_\_\_\_\_. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION; EMERGENCY AUTHORITY.**

(a) IN GENERAL.—The United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements as the Commission considers appropriate to respond to this Act.

(b) EMERGENCY AUTHORITY.—In carrying out subsection (a), the Commission may promulgate amendments to the Federal sentencing guidelines and policy statements in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired.

**SA 1700.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. 1204. EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING.**

(a) STAFF ENHANCEMENTS.—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection on such date, the Secretary shall, by not later than September 30, 2018, and subject to the availability of appropriate

tions for such purpose, hire, train, and assign to duty 1,500 additional U.S. Customs and Border Protection officers (not less than 50 percent of which shall be designated to serve on all inspection lanes (primary, secondary, incoming, and outgoing) and enforcement teams at land ports of entry on the Northern border and the Southern border) and 350 additional full-time support staff, compared to the number of such officers and employees on the date of the enactment of this Act, to be distributed among all United States ports of entry.

(b) WAIVER OF PERSONNEL LIMITATION.—The Secretary may waive any limitation on the number of full-time equivalent personnel assigned to the Department in order to fulfill the requirements under subsection (a).

(c) REPORTS TO CONGRESS.—

(1) OUTBOUND INSPECTIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the Department’s plans for ensuring the placement of sufficient officers of U.S. Customs and Border Protection on outbound inspections, and adequate outbound infrastructure, at all Southern and Northern border land ports of entry.

(2) AGRICULTURAL SPECIALISTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit to the appropriate committees of Congress a report that contains the Department’s plans for ensuring the placement of sufficient agriculture specialists at all Southern border and Northern border land ports of entry.

(3) ANNUAL IMPLEMENTATION REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the Department’s implementation plan for staff enhancements required under subsection (a);

(B) includes the number of additional personnel assigned to duty at land ports of entry by location; and

(C) describes the methodology used to determine the distribution of additional personnel to address northbound and southbound cross-border inspections.

(4) APPROPRIATE COMMITTEES OF CONGRESS.—In this subsection, the term “appropriate committees of Congress” means—

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

(B) the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives.

(d) SECURE COMMUNICATION.—The Secretary shall ensure that each officer of U.S. Customs and Border Protection is equipped with a secure 2-way communication and satellite-enabled device, supported by system interoperability, that allows such officers to communicate between ports of entry and inspection stations, and with other Federal, State, local, and tribal law enforcement entities.

(e) BORDER AREA SECURITY INITIATIVE GRANT PROGRAM.—The Secretary shall establish a grant program for the purchase of detection equipment at land ports of entry and mobile, hand-held, 2-way communication and biometric devices for State and local law enforcement officers serving on the Southern border and Northern border.

(f) PORT OF ENTRY INFRASTRUCTURE IMPROVEMENTS.—In order to aid in the enforcement of Federal customs, immigration, and agriculture laws, the Commissioner responsible for U.S. Customs and Border Protection may—

(1) design, construct, and modify United States ports of entry, living quarters for officers, agents, and personnel, and other structures and facilities, including those owned by municipalities, local governments, or private entities located at land ports of entry;

(2) acquire, by purchase, donation, exchange, or otherwise, land or any interest in land determined to be necessary to carry out the Commissioner's duties under this section; and

(3) construct additional ports of entry along the Southern border and the Northern border.

(g) CONSULTATION.—

(1) LOCATIONS FOR NEW PORTS OF ENTRY.—The Secretary shall consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of State, the International Boundary and Water Commission, the International Joint Commission, and appropriate representatives of States, local governments, Indian tribes, and property owners—

(A) to determine locations for new ports of entry; and

(B) to minimize adverse impacts from such ports on the environment, historic and cultural resources, commerce, and quality of life for the communities and residents located near such ports.

(2) SAVINGS PROVISION.—Nothing in this subsection may be construed—

(A) to create any right or liability of the parties described in paragraph (1);

(B) to affect the legality and validity of any determination under this Act by the Secretary; or

(C) to affect any consultation requirement under any other law.

(h) AUTHORITY TO ACQUIRE LEASEHOLDS.—Notwithstanding any other provision of law, the Secretary may acquire a leasehold interest in real property, and may construct or modify any facility on the leased property, if the Secretary determines that the acquisition of such interest, and such construction or modification, are necessary to facilitate the implementation of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, for each of the fiscal years 2014 through 2018, \$1,000,000,000, of which \$5,000,000 shall be used for grants authorized under subsection (e).

(j) OFFSET; RESCISSION OF UNOBLIGATED FEDERAL FUNDS.—

(1) IN GENERAL.—There is hereby rescinded, from appropriated discretionary funds that remain available for obligation as of the date of the enactment of this Act (other than the unobligated funds described in paragraph (4)), amounts determined by the Director of the Office of Management and Budget such that the aggregate amount of the rescission equals the amount authorized to be appropriated under subsection (i).

(2) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify—

(A) the appropriation accounts from which the rescission under paragraph (1) shall apply; and

(B) the amount of the rescission that shall be applied to each such account.

(3) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress and to the Secretary of the Treasury that describes the accounts and amounts determined and identified under paragraph (2) for rescission under paragraph (1).

(4) EXCEPTIONS.—This subsection shall not apply to unobligated funds of—

(A) the Department of Defense;

(B) the Department of Veterans Affairs; or

(C) the Department of Homeland Security.

## SEC. 1205. CROSS-BORDER TRADE ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term “Administration” means the General Services Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the General Services Administration.

(3) PERSON.—The term “person” means an individual or any corporation, partnership, trust, association, or any other public or private entity, including a State or local government.

(b) AGREEMENTS AUTHORIZED.—Notwithstanding any other provision of law, upon the request of any persons, the Administrator may, for purposes of facilitating construction, alteration, operation or maintenance of a new or existing facility or other infrastructure at a port of entry, enter into cost-sharing or reimbursement agreements or accept a donation of real and personal property (including monetary donations) and nonpersonal services.

(c) EVALUATION PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall establish procedures for evaluating a proposal submitted by any person under subsection (b)—

(A) to enter into a cost-sharing or reimbursement agreement with the Administration to facilitate the construction, alteration, operation, or maintenance of a new or existing facility or other infrastructure at a land border port of entry; or

(B) to provide the Administration with a donation of real and personal property (including monetary donations) and nonpersonal services to be used in the construction, alteration, operation, or maintenance of a facility or other infrastructure at a land border port of entry under the control of the Administration.

(2) SPECIFICATION.—Donations made under paragraph (1)(B) may specify—

(A) the land port of entry facility or facilities in support of which the donation is being made; and

(B) the time frame in which the donated property or services shall be used.

(3) RETURN OF DONATION.—If the Administrator does not use the property or services donated pursuant to paragraph (1)(B) for the specific facility or facilities designated pursuant to paragraph (2)(A) or within the time frame specified pursuant to paragraph (2)(B), such donated property or services shall be returned to the person that made the donation.

(4) DETERMINATION AND NOTIFICATION.—

(A) IN GENERAL.—Not later than 90 days after receiving a proposal pursuant to subsection (b) with respect to the construction or maintenance of a facility or other infrastructure at a land border port of entry, the Administrator shall—

(i) make a determination with respect to whether or not to approve the proposal; and

(ii) notify the person that submitted the proposal of—

(I) the determination; and

(II) if the Administrator did not approve the proposal, the reasons for such disapproval.

(B) CONSIDERATIONS.—In determining whether or not to approve a proposal under this subsection, the Administrator shall consider—

(i) the impact of the proposal on reducing wait times at that port of entry and other ports of entry on the same border;

(ii) the potential of the proposal to increase trade and travel efficiency through added capacity; and

(iii) the potential of the proposal to enhance the security of the port of entry.

(d) DELEGATION.—For facilities where the Administrator has delegated or transferred to the Secretary, operations, ownership, or other authorities over land border ports of entry, the authorities and requirements of the Administrator under this section shall be deemed to apply to the Secretary.

**SA 1701.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, 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:

“(III) an offense, unless the applicant demonstrates, by clear and convincing evidence, that the applicant is innocent of the offense, that applicant is the victim of such offense, or that no offense occurred, which is classified as a misdemeanor in the convicting jurisdiction which involved—

“(aa) domestic violence (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

“(bb) child abuse and neglect (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

“(cc) assault resulting in bodily injury (as defined in section 2266 of title 18, United States Code);

“(dd) the violation of a protection order (as defined in section 2266 of title 18, United States Code); or

“(ee) driving while intoxicated (as defined in section 164 of title 23, United States Code);

“(IV) 3 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status, or a violation of this Act);

“(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

“(VI) unlawful voting (as defined in section 237(a)(6));

“(ii) is inadmissible under section 212(a), except that in determining an alien's inadmissibility—

“(I) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply;

“(II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

“(III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant conduct began on or after the date on which the alien files an application for registered provisional immigrant status under this section;

“(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

“(iv) was, on April 16, 2013—

“(I) an alien lawfully admitted for permanent residence;

“(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

“(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other

than an alien considered to be a non-immigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110-229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status.

“(B) WAIVER.—

“(i) IN GENERAL.—The Secretary may waive the application of any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

“(ii) EXCEPTIONS.—The discretionary authority under clause (i) may not be used to waive—

“(I) subparagraph (B), (C), (D)(ii), (E), (G), (H), or (I) of section 212(a)(2);

“(II) section 212(a)(3);

“(III) subparagraph (A), (C), (D), or (E) of section 212(a)(10); or

“(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

“(C) CONVICTION EXPLAINED.—For purposes of this paragraph, the term ‘conviction’ does not include a judgment that has been expunged, set aside, or the equivalent.

“(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien.

“(4) APPLICABILITY OF OTHER PROVISIONS.—Sections 208(d)(6) and 240B(d) shall not apply to any alien filing an application for registered provisional immigrant status under this section.

“(5) DEPENDENT SPOUSE AND CHILDREN.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may classify the spouse or child of a registered provisional immigrant as a registered provisional immigrant dependent if the spouse or child—

“(i) was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the registered provisional immigrant is granted such status, with the exception of absences from the United States that are brief, casual, and innocent, whether or not such absences were authorized by the Secretary; and

“(ii) meets all of the eligibility requirements set forth in this subsection, other than the requirements of clause (i) or (iii) of paragraph (2)(A).

“(B) EFFECT OF TERMINATION OF LEGAL RELATIONSHIP OR DOMESTIC VIOLENCE.—If the spousal or parental relationship between an alien who is granted registered provisional immigrant status under this section and the alien's spouse or child is terminated due to death or divorce or the spouse or child has been battered or subjected to extreme cruelty by the alien (regardless of whether the legal relationship terminates), the spouse or child may apply for classification as a registered provisional immigrant.

“(C) EFFECT OF DISQUALIFICATION OF PARENT.—Notwithstanding subsection (c)(3), if the application of a spouse or parent for registered provisional immigrant status is terminated or revoked, the husband, wife, or child of that spouse or parent shall be eligible to apply for registered provisional immigrant status independent of the parent or spouse.

“(c) APPLICATION PROCEDURES.—

“(1) IN GENERAL.—An alien, or the dependent spouse or child of such alien, who meets the eligibility requirements set forth in subsection (b) may apply for status as a registered provisional immigrant or a registered provisional immigrant dependent, as applicable, by submitting a completed application form to the Secretary during the application period set forth in paragraph (3), in accordance with the final rule promulgated by the Secretary under the Border Security, Economic Opportunity, and Immigration Modernization Act. An applicant for registered provisional immigrant status shall be treated as an applicant for admission.

“(2) PAYMENT OF TAXES.—

“(A) IN GENERAL.—An alien may not file an application for registered provisional immigrant status under paragraph (1) unless the applicant has satisfied any applicable Federal tax liability.

“(B) DEFINITION OF APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term ‘applicable Federal tax liability’ means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986.

“(C) DEMONSTRATION OF COMPLIANCE.—An applicant may demonstrate compliance with this paragraph by submitting appropriate documentation, in accordance with regulations promulgated by the Secretary, in consultation with the Secretary of the Treasury.

“(3) APPLICATION PERIOD.—

“(A) INITIAL PERIOD.—Except as provided in subparagraph (B), the Secretary may only accept applications for registered provisional immigrant status from aliens in the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

“(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for registered provisional immigrant status or for other good cause, the Secretary may extend the period for accepting applications for such status for an additional 18 months.

“(4) APPLICATION FORM.—

“(A) REQUIRED INFORMATION.—

“(i) IN GENERAL.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines to be necessary and appropriate, including, for the purpose of understanding immigration trends—

“(I) an explanation of how, when, and where the alien entered the United States;

“(II) the country in which the alien resided before entering the United States; and

“(III) other demographic information specified by the Secretary.

“(ii) PRIVACY PROTECTIONS.—Information described in subclauses (I) through (III) of clause (i), which shall be provided anonymously by the applicant on the application form referred to in paragraph (1), shall be subject to the same confidentiality provisions as those set forth in section 9 of title 13, United States Code.

“(iii) REPORT.—The Secretary shall submit a report to Congress that contains a summary of the statistical data about immigration trends collected pursuant to clause (i).

“(B) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children who are residing in the United States.

“(C) INTERVIEW.—In order to determine whether an applicant meets the eligibility requirements set forth in subsection (b), the Secretary—

“(i) shall interview each applicant who—

“(I) has been convicted of any criminal offense;

“(II) has previously been deported; or

“(III) without just cause, has failed to respond to a notice to appear as required under section 239; and

“(ii) may, in the sole discretion of the Secretary, interview any other applicant for registered provisional immigrant status under this section.

**SA 1702.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title V.

**SA 1703.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . PROTECTING AMERICAN BUSINESSES.**

(a) DUTIES OF COMMISSIONER.—Notwithstanding section 4701(d)(6), the Commissioner of the Bureau of Immigration and Labor Market Research is not authorized to conduct a quarterly survey of unemployment rates in construction occupations.

(b) ADMISSION OF W NONIMMIGRANT WORKERS.—Section 220, as added by section 4703(a) of this Act, is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (e)(5), by striking subparagraph (B) and inserting the following:

“(B) RETURNING WORKER AND RENEWING EMPLOYER EXEMPTION.—Renewals of approved job slots and W visas by employers or workers in good standing shall not be counted toward the limits established under subsection (g)(1)(A) or factored into the formulaic determinations made under subparagraphs (A) through (D) of subsection (g)(2).

“(C) INTENDING IMMIGRANTS.—

“(i) EXTENSION OF PERIOD.—A registered visa holder shall continue to be a registered visa holder at the end of the 3-year period referred to in subparagraph (A) if the W nonimmigrant is the beneficiary of a petition for immigrant status filed pursuant to this Act.

“(ii) TERMINATION OF PERIOD.—The term of a registration position extended under clause (i) shall terminate on the date that is the earlier of—

“(I) the date an application or petition by or for a W nonimmigrant to obtain immigrant status is approved or denied by the Secretary; or

“(II) the date of the termination of such W nonimmigrant's employment with the registered employer.”; and

(3) in subsection (h), by striking paragraph (5).

**SA 1704.** Mr. UDALL of New Mexico (for himself, Mr. HEINRICH, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . BORDER INFECTIOUS DISEASE SURVEILLANCE PROJECT.**

(a) FUNDING FOR BORDER STATES.—Of the amount in the Comprehensive Immigration

Reform Trust Fund established by section 6(a), \$5,000,000 for each fiscal year shall be made available to health authorities of States along the Northern border and the Southern border to strengthen the Border Infectious Disease Surveillance project.

(b) **USE OF FUNDS.**—Amounts made available under subsection (a) shall be used to implement priority surveillance, epidemiology, and preparedness activities in the regions along the Northern border and the Southern border to respond to potential outbreaks and epidemics, including those caused by potential bioterrorism agents.

(c) **ALLOCATION OF FUNDS.**—Of the amounts made available under subsection (a)—

(1) 30 percent shall be made available to States along the Northern border; and

(2) 70 percent shall be made available to States along the Southern border.

**SA 1705.** Ms. COLLINS (for herself and Mr. KING) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . LOGGING EMPLOYMENT.**

The definition of “agricultural employment” in section 218A(a)(1) of the Immigration and Nationality Act, as added by section 2232, shall be implemented to include logging employment, as described in section 655.103(c)(4) of title 20, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

**SA 1706.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . DENIALS OF ASYLUM CLAIMS.**

(a) **ADJUDICATION.**—Section 208(d)(6) (8 U.S.C. 1158(d)(6)) is amended to read as follows:

“(6) **FRIVOLOUS APPLICATIONS.**—

“(A) **KNOWINGLY FRIVOLOUS APPLICATIONS.**—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien may, at the discretion of the Attorney General, be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

“(B) **DETERMINATIONS BY ASYLUM OFFICERS.**—

“(i) **IN GENERAL.**—If an asylum officer, as defined in section 235(b)(1)(E), determines that an alien has made a frivolous application for asylum, the asylum officer may dismiss the application.

“(ii) **RECONSIDERATION.**—The Board of Immigration Appeals or an immigration judge may review and reverse the determination of an asylum officer under clause (i) if the Board or judge determines that the asylum claim involved is plausible.”.

(b) **INFORMATION.**—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

“(f) **INFORMATION.**—With respect to an application for asylum that comes before an immigration judge or asylum officer (as defined in section 235(b)(1)(E)), the judge or officer involved shall obtain detailed country conditions information relevant to eligibility for asylum or the withholding of re-

moval from the Department of State. Such information shall include—

“(1) an assessment of the accuracy of the applicant’s assertions about conditions in his or her country of nationality or habitual residence and his or her particular situation;

“(2) information about whether individuals who are similarly situated to the applicant are persecuted or tortured in his or her country of nationality or habitual residence and the frequency of such persecution or torture; and

“(3) other information determined by the judge or officer to be relevant to prevent fraud.”.

(c) **INCREASE IN STAFFING.**—The Secretary shall provide for an increase in the staff of the U.S. Citizenship and Immigration Services and the Fraud Detection and National Security Directorate at Asylum Offices to oversee, detect, and increase the anti-fraud operations and prosecutions relating to fraudulent asylum activities.

(d) **FUNDING.**—The Secretary of Homeland Security shall use amounts derived through fees provided for in this Act (or an amendment made by this Act) to carry out subsections (a) through (c) (and the amendments made by such subsections)).

**SA 1707.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . LAW ENFORCEMENT AND NATIONAL SECURITY CHECKS.**

(a) **REFUGEES.**—Section 207(c)(1) (8 U.S.C. 1157(c)(1)), as amended by section 3409(a) of this Act, is amended by striking “No alien shall be admitted as a refugee until the identity of the applicant, including biographic and biometric data, has been checked against all appropriate records or databases maintained by the Secretary of Homeland Security, the Attorney General, the Secretary of State, and other Federal records or databases that the Secretary of Homeland Security considers necessary, to determine any national security, law enforcement, or other grounds on which the alien may be inadmissible to the United States or ineligible to apply for or be granted refugee status.” and inserting “No alien shall be admitted as a refugee until the identity of the applicant, including biographic and biometric data, has been checked against all appropriate records or databases maintained by the Secretary of Homeland Security, the Attorney General, the Secretary of State, the National Counterterrorism Center, and other Federal records or databases that the Secretary of Homeland Security considers necessary, to determine any national security, law enforcement, or other grounds on which the alien may be inadmissible to the United States or ineligible to apply for or be granted refugee status.”.

(b) **ASYLEES.**—Section 208(d)(5)(A) (8 U.S.C. 1158(d)(5)(A)), as amended by section 3409(b) of this Act, is amended—

(1) by amending clause (i) to read as follows:

“(i) asylum shall not be granted—

“(I) until the identity of the applicant, using biographic and biometric data, has been checked against all appropriate records or databases maintained by the Secretary of Homeland Security, the Attorney General, the Secretary of State, the National Counterterrorism Center, and other Federal records or databases that the Secretary of Homeland Security considers necessary, to determine any national security, law en-

forcement, or other grounds on which the alien may be inadmissible to the United States or ineligible to apply for or be granted asylum; and

“(II) any information related to the applicant in such a record or database supports the applicant’s eligibility for asylum;”;

(2) in clause (iv), by striking “and” at the end;

(3) in clause (v), by striking the period at the end and inserting a semicolon and “and”; and

(4) by adding at the end the following:

“(vi) asylum shall not be granted unless, notwithstanding any derogatory information, the applicant has met the burden of proof contained in subsection (b)(1)(B).”.

**SA 1708.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . APPLICABILITY OF THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.**

Section 218A(g)(2) of the Immigration and Nationality Act, as added by section 2232 of this Act, is amended—

(1) in subparagraph (B)—

(A) by striking “A nonimmigrant” and inserting the following:

“(i) **IN GENERAL.**—A nonimmigrant”; and

(B) by adding at the end the following:

“(ii) **LIMITATION.**—Notwithstanding clause (i), an alien who is or was a nonimmigrant agricultural worker is not eligible for legal services under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) if such alien is located outside the United States.”; and

(2) in subparagraph (C), by striking clause (iv) and inserting the following:

“(iv) **90-DAY LIMIT.**—The Federal Mediation and Conciliation Service may conduct mediation or other binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives a request for assistance under clause (ii) unless the parties agree to an extension of such period.

“(v) **BINDING MEDIATION.**—Mediation or other dispute resolution activities carried out under this subparagraph shall be binding on the parties.”.

**SA 1709.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . QUALIFYING EMPLOYMENT.**

Section 245F(a) of the Immigration and Nationality Act, as added by section 2212 of this Act, is amended by striking paragraph (1) and inserting the following:

“(1) **QUALIFYING EMPLOYMENT.**—Except as provided in paragraph (3), during the 8-year period beginning on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act the alien performed not less than 180 work days of agricultural employment during each of 5 years.”.

**SA 1710.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform

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

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REQUIREMENTS FOR ADJUSTMENT OF STATUS FOR CERTAIN ALIENS WHO ENTERED THE UNITED STATES AS CHILDREN.**

Section 245D(b)(1)(A)(i) of the Immigration and Nationality Act, as added by section 2101, is further amended by inserting before the semicolon the following: “or has been a dependent nonimmigrant visa holder under subparagraph (E), (H), or (L) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for at least 5 years”.

**SA 1711.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . CRIMINAL GANGS.**

(a) **DEFINITION OF CRIMINAL GANG.**—Section 101(a) (8 U.S.C. 1101(a)) is amended by inserting after paragraph (51) the following:

“(52)(A) The term ‘criminal gang’ means an ongoing group, club, organization, or association of 5 or more persons—

“(i) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subparagraph (B); and

“(ii) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subparagraph (B).

“(B) The offenses described in this subparagraph are the following, whether in violation of Federal or State law or in violation of the law of a foreign country:

“(i) A felony drug offense (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) A felony offense involving firearms or explosives or in violation of section 931 of title 18, United States Code (relating to purchase, ownership, or possession of body armor by violent felons).

“(iii) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

“(iv) A felony crime of violence (as defined in section 16 of title 18, United States Code).

“(v) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary

“(vi) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

“(vii) Conspiracy to commit an offense described in specified in clauses (i) through (vi).”.

(b) **INADMISSIBILITY.**—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by inserting after subparagraph (I) the following:

“(J) **ALIENS IN CRIMINAL GANGS.**—Any alien is inadmissible who—

“(i) is a member of a criminal gang unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

“(ii) is determined by an immigration judge to be a danger to the community.”.

(c) **GROUND FOR DEPORTATION.**—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(G) **ALIENS IN CRIMINAL GANGS.**—Any alien is removable who—

“(i) is a member of a criminal gang unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

“(ii) is determined by an immigration judge to be a danger to the community.”.

(d) **GROUND OF INELIGIBILITY FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.**—An alien who is 18 years of age or older is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

(1) is a member of a criminal gang (as defined in section 101(a)(52) of the Immigration and Nationality Act, as amended by subsection (a)) unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

(2) has been determined by the Secretary to be a danger to the community.

(e) **INAPPLICABILITY OF OTHER AMENDMENTS.**—The amendments made by section 3701 of this Act shall have no force or effect.

**SA 1712.** Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. FRANKEN, Mr. LEAHY, Ms. MIKULSKI, Mrs. SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, Mr. DURBIN, Mr. BENNET, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . MERIT-BASED POINTS TRACK ONE MODIFICATIONS.**

(a) **FINDINGS.**—Congress finds that—

(1) In many countries around the world, women do not have as many opportunities for education, choices for careers, or opportunities for career advancement as men do in those countries.

(2) It is important that our future immigration system take into account the disparate treatment that women experience in other countries, and provide women a fair opportunity to immigrate to the United States through a merit point system.

(3) Under the current U.S. employment-based immigration system green cards are awarded to men over women nearly four-to-one.

(4) Like the current employment-based system, the high-skill tier one in the merit point system is more likely to be used by men because of the greater opportunities available to men in other countries.

(5) The purpose of the third tier in the merit point system is to provide women a fairer opportunity to compete for green cards by focusing the point categories on careers and experiences that are available to women in other countries.

(b) **WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.**—Section 201(e) (8 U.S.C. 1151(e)), as amended by section 2301(a)(1), is amended to read as follows:

“(e) **WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.**—

“(1) **IN GENERAL.**—

“(A) **NUMERICAL LIMITATION.**—Subject to paragraphs (2), (3), and (4), the worldwide level of merit-based immigrants is equal to 150,000 for each fiscal year.

“(B) **STATUS.**—An alien admitted on the basis of a merit-based immigrant visa under this section shall have the status of an alien lawfully admitted for permanent residence.

“(2) **ANNUAL INCREASE.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B) and paragraph (3), if in any fiscal year the worldwide level of visas available for merit-based immigrants under this section—

“(i) is less than 75 percent of the number of applicants for such fiscal year, the worldwide level shall increase by 5 percent for the next fiscal year; and

“(ii) is equal to or more than 75 percent of such number, the worldwide level for the next fiscal year shall be the same as the worldwide level for such fiscal year, minus any amount added to the worldwide level for such fiscal year under paragraph (4).

“(B) **LIMITATION ON INCREASE.**—The worldwide level of visas available for merit-based immigrants shall not exceed 280,000.

“(3) **EMPLOYMENT CONSIDERATION.**—The worldwide level of visas available for merit-based immigrants may not be increased for a fiscal year under paragraph (2) if the annual average unemployment rate for the civilian labor force 18 years or over in the United States, as determined by the Bureau of Labor Statistics, for such previous fiscal year is more than 8 1/2 percent.

“(4) **RECAPTURE OF UNUSED VISAS.**—The worldwide level of merit-based immigrants described in paragraph (1) for a fiscal year shall be increased by the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas actually issued under this subsection during that fiscal year. Such visas shall be allocated for the following year pursuant to section 203(c)(3).”.

(c) **MERIT-BASED IMMIGRANTS.**—Section 203(c), as added by section 2301(a)(2) of this Act, is amended to read as follows:

“(c) **MERIT-BASED IMMIGRANTS.**—

“(1) **FISCAL YEARS 1 THROUGH 4.**—For the first 4 fiscal years beginning after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the worldwide level of merit-based immigrant visas made available under section 201(e)(1) shall be available for aliens described in section 203(b)(3) and in addition to any visas available for such aliens under such section.

“(2) **SUBSEQUENT FISCAL YEARS.**—Beginning with the fifth fiscal year beginning after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, aliens subject to the worldwide level specified in section 201(e) for merit-based immigrants shall be allocated as follows:

“(A) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 1 in paragraph (4).

“(B) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 2 in paragraph (5).

“(C) 30,000 shall be available to applicants with the highest number of points allocated under tier 3 in paragraph (6).

“(3) **UNUSED VISAS.**—If the total number of visas allocated under tier 1, tier 2, or

TIER 3 FOR A FISCAL YEAR ARE NOT GRANTED DURING THAT FISCAL YEAR, SUCH NUMBER MAY BE ADDED TO THE NUMBER OF VISAS AVAILABLE UNDER SECTION 201(E)(1) FOR THE FOLLOWING FISCAL YEAR AND ALLOCATED AS FOLLOWS:

“(A) If the unused visas were allocated for tier 1 in a fiscal year, 2/3 of such visas shall be available for aliens allocated visas under tier 1 in the following fiscal year and 1/3 of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(B) If the unused visas were allocated for tier 2 in a fiscal year, 2/3 of such visas shall be available for aliens allocated visas under tier 2 in the following fiscal year and 1/3 of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(4) TIER 1.—The Secretary shall allocate points to each alien seeking to be a tier 1 merit-based immigrant as follows:

“(A) EDUCATION.—

(i) IN GENERAL.—An alien may receive points under only 1 of the following categories:

“(I) An alien who has received a doctorate degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 15 points.

“(II) An alien who has received a master's degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 10 points.

“(ii) An alien who has received a bachelor's degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) shall be allocated 5 points.

“(B) EMPLOYMENT EXPERIENCE.—An alien shall be allocated not more than 20 points as follows:

“(i) 3 points for each year the alien has been lawfully employed in a zone 5 occupation in the United States.

“(ii) 2 points for each year the alien has been lawfully employed in a zone 4 occupation in the United States.

“(C) EMPLOYMENT RELATED TO EDUCATION.—An alien who is in the United States and is employed full-time or has an offer of full-time employment in a field related to the alien's education—

“(i) in a zone 5 occupation shall be allocated 10 points; or

“(ii) in a zone 4 occupation shall be allocated 8 points.

“(D) ENTREPRENEURSHIP.—An alien who is an entrepreneur in business that employs at least 2 employees in a zone 4 occupation or a zone 5 occupation shall be allocated 10 points.

“(E) HIGH DEMAND OCCUPATION.—An alien who is employed full-time in the United States or has an offer of full-time employment in a high demand tier 1 occupation shall be allocated 10 points.

“(F) CIVIC INVOLVEMENT.—An alien who has attested that he or she has engaged in a significant amount of community service, as determined by the Secretary, shall be allocated 2 points.

“(G) ENGLISH LANGUAGE.—An alien who received a score of 80 or more on the Test of English as a Foreign Language, or an equivalent score on a similar test, as determined by the Secretary, shall be allocated 10 points.

“(H) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a citizen of the United States or who is over 31 years of age and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

“(I) AGE.—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(J) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(5) TIER 2.—The Secretary shall allocate points to each alien seeking to be a tier 2 merit-based immigrant as follows:

“(A) EMPLOYMENT EXPERIENCE.—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 20 points.

“(B) SPECIAL EMPLOYMENT CRITERIA.—An alien who is employed full-time in the United States, or has an offer of full-time employment—

“(i) in a high demand tier 2 occupation shall be allocated 10 points; or

“(ii) in a zone 1, zone 2, or zone 3 occupation shall be allocated 10 points.

“(C) CAREGIVER.—An alien who is or has been a primary caregiver shall be allocated 10 points.

“(D) EXCEPTIONAL EMPLOYMENT RECORD.—An alien who has a record of exceptional employment, as determined by the Secretary, shall be allocated 10 points. In determining a record of exceptional employment, the Secretary shall consider factors including promotions, longevity, changes in occupations from a lower job zone to a higher job zone, participated in safety training, and increases in pay.

“(E) CIVIC INVOLVEMENT.—An alien who has demonstrated significant civic involvement shall be allocated 2 points.

“(F) ENGLISH LANGUAGE.—

“(i) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) ENGLISH KNOWLEDGE.—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a citizen of the United States or is over the age of 31 and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

“(H) AGE.—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(I) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(6) TIER 3.—The Secretary shall allocate points to each alien seeking to be a tier 3 merit-based immigrant as follows:

“(A) EMPLOYMENT EXPERIENCE.—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 10 points.

“(B) SPECIAL EMPLOYMENT CRITERIA.—An alien who is employed full-time in the United States (or has an offer of full-time employment) in a health services occupation, including direct caregiver, informal caregiver, home health provider, or nurse; a clerical or professional services occupation; a teaching occupation, including early or informal learning provider, teacher assistant, and elementary or secondary teacher; a cul-

inary occupation; an environmental service and maintenance occupation; a retail customer services occupation; or a small business operated by a sibling or parent who is a United States citizen, shall be allocated 10 points.

“(C) CIVIC INVOLVEMENT.—An alien who has demonstrated significant Civic involvement, including humanitarian and volunteer activities, shall be allocated 2 points.

“(D) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a United States citizen or is older than 31 years of age and is the married son or married daughter of a United States citizen shall be allocated 10 points.

“(E) HUMANITARIAN CONCERNS.—An alien who is or has been the primary caregiver of a United States citizen parent or sibling suffering an extreme hardship, shall be allocated 10 points.

“(F) ENGLISH LANGUAGE.—

“(i) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) ENGLISH KNOWLEDGE.—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) AGE.—An alien who is—

“(i) between 18 and 25 years of age shall be allocated 8 points;

“(ii) between 25 and 33 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(H) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted for permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(7) FEE.—An alien who is allocated a visa under this subsection shall pay a fee of \$1,500 in addition to any fee assessed to cover the costs to process an application under this subsection. Fees collected under this paragraph shall be deposited by the Secretary into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(8) ELIGIBILITY OF ALIENS IN REGISTERED PROVISIONAL IMMIGRANT STATUS.—An alien who was granted registered provisional immigrant status under section 245B is not eligible to receive a merit-based immigrant visa under section 201(e).

“(9) INELIGIBILITY OF ALIENS WITH PENDING OR APPROVED PETITIONS.—An alien who has a petition pending or approved in another immigrant category under this section or section 201 may not apply for a merit-based immigrant visa.

“(10) DEFINITIONS.—In this subsection:

(A) HIGH DEMAND TIER 1 OCCUPATION.—The term ‘high demand tier 1 occupation’ means 1 of the 5 occupations for which the highest number of nonimmigrants described in section 101(a)(15)(H)(i) were sought to be admitted by employers during the previous fiscal year.

“(B) HIGH DEMAND TIER 2 OCCUPATION.—The term ‘high demand tier 2 occupation’ means 1 of the 5 occupations for which the highest number of positions were sought to become registered positions by employers under section 220(e) during the previous fiscal year.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(D) ZONE 1 OCCUPATION.—The term ‘zone 1 occupation’ means an occupation that requires little or no preparation and is classified as a zone 1 occupation on—



(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(E) ZONE 2 OCCUPATION.—The term ‘zone 2 occupation’ means an occupation that requires some preparation and is classified as a zone 2 occupation on—

(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(F) ZONE 3 OCCUPATION.—The term ‘zone 3 occupation’ means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

(G) ZONE 4 OCCUPATION.—The term ‘zone 4 occupation’ means an occupation that requires considerable preparation and is classified as a zone 4 occupation on—

(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(H) ZONE 5 OCCUPATION.—The term ‘zone 5 occupation’ means an occupation that requires extensive preparation and is classified as a zone 5 occupation on—

(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.”

“(d) RULE OF CONSTRUCTION.—

The amendments made by this section shall apply notwithstanding Title II or any other section of this Act.

**SA 1713.** Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. LEAHY, Mr. FRANKEN, Ms. MIKULSKI, Mrs. SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, Mr. DURBIN, Mr. BENNET, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . MERIT-BASED POINTS TRACK ONE MODIFICATIONS.**

(a) WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.—Section 201(e) (8 U.S.C. 1151(e)), as amended by section 2301(a)(1), is amended to read as follows:

“(e) WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.—

“(1) IN GENERAL.—

“(A) NUMERICAL LIMITATION.—Subject to paragraphs (2), (3), and (4), the worldwide level of merit-based immigrants is equal to 150,000 for each fiscal year.

“(B) STATUS.—An alien admitted on the basis of a merit-based immigrant visa under this section shall have the status of an alien lawfully admitted for permanent residence.

“(2) ANNUAL INCREASE.—

“(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), if in any fiscal year the worldwide level of visas available for merit-based immigrants under this section—

“(i) is less than 75 percent of the number of applicants for such fiscal year, the worldwide level shall increase by 5 percent for the next fiscal year; and

“(ii) is equal to or more than 75 percent of such number, the worldwide level for the next fiscal year shall be the same as the worldwide level for such fiscal year, minus any amount added to the worldwide level for such fiscal year under paragraph (4).

“(B) LIMITATION ON INCREASE.—The worldwide level of visas available for merit-based immigrants shall not exceed 280,000.

“(3) EMPLOYMENT CONSIDERATION.—The worldwide level of visas available for merit-based immigrants may not be increased for a fiscal year under paragraph (2) if the annual average unemployment rate for the civilian labor force 18 years or over in the United States, as determined by the Bureau of Labor Statistics, for such previous fiscal year is more than 8½ percent.

“(4) RECAPTURE OF UNUSED VISAS.—The worldwide level of merit-based immigrants described in paragraph (1) for a fiscal year shall be increased by the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas actually issued under this subsection during that fiscal year. Such visas shall be allocated for the following year pursuant to section 203(c)(3).”

(b) MERIT-BASED IMMIGRANTS.—Section 203(c), as added by section 2301(a)(2) of this Act, is amended to read as follows:

“(c) MERIT-BASED IMMIGRANTS.—

“(1) FISCAL YEARS 1 THROUGH 4.—For the first 4 fiscal years beginning after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the worldwide level of merit-based immigrant visas made available under section 201(e)(1) shall be available for aliens described in section 203(b)(3) and in addition to any visas available for such aliens under such section.

“(2) SUBSEQUENT FISCAL YEARS.—Beginning with the fifth fiscal year beginning after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, aliens subject to the worldwide level specified in section 201(e) for merit-based immigrants shall be allocated as follows:

“(A) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 1 in paragraph (4).

“(B) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 2 in paragraph (5).

“(C) 30,000 shall be available to applicants with the highest number of points allocated under tier 3 in paragraph (6).

“(3) UNUSED VISAS.—If the total number of visas allocated under tier 1, tier 2, or tier 3 for a fiscal year are not granted during that fiscal year, such number may be added to the number of visas available under section 201(e)(1) for the following fiscal year and allocated as follows:

“(A) If the unused visas were allocated for tier 1 in a fiscal year, ¾ of such visas shall

be available for aliens allocated visas under tier 1 in the following fiscal year and ¼ of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(B) If the unused visas were allocated for tier 2 in a fiscal year, ¾ of such visas shall be available for aliens allocated visas under tier 2 in the following fiscal year and ¼ of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(4) TIER 1.—The Secretary shall allocate points to each alien seeking to be a tier 1 merit-based immigrant as follows:

“(A) EDUCATION.—

“(i) IN GENERAL.—An alien may receive points under only 1 of the following categories:

“(I) An alien who has received a doctorate degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 15 points.

“(II) An alien who has received a master's degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 10 points.

“(ii) An alien who has received a bachelor's degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) shall be allocated 5 points.

“(B) EMPLOYMENT EXPERIENCE.—An alien shall be allocated not more than 20 points as follows:

“(i) 3 points for each year the alien has been lawfully employed in a zone 5 occupation in the United States.

“(ii) 2 points for each year the alien has been lawfully employed in a zone 4 occupation in the United States.

“(C) EMPLOYMENT RELATED TO EDUCATION.—An alien who is in the United States and is employed full-time or has an offer of full-time employment in a field related to the alien's education—

“(i) in a zone 5 occupation shall be allocated 10 points; or

“(ii) in a zone 4 occupation shall be allocated 8 points.

“(D) ENTREPRENEURSHIP.—An alien who is an entrepreneur in business that employs at least 2 employees in a zone 4 occupation or a zone 5 occupation shall be allocated 10 points.

“(E) HIGH DEMAND OCCUPATION.—An alien who is employed full-time in the United States or has an offer of full-time employment in a high demand tier 1 occupation shall be allocated 10 points.

“(F) CIVIC INVOLVEMENT.—An alien who has attested that he or she has engaged in a significant amount of community service, as determined by the Secretary, shall be allocated 2 points.

“(G) ENGLISH LANGUAGE.—An alien who received a score of 80 or more on the Test of English as a Foreign Language, or an equivalent score on a similar test, as determined by the Secretary, shall be allocated 10 points.

“(H) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a citizen of the United States or who is over 31 years of age and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

AGE.—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(J) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(5) TIER 2.—The Secretary shall allocate points to each alien seeking to be a tier 2 merit-based immigrant as follows:

“(A) EMPLOYMENT EXPERIENCE.—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 20 points.

“(B) SPECIAL EMPLOYMENT CRITERIA.—An alien who is employed full-time in the United States, or has an offer of full-time employment—

“(i) in a high demand tier 2 occupation shall be allocated 10 points; or

“(ii) in a zone 1, zone 2, or zone 3 occupation shall be allocated 10 points.

“(C) CAREGIVER.—An alien who is or has been a primary caregiver shall be allocated 10 points.

“(D) EXCEPTIONAL EMPLOYMENT RECORD.—An alien who has a record of exceptional employment, as determined by the Secretary, shall be allocated 10 points. In determining a record of exceptional employment, the Secretary shall consider factors including promotions, longevity, changes in occupations from a lower job zone to a higher job zone, participated in safety training, and increases in pay.

“(E) CIVIC INVOLVEMENT.—An alien who has demonstrated significant civic involvement shall be allocated 2 points.

“(F) ENGLISH LANGUAGE.—

“(i) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) ENGLISH KNOWLEDGE.—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a citizen of the United States or is over the age of 31 and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

“(H) AGE.—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(I) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(6) TIER 3.—The Secretary shall allocate points to each alien seeking to be a tier 3 merit-based immigrant as follows:

“(A) EMPLOYMENT EXPERIENCE.—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 10 points.

“(B) SPECIAL EMPLOYMENT CRITERIA.—An alien who is employed full-time in the United States (or has an offer of full-time employment) in a health services occupation, including direct caregiver, informal caregiver, home health provider, or nurse; a clerical or professional services occupation; a teaching occupation, including early or informal learning provider, teacher assistant, and elementary or secondary teacher; a culinary occupation; an environmental service and maintenance occupation; a retail customer services occupation; or a small business operated by a sibling or parent who is a United States citizen, shall be allocated 10 points.

“(C) CIVIC INVOLVEMENT.—An alien who has demonstrated significant civic involvement,

including humanitarian and volunteer activities, shall be allocated 2 points.

“(D) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a United States citizen or is older than 31 years of age and is the married son or married daughter of a United States citizen shall be allocated 10 points.

“(E) HUMANITARIAN CONCERNS.—An alien who is or has been the primary caregiver of a United States citizen parent or sibling suffering an extreme hardship, shall be allocated 10 points.

“(F) ENGLISH LANGUAGE.—

“(i) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) ENGLISH KNOWLEDGE.—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) AGE.—An alien who is—

“(i) between 18 and 25 years of age shall be allocated 8 points;

“(ii) between 25 and 33 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(H) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted for permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(7) FEE.—An alien who is allocated a visa under this subsection shall pay a fee of \$1,500 in addition to any fee assessed to cover the costs to process an application under this subsection. Fees collected under this paragraph shall be deposited by the Secretary into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(8) ELIGIBILITY OF ALIENS IN REGISTERED PROVISIONAL IMMIGRANT STATUS.—An alien who was granted registered provisional immigrant status under section 245B is not eligible to receive a merit-based immigrant visa under section 201(e).

“(9) INELIGIBILITY OF ALIENS WITH PENDING OR APPROVED PETITIONS.—An alien who has a petition pending or approved in another immigrant category under this section or section 201 may not apply for a merit-based immigrant visa.

“(10) DEFINITIONS.—In this subsection:

“(A) HIGH DEMAND TIER 1 OCCUPATION.—The term ‘high demand tier 1 occupation’ means 7 of the 5 occupations for which the highest number of nonimmigrants described in section 107(a)(15)(H)(i) were sought to be admitted by employers during the previous fiscal year.

“(B) HIGH DEMAND TIER 2 OCCUPATION.—The term ‘high demand tier 2 occupation’ means 1 of the 5 occupations for which the highest number of positions were sought to become registered positions by employers under section 220(e) during the previous fiscal year.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(D) ZONE 1 OCCUPATION.—The term ‘zone 1 occupation’ means an occupation that requires little or no preparation and is classified as a zone 1 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(E) ZONE 2 OCCUPATION.—The term ‘zone 2 occupation’ means an occupation that re-

quires some preparation and is classified as a zone 2 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(F) ZONE 3 OCCUPATION.—The term ‘zone 3 occupation’ means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(G) ZONE 4 OCCUPATION.—The term ‘zone 4 occupation’ means an occupation that requires considerable preparation and is classified as a zone 4 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(H) ZONE 5 OCCUPATION.—The term ‘zone 5 occupation’ means an occupation that requires extensive preparation and is classified as a zone 5 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.”

“(d) RULE OF CONSTRUCTION—

The amendments made by this section shall apply notwithstanding Title II or any other section of this Act.

**SA 1714.** Mr. BROWN (for himself, Mr. ENZI, Mr. CASEY, Mr. BEGICH, Mr. PRYOR, Mr. TESTER, and Mr. JOHNSON of South Dakota) submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_.** INCLUSION OF ACCOUNTING FROM H-1B CAP.

Section 214(g)(5)(C) (8 U.S.C. 1184(g)(5)(C)), as amended by section 4101(b), is further amended by inserting “or accounting,” after “physical sciences.”

**SA 1715.** Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1646, beginning on line 23, strike “the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.” and insert “the Border Security, Economic Opportunity, and Immigration Modernization Act.”

On page 1667, beginning on line 20, strike “4105(e)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996” and insert “4104(e) of the Border Security,

Economic Opportunity, and Immigration Modernization Act”.

**SA 1716.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REQUIREMENTS FOR INVEST VISA.**

(a) **INVEST NONIMMIGRANTS.**—Section 214(s)(3) of the Immigration and Nationality Act, as added by section 4801, is further amended—

(1) in subparagraph (A), by striking “\$250,000” and inserting “an additional \$150,000”; and

(2) by adding at the end the following:

“The alien may obtain a 2-year renewal if the alien sold his or her United States business entity to an unrelated United States business entity for an amount not less than \$250,000, in a bona fide arm’s-length transaction, and prior to such sale, the alien’s United States business entity created no fewer than 3 qualified jobs.”

(b) **INVEST IMMIGRANTS.**—Section 203(b)(6) of the Immigration and Nationality Act, as added by section 4802, is further amended—

(1) in subparagraph (A)—

(A) by striking clause (ii) and inserting the following:

“(ii) **QUALIFIED ENTREPRENEUR.**—

“(I) **IN GENERAL.**—The term ‘qualified entrepreneur’ means an individual who—

“(aa) has a significant ownership interest, which need not constitute a majority interest, in a United States business entity;

“(bb) is employed in a senior executive position of such United States business entity; and

“(cc) had a substantial role in the founding or early-stage growth and development of such United States business entity.

“(II) **WAIVER OF SIGNIFICANT OWNER INTEREST REQUIREMENT.**—Notwithstanding subclause (I)(aa), the Secretary may determine that an individual that does not have a significant ownership interest in a United States business entity but that otherwise meets the requirements of subclause (I) is a qualified entrepreneur if the business entity was acquired in a bona fide arm’s-length transaction by another United States business entity.”

(B) in clause (v), by striking subclause (III) and inserting the following:

“(III)(aa) pays a wage that is not less than 250 percent of the Federal minimum wage; or

“(bb) provides to the holder of the position equity compensation in an amount equal to not less than 1 percent of the equity of the United States business entity on an ‘as-converted’ basis.”; and

(C) in clause (viii)(III), by striking items (cc) and (dd) and inserting the following:

“(cc) has been advising such entity or other similar funds or a series of funds for at least 2 years; and

“(dd) has advised such entity or a similar fund or a series of funds with respect to at least 2 investments of not less than \$500,000 made by such entity or similar fund or series of funds during at least 2 of the most recent 3 years.”

(2) by striking subparagraph (B) and inserting the following:

“(B) **AVAILABILITY OF VISAS.**—

“(i) **IN GENERAL.**—Visas shall be available, in a number not to exceed 10,000 for each fiscal year, to qualified immigrants seeking to enter the United States for the purpose of creating new businesses, as described in this paragraph.

“(ii) **ADDITIONAL VISAS.**—

“(I) **IN GENERAL.**—An additional 5,000 visas for each fiscal year shall be reallocated from unused visas if the Secretary determines, after receiving the report required by subclause (II), that the provision of visas under this paragraph has been effective in creating new businesses and that there would be additional economic benefit derived from the provision of additional visas under this paragraph.

“(II) **GAO REPORT.**—Not later than 30 days after the end of each fiscal year, the Comptroller General of the United States shall submit to Congress and the Secretary a report on the effectiveness of providing visas under this section in creating new businesses and recommendations with respect to the provision of such visas. The Secretary shall provide any necessary data to Comptroller General upon request.”

(3) in subparagraph (C)(i)(III)—

(A) by striking “3-year period” and inserting “6-year period”; and

(B) in item (bb)(BB)—

(i) by striking “2-year period” and inserting “3-year period”; and

(ii) by inserting after “revenue” the following: “, in any 12-month period during that 3-year period.”

**SA 1717.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1298, strike line 18 and all that follows through page 1299, line 11, and insert the following:

**SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REGULAR INTERNET ACCESS.**

(a) **ELECTRONIC FILING NOT REQUIRED.**—

(1) **IN GENERAL.**—The Secretary may not require that an applicant or petitioner for permanent residence or United States citizenship use an electronic method to file any application, or to access a customer account as the sole means of applying for such status.

(2) **SUNSET DATE.**—This subsection shall cease to be effective on October 1, 2020.

(b) **NOTIFICATION REQUIREMENT.**—Beginning on October 1, 2020, the Secretary may not require that an applicant or petitioner for permanent residence or citizenship of the United States use an electronic method to file any application or to access a customer account unless the Secretary notifies the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives of such requirement not later than 30 days before the effective date of such requirement.

(c) **ENABLING DIGITAL PAPERWORK PROCESSING.**—In order to improve efficiency and to discourage fraud, the Secretary may provide incentives to encourage digital filing, including expedited processing, modified filing fees, or discounted membership in trusted traveler programs, if the Secretary provides electronic access to a digital application process in application support centers, district offices, or other ubiquitous, commercial, and nongovernmental organization locations designated by the Secretary.

On page 1418, strike lines 12 through 19 and insert the following:

**SEC. 3103. INCREASING SECURITY AND INTEGRITY OF GOVERNMENT-ISSUED CREDENTIALS AND SYSTEMS.**

(a) **ASSESSMENT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary, in coordination with the National Institute of Standards and Technology, shall submit an assessment, with recommendations to Congress on—

(1) the feasibility of automated biometric comparison to verify that the person pre-

senting the employment authorization document is the rightful holder;

(2) how best to enable United States citizens and aliens lawfully present in the United States to better secure the accuracy and privacy of their digital interactions with Federal information systems; and

(3) a timetable for the actions described in paragraphs (1) and (2).

(b) **ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish an advisory committee to support a public-private, multi-stakeholder process that includes relevant Federal agencies and groups representing the State governors, motor vehicle administrators, civil liberties groups, public safety organizations, representatives of the technology, financial services and healthcare sectors, and such other public or private entities as the Secretary considers appropriate.

(2) **FUNCTIONS.**—The advisory committee established pursuant to paragraph (1) shall—

(A) collect and analyze recommendations from the stakeholders described in paragraph (1) with respect to the assessment conducted under subsection (a); and

(B) provide Congress with any ongoing recommendations for legislative and administrative action regarding improvements to the security, integrity, and privacy of government issued credentials and systems.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as may be necessary to enter into agreements with the National Academy of Sciences to provide reviews and intellectual support for the mission of the advisory committee established pursuant to subsection (b)(1).

**SA 1718.** Ms. HIRONO (for herself, Mrs. MURRAY, Ms. MURKOWSKI, Mrs. BOXER, Mr. LEAHY, Mr. FRANKEN, Ms. MIKULSKI, Mrs. SHAHEEN, Ms. CANTWELL, Ms. STABENOW, Ms. BALDWIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. SCHUMER, and Ms. WARREN) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . MERIT-BASED POINTS TRACK ONE MODIFICATIONS.**

(a) **FINDINGS.**—Congress finds the following:

(1) In many countries around the world, women do not have as many opportunities for education, choices for careers, or opportunities for career advancement as men do in those countries.

(2) It is important that our future immigration system—

(A) take into account the disparate treatment that women experience in other countries; and

(B) provide women a fair opportunity to immigrate to the United States through a merit-based point system.

(3) Under the current United States employment-based immigration system, green cards are awarded to men over women nearly four-to-one.

(4) Like the current employment-based system, the high-skill tier one in the merit point system is more likely to be used by men because of the greater opportunities available to men in other countries.

(5) The purpose of the third tier of the merit-based point system is to provide women a fairer opportunity to compete for green cards by focusing the point categories

on careers and experiences that are available to women in other countries.

(b) **WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.**—Section 201(e) (8 U.S.C. 1151(e)), as amended by section 2301(a)(1), is amended to read as follows:

“(e) **WORLDWIDE LEVEL OF MERIT-BASED IMMIGRANTS.**—

“(1) **IN GENERAL.**—

“(A) **NUMERICAL LIMITATION.**—Subject to paragraphs (2), (3), and (4), the worldwide level of merit-based immigrants is equal to 150,000 for each fiscal year.

“(B) **STATUS.**—An alien admitted on the basis of a merit-based immigrant visa under this section shall have the status of an alien lawfully admitted for permanent residence.

“(2) **ANNUAL INCREASE.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B) and paragraph (3), if in any fiscal year the worldwide level of visas available for merit-based immigrants under this section—

“(i) is less than 75 percent of the number of applicants for such fiscal year, the worldwide level shall increase by 5 percent for the next fiscal year; and

“(ii) is equal to or more than 75 percent of such number, the worldwide level for the next fiscal year shall be the same as the worldwide level for such fiscal year, minus any amount added to the worldwide level for such fiscal year under paragraph (4).

“(B) **LIMITATION ON INCREASE.**—The worldwide level of visas available for merit-based immigrants shall not exceed 280,000.

“(3) **EMPLOYMENT CONSIDERATION.**—The worldwide level of visas available for merit-based immigrants may not be increased for a fiscal year under paragraph (2) if the annual average unemployment rate for the civilian labor force 18 years or over in the United States, as determined by the Bureau of Labor Statistics, for such previous fiscal year is more than 8½ percent.

“(4) **RECAPTURE OF UNUSED VISAS.**—The worldwide level of merit-based immigrants described in paragraph (1) for a fiscal year shall be increased by the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas actually issued under this subsection during that fiscal year. Such visas shall be allocated for the following year pursuant to section 203(c)(3).”.

(c) **MERIT-BASED IMMIGRANTS.**—Section 203(c), as added by section 2301(a)(2) of this Act, is amended to read as follows:

“(c) **MERIT-BASED IMMIGRANTS.**—

“(1) **FISCAL YEARS 1 THROUGH 4.**—For the first 4 fiscal years beginning after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the worldwide level of merit-based immigrant visas made available under section 201(e)(1) shall be available for aliens described in section 203(b)(3) and in addition to any visas available for such aliens under such section.

“(2) **SUBSEQUENT FISCAL YEARS.**—Beginning with the fifth fiscal year beginning after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, aliens subject to the worldwide level specified in section 201(e) for merit-based immigrants shall be allocated as follows:

“(A) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 1 in paragraph (4).

“(B) 50 percent of the visas remaining after the allocation under subparagraph (C) shall be available to applicants with the highest number of points allocated under tier 2 in paragraph (5).

“(C) 30,000 shall be available to applicants with the highest number of points allocated under tier 3 in paragraph (6).

“(3) **UNUSED VISAS.**—If the total number of visas allocated under tier 1, tier 2, or tier 3 for a fiscal year are not granted during that fiscal year, such number may be added to the number of visas available under section 201(e)(1) for the following fiscal year and allocated as follows:

“(A) If the unused visas were allocated for tier 1 in a fiscal year, 2/3 of such visas shall be available for aliens allocated visas under tier 1 in the following fiscal year and 1/3 of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(B) If the unused visas were allocated for tier 2 in a fiscal year, 2/3 of such visas shall be available for aliens allocated visas under tier 2 in the following fiscal year and 1/3 of such visas shall be available for aliens allocated visas under either tier 1 or tier 2 in the following fiscal year.

“(4) **TIER 1.**—The Secretary shall allocate points to each alien seeking to be a tier 1 merit-based immigrant as follows:

“(A) **EDUCATION.**—

“(i) **IN GENERAL.**—An alien may receive points under only 1 of the following categories:

“(I) An alien who has received a doctorate degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 15 points.

“(II) An alien who has received a master's degree from an institution of higher education in the United States or the foreign equivalent shall be allocated 10 points.

“(ii) An alien who has received a bachelor's degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) shall be allocated 5 points.

“(B) **EMPLOYMENT EXPERIENCE.**—An alien shall be allocated not more than 20 points as follows:

“(i) 3 points for each year the alien has been lawfully employed in a zone 5 occupation in the United States.

“(ii) 2 points for each year the alien has been lawfully employed in a zone 4 occupation in the United States.

“(C) **EMPLOYMENT RELATED TO EDUCATION.**—An alien who is in the United States and is employed full-time or has an offer of full-time employment in a field related to the alien's education—

“(i) in a zone 5 occupation shall be allocated 10 points; or

“(ii) in a zone 4 occupation shall be allocated 8 points.

“(D) **ENTREPRENEURSHIP.**—An alien who is an entrepreneur in business that employs at least 2 employees in a zone 4 occupation or a zone 5 occupation shall be allocated 10 points.

“(E) **HIGH DEMAND OCCUPATION.**—An alien who is employed full-time in the United States or has an offer of full-time employment in a high demand tier 1 occupation shall be allocated 10 points.

“(F) **CIVIC INVOLVEMENT.**—An alien who has attested that he or she has engaged in a significant amount of community service, as determined by the Secretary, shall be allocated 2 points.

“(G) **ENGLISH LANGUAGE.**—An alien who received a score of 80 or more on the Test of English as a Foreign Language, or an equivalent score on a similar test, as determined by the Secretary, shall be allocated 10 points.

“(H) **SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.**—An alien who is the sibling of a citizen of the United States or who is over 31 years of age and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

“(I) **AGE.**—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(J) **COUNTRY OF ORIGIN.**—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(5) **TIER 2.**—The Secretary shall allocate points to each alien seeking to be a tier 2 merit-based immigrant as follows:

“(A) **EMPLOYMENT EXPERIENCE.**—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 20 points.

“(B) **SPECIAL EMPLOYMENT CRITERIA.**—An alien who is employed full-time in the United States, or has an offer of full-time employment—

“(i) in a high demand tier 2 occupation shall be allocated 10 points; or

“(ii) in a zone 1, zone 2, or zone 3 occupation shall be allocated 10 points.

“(C) **CAREGIVER.**—An alien who is or has been a primary caregiver shall be allocated 10 points.

“(D) **EXCEPTIONAL EMPLOYMENT RECORD.**—An alien who has a record of exceptional employment, as determined by the Secretary, shall be allocated 10 points. In determining a record of exceptional employment, the Secretary shall consider factors including promotions, longevity, changes in occupations from a lower job zone to a higher job zone, participated in safety training, and increases in pay.

“(E) **CIVIC INVOLVEMENT.**—An alien who has demonstrated significant civic involvement shall be allocated 2 points.

“(F) **ENGLISH LANGUAGE.**—

“(i) **ENGLISH PROFICIENCY.**—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) **ENGLISH KNOWLEDGE.**—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) **SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.**—An alien who is the sibling of a citizen of the United States or is over the age of 31 and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

“(H) **AGE.**—An alien who is—

“(i) between 18 and 24 years of age shall be allocated 8 points;

“(ii) between 25 and 32 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(I) **COUNTRY OF ORIGIN.**—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(6) **TIER 3.**—The Secretary shall allocate points to each alien seeking to be a tier 3 merit-based immigrant as follows:

“(A) **EMPLOYMENT EXPERIENCE.**—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 10 points.

“(B) **SPECIAL EMPLOYMENT CRITERIA.**—An alien who is employed full-time in the United States (or has an offer of full-time employment) in a health services occupation, including direct caregiver, informal

caregiver, home health provider, or nurse; a clerical or professional services occupation; a teaching occupation, including early or informal learning provider, teacher assistant, and elementary or secondary teacher; a culinary occupation; an environmental service and maintenance occupation; a retail customer services occupation; or a small business operated by a sibling or parent who is a United States citizen, shall be allocated 10 points.

“(C) CIVIC INVOLVEMENT.—An alien who has demonstrated significant civic involvement, including humanitarian and volunteer activities, shall be allocated 2 points.

“(D) SIBLINGS AND MARRIED SONS AND DAUGHTERS OF CITIZENS.—An alien who is the sibling of a United States citizen or is older than 31 years of age and is the married son or married daughter of a United States citizen shall be allocated 10 points.

“(E) HUMANITARIAN CONCERNS.—An alien who is or has been the primary caregiver of a United States citizen parent or sibling suffering an extreme hardship shall be allocated 10 points.

“(F) ENGLISH LANGUAGE.—

“(i) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

“(ii) ENGLISH KNOWLEDGE.—An alien who has demonstrated English knowledge, as determined by a standardized test designated by the Secretary of Education, shall be allocated 5 points.

“(G) AGE.—An alien who is—

“(i) between 18 and 25 years of age shall be allocated 8 points;

“(ii) between 25 and 33 years of age shall be allocated 6 points; or

“(iii) between 33 and 37 years of age shall be allocated 4 points.

“(H) COUNTRY OF ORIGIN.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted for permanent residence in the United States in the previous 5 years shall be allocated 5 points.

“(7) FEE.—An alien who is allocated a visa under this subsection shall pay a fee of \$1,500 in addition to any fee assessed to cover the costs to process an application under this subsection. Fees collected under this paragraph shall be deposited by the Secretary into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(8) ELIGIBILITY OF ALIENS IN REGISTERED PROVISIONAL IMMIGRANT STATUS.—An alien who was granted registered provisional immigrant status under section 245B is not eligible to receive a merit-based immigrant visa under section 201(e).

“(9) INELIGIBILITY OF ALIENS WITH PENDING OR APPROVED PETITIONS.—An alien who has a petition pending or approved in another immigrant category under this section or section 201 may not apply for a merit-based immigrant visa.

“(10) DEFINITIONS.—In this subsection:

“(A) HIGH DEMAND TIER 1 OCCUPATION.—The term ‘high demand tier 1 occupation’ means 1 of the 5 occupations for which the highest number of nonimmigrants described in section 101(a)(15)(H)(i) were sought to be admitted by employers during the previous fiscal year.

“(B) HIGH DEMAND TIER 2 OCCUPATION.—The term ‘high demand tier 2 occupation’ means 1 of the 5 occupations for which the highest number of positions were sought to become registered positions by employers under section 220(e) during the previous fiscal year.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(D) ZONE 1 OCCUPATION.—The term ‘zone 1 occupation’ means an occupation that requires little or no preparation and is classified as a zone 1 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(E) ZONE 2 OCCUPATION.—The term ‘zone 2 occupation’ means an occupation that requires some preparation and is classified as a zone 2 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(F) ZONE 3 OCCUPATION.—The term ‘zone 3 occupation’ means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(G) ZONE 4 OCCUPATION.—The term ‘zone 4 occupation’ means an occupation that requires considerable preparation and is classified as a zone 4 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

“(H) ZONE 5 OCCUPATION.—The term ‘zone 5 occupation’ means an occupation that requires extensive preparation and is classified as a zone 5 occupation on—

“(i) the Occupational Information Network Database (O\*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

“(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.”

(d) RULE OF CONSTRUCTION.—The amendments made by this section shall apply notwithstanding title II or any other section of this Act.

**SA 1719.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 744, 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. \_\_\_\_ . AGRICULTURAL WORKERS.**

(a) SUBMISSION OF BLUE CARD STATUS APPLICATIONS FROM OUTSIDE OF THE UNITED STATES.—The Secretary shall ensure that aliens residing outside of the United States who are eligible to submit an application for Blue Card status under section 2211 are able to do so through the United States Consulate in the alien's country of residence.

(b) RECORD OF EMPLOYMENT.—An employer shall not be required to provide, to the Secretary of Agriculture or to each alien granted blue card status who is employed by the employer, a written record of employment more than once per year.

(c) SUFFICIENT EVIDENCE.—An alien who cannot meet the burden of proof otherwise required under section 245F(e)(4)(A) of the Immigration and Nationality Act, as added by section 2212 of this Act, may, in an interview with the Secretary, establish that the alien has performed the days or hours of work referred to in such section by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) ALLOCATION OF VISAS.—Section 218A(c)(1)(B), as added by section 2232 of this Act, is amended to read as follows:

“(B) ALLOCATION OF VISAS.—

“(i) IN GENERAL.—The allocation of visas described in subparagraph (A) for a year shall be allocated as follows:

“(I) 70 percent shall be available beginning January 1.

“(II) 30 percent shall be available beginning July 1.

“(ii) UNUSED VISAS.—Any visas available on January 1 of a year under clause (i)(I) that are unused as of July 1 of that year shall be added to the allocation available to allocation available on July 1 of that year under clause (i)(II).”

(e) TRANSITION OF H-2A WORKER PROGRAM.—Notwithstanding section 2233, an employer—

(1) may petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (1101(a)(15)(H)(ii)(a)) until the date that is 3 years after the date on which the regulations issued pursuant to section 2241(b) become effective; and

(2) may not employ an alien described in paragraph (1) after the date specified in such paragraph.

(f) EFFECTIVE DATE.—Notwithstanding paragraph (4) of section 2233(b), the amendments made by such section shall take effect on the date that is 3 years after the effective date of the regulations issued pursuant to section 2241(b).

**SA 1720.** Mrs. MURRAY (for herself, Mr. PORTMAN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 744, 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. \_\_\_\_ . AMENDMENTS TO THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998.**

Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 2916a) (as contained in title IV of division C of Public Law 105-277; 112 Stat. 2681-653) is amended—

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

“(2) USE OF FUNDS.—

“(A) TRAINING PROVIDED.—Funds under this subsection may be used to provide job training services and related activities that are designed to assist workers (including unemployed and employed workers) in gaining the skills, competencies, and industry-recognized credentials needed to obtain or upgrade career ladder employment positions in the industries and economic sectors identified pursuant to paragraph (4). Such job training services may include on-the-job training, customized training, and apprenticeships, as well as training in the fields of science, technology (including computer and information technology), engineering, and mathematics.

“(B) ENHANCED TRAINING PROGRAMS AND INFORMATION.—In order to facilitate the provision of job training services described in subparagraph (A), funds under this subsection may be used to—

“(i) assist in the development and implementation of model activities such as developing appropriate curricula to build core competencies;

“(ii) assist in obtaining industry-recognized credentials and training workers;

“(iii) identify and disseminate career and skill information, labor market information and guidance, and information about training providers; and

“(iv) increase the integration of community and technical higher education activities with activities of businesses and the public workforce investment system to meet the training needs for the industries and economic sectors identified pursuant to paragraph (4), which may include the development of partnerships by grantees with employers and employer associations to provide work-based training opportunities.

“(C) TECHNICAL ASSISTANCE AND EVALUATION.—The Secretary of Labor may reserve not more than 5 percent of the funds available to carry out this subsection to provide technical assistance and to evaluate projects.”;

(2) in paragraph (6)(A)(i), by inserting “, including resources of employers and philanthropic organizations,” after “provided under this subsection”; and

(3) by striking paragraph (7) and inserting the following:

“(7) PERFORMANCE ACCOUNTABILITY.—

“(A) REPORTS.—The Secretary of Labor shall require grantees to report on the employment-related outcomes obtained by workers receiving training under this subsection using indicators of performance that are consistent with other indicators used for employment and training programs administered by the Secretary, such as entry into employment, retention in employment, attainment of industry-recognized credentials, and increases in earnings.

“(B) EVALUATIONS.—The Secretary of Labor may require grantees to participate in evaluations of projects carried out under this subsection.

“(C) REPORTS AND EVALUATIONS PUBLICLY AVAILABLE.—The reports and evaluations described under this paragraph shall be made available to the public through the appropriate one-stop service delivery systems and other means the Secretary determines are appropriate.”.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 25, 2013, at 10 a.m. to conduct a hearing entitled “Private Student Loans: Regulatory Perspectives.”

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 25, 2013, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON FINANCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 25, 2013, at 10 a.m., in room SD-215 of the Dirksen Senate Office Building, to conduct a hearing entitled “Program Integrity: Oversight of Recovery Audit Contractors.”

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 25, 2013, at 3 p.m.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Building a Foundation of Fairness: 75 Years of the federal Minimum Wage” on June 25, 2013, at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 25, 2013, at 2:30 p.m.

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

##### SUBCOMMITTEE ON ENERGY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 25, 2013, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building.

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

##### SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL RELATIONS, AND THE DISTRICT OF COLUMBIA

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on June 25, 2013, at 10 a.m. to conduct a hearing entitled “Are We Prepared? Measuring the Impact of Preparedness Grants Since 9/11.”

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

#### CONGRATULATING THE MIAMI HEAT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 186.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 186) congratulating the Miami Heat for winning the 2013 National Basketball Association Finals.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate.

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

The resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under “Submitted Resolutions.”)

#### ORDERS FOR WEDNESDAY, JUNE 26, 2013

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Wednesday, June 26, 2013; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; and that following any leader remarks, the Senate resume consideration of S. 744, the comprehensive immigration reform bill, and the time until 11:30 a.m. be equally divided and controlled between the two managers or their designees; that the filing deadline for second-degree amendments to the committee-reported substitute and the bill be 10:30 tomorrow morning.

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

#### PROGRAM

Mr. REID. There will be three rollcall votes in relation to the immigration bill, as announced earlier, starting at 11:30 a.m. tomorrow.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:03 p.m., adjourned until Wednesday, June 26, 2013, at 9:30 a.m.

#### CONFIRMATION

Executive nomination confirmed by the Senate June 25, 2013:

##### DEPARTMENT OF COMMERCE

PENNY PRITZKER, OF ILLINOIS, TO BE SECRETARY OF COMMERCE.