

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.**

**S. 1639**

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 At the end of the bill, add the following:

2 **TITLE \_\_\_\_\_—NONIMMIGRANTS IN**  
3 **THE UNITED STATES PRE-**  
4 **VIOUSLY IN UNLAWFUL STA-**  
5 **TUS**

6 **Subtitle A—Z Nonimmigrants**

7 **SEC. \_\_00. REPEAL OF TITLE VI.**

8 Title VI of this Act is repealed and the amendments

9 made by title VI of this Act are null and void.

1 **SEC. 01. Z NONIMMIGRANTS.**

2 (a) IN GENERAL.—Notwithstanding section 244(h)  
3 of the Immigration and Nationality Act (8 U.S.C.  
4 1254a(h)), the Secretary may permit an alien, or a de-  
5 pendent of such alien, described in this section, to remain  
6 lawfully in the United States under the conditions set  
7 forth in this title.

8 (b) ESTABLISHMENT OF Z NONIMMIGRANT CAT-  
9 EGORY.—Section 101(a)(15) of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1101(a)(15)) is amended by insert-  
11 ing at the end the following:

12 “(Z) subject to title \_\_\_\_ of the Secure  
13 Borders, Economic Opportunity and Immigra-  
14 tion Reform Act of 2007, an alien who—

15 “(i) is physically present in the  
16 United States, has maintained continuous  
17 physical presence in the United States  
18 since January 1, 2007, is employed, and  
19 seeks to continue performing labor, serv-  
20 ices, or education;

21 “(ii) is physically present in the  
22 United States, has maintained continuous  
23 physical presence in the United States  
24 since January 1, 2007, and such alien—

1                   “(I) is the spouse or parent (65  
2                   years of age or older) of an alien de-  
3                   scribed in clause (i); or

4                   “(II) was, within 2 years of the  
5                   date on which the Secure Borders,  
6                   Economic Opportunity and Immigra-  
7                   tion Reform Act of 2007 was intro-  
8                   duced in the Senate, the spouse of an  
9                   alien who is described in clause (i) or  
10                  is eligible for such classification, if—

11                   “(aa) the termination of the  
12                   relationship with such spouse was  
13                   connected to domestic violence;  
14                   and

15                   “(bb) such spouse has been  
16                   battered or subjected to extreme  
17                   cruelty by such alien; or

18                   “(iii) is under 18 years of age at the  
19                   time of application for nonimmigrant sta-  
20                   tus under this subparagraph, is physically  
21                   present in the United States, has main-  
22                   tained continuous physical presence in the  
23                   United States since January 1, 2007, and  
24                   was born to or legally adopted by at least

1           one parent who is at the time of applica-  
2           tion described in clause (i) or (ii).”.

3       (c) PRESENCE IN THE UNITED STATES.—

4           (1) IN GENERAL.—The alien shall establish  
5           that the alien was not present in lawful status in the  
6           United States on January 1, 2007, under any classi-  
7           fication described in section 101(a)(15) of the Immi-  
8           gration and Nationality Act (8 U.S.C. 1101(a)(15))  
9           or any other immigration status made available  
10          under a treaty or other multinational agreement that  
11          has been ratified by the Senate.

12          (2) CONTINUOUS PRESENCE.—For purposes of  
13          this section, an absence from the United States  
14          without authorization for a continuous period of 90  
15          days, or more than 180 days in the aggregate, shall  
16          constitute a break in continuous physical presence.

17       (d) OTHER CRITERIA.—

18           (1) GROUNDS OF INELIGIBILITY.—

19           (A) IN GENERAL.—An alien is ineligible  
20           for Z nonimmigrant status if the Secretary de-  
21           termines that the alien—

22                   (i) is inadmissible to the United  
23                   States under section 212(a) of the Immi-  
24                   gration and Nationality Act (8 U.S.C.  
25                   1182(a)), provided that to be deemed inad-

1                   missible, nothing in this paragraph shall  
2                   require the Secretary to have commenced  
3                   removal proceedings against an alien;

4                   (ii) subject to subparagraph (B), is  
5                   subject to the execution of an outstanding  
6                   administratively final order of removal, de-  
7                   portation, or exclusion;

8                   (iii) subject to subparagraph (B), is  
9                   described in or is subject to section  
10                  241(a)(5) of such Act (8 U.S.C.  
11                  1231(a)(5));

12                  (iv) has ordered, incited, assisted, or  
13                  otherwise participated in the persecution of  
14                  any person on account of race, religion, na-  
15                  tionality, membership in a particular social  
16                  group, or political opinion;

17                  (v) is an alien—

18                         (I) for whom there are reasonable  
19                         grounds for believing that the alien  
20                         has committed a serious criminal of-  
21                         fense (as described in section 101(h)  
22                         of such Act (8 U.S.C. 1101(h))) out-  
23                         side the United States before arriving  
24                         in the United States; or

1 (II) for whom there are reason-  
2 able grounds for regarding the alien  
3 as a danger to the security of the  
4 United States;

5 (vi) has been convicted of—

6 (I) a felony;

7 (II) an aggravated felony (as de-  
8 fined in section 101(a)(43) of such  
9 Act);

10 (III) 3 or more misdemeanors  
11 under Federal or State law; or

12 (IV) a serious criminal offense  
13 (as described in section 101(h) of  
14 such Act);

15 (vii) has entered or attempted to enter  
16 the United States illegally on or after Jan-  
17 uary 1, 2007; or

18 (viii) is an applicant for Z-2 non-  
19 immigrant status, or is under 18 years of  
20 age and is an applicant for Z-3 non-  
21 immigrant status, and the principal Z-1  
22 nonimmigrant or Z-1 nonimmigrant status  
23 applicant is ineligible.

24 (B) WAIVER.—The Secretary may, in the  
25 Secretary's discretion, waive ineligibility under

1 clause (ii) or (iii) of subparagraph (A) if the  
2 alien has not been physically removed from the  
3 United States and if the alien demonstrates  
4 that the alien's departure from the United  
5 States would result in extreme hardship to the  
6 alien or the alien's spouse, parent, or child.

7 (C) CONSTRUCTION.—Nothing in this  
8 paragraph shall require the Secretary to com-  
9 mence removal proceedings against an alien.

10 (2) GROUNDS OF INADMISSIBILITY.—

11 (A) IN GENERAL.—In determining an  
12 alien's admissibility under paragraph  
13 (1)(A)(i)—

14 (i) paragraphs (6)(A)(i) (with respect  
15 to an alien present in the United States  
16 without being admitted or paroled before  
17 the date of application, but not with re-  
18 spect to an alien who has arrived in the  
19 United States on or after January 1,  
20 2007), (6)(B), (6)(C)(i), (6)(C)(ii), (6)(D),  
21 (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I),  
22 and (10)(B) of section 212(a) of the Immi-  
23 gration and Nationality Act (8 U.S.C.  
24 1182(a)) shall not apply, but only with re-

1                   spect to conduct occurring or arising be-  
2                   fore the date of application;

3                   (ii) the Secretary may not waive—

4                   (I) subparagraph (A), (B), (C),  
5                   (D)(ii), (E), (F), (G), (H), or (I) of  
6                   section 212(a)(2) of such Act (relat-  
7                   ing to criminals);

8                   (II) section 212(a)(3) of such Act  
9                   (relating to security and related  
10                  grounds);

11                  (III) with respect to an applica-  
12                  tion for Z nonimmigrant status, sec-  
13                  tion 212(a)(6)(C)(i) of such Act;

14                  (IV) paragraph (6)(A)(i) of sec-  
15                  tion 212(a) of such Act (with respect  
16                  to any entries occurring on or after  
17                  January 1, 2007);

18                  (V) section 212(a)(9)(C)(i)(II) of  
19                  such Act; or

20                  (VI) subparagraph (A), (C), or  
21                  (D) of section 212(a)(10) of such Act  
22                  (relating to polygamists, child abduc-  
23                  tors, and unlawful voters); and

24                  (iii) the Secretary may, in the Sec-  
25                  retary's discretion, waive the application of

1           any provision of section 212(a) of such Act  
2           not listed in clause (ii) on behalf of an in-  
3           dividual alien for humanitarian purposes,  
4           to ensure family unity, or if such waiver is  
5           otherwise in the public interest.

6           (B) CONSTRUCTION.—Nothing in this  
7           paragraph shall be construed as affecting the  
8           authority of the Secretary other than under this  
9           paragraph to waive the provisions of section  
10          212(a) of such Act.

11          (e) ELIGIBILITY REQUIREMENTS.—To be eligible for  
12          Z nonimmigrant status an alien shall meet the following  
13          and any other applicable requirements set forth in this  
14          section:

15               (1) ELIGIBILITY.—The alien does not fall with-  
16               in a class of aliens ineligible for Z nonimmigrant  
17               status listed under subsection (d)(1).

18               (2) ADMISSIBILITY.—The alien is not inadmis-  
19               sible as a nonimmigrant to the United States under  
20               section 212 of the Immigration and Nationality Act  
21               (8 U.S.C. 1182), except as provided in subsection  
22               (d)(2) of this section, regardless of whether the alien  
23               has previously been admitted to the United States.

1           (3) PRESENCE.—To be eligible for Z–1 non-  
2           immigrant status, Z–2 nonimmigrant status, or Z–  
3           3 nonimmigrant status, the alien shall—

4                   (A) have been physically present in the  
5           United States before January 1, 2007, and  
6           have maintained continuous physical presence  
7           in the United States since that date;

8                   (B) be physically present in the United  
9           States on the date of application for Z non-  
10          immigrant status; and

11                   (C) be, on January 1, 2007, and on the  
12          date of application for Z nonimmigrant status,  
13          not present in lawful status in the United  
14          States under any classification described in sec-  
15          tion 101(a)(15) of the Immigration and Nation-  
16          ality Act (8 U.S.C. 1101(a)(15)) or any other  
17          immigration status made available under a trea-  
18          ty or other multinational agreement that has  
19          been ratified by the Senate.

20           (4) EMPLOYMENT.—An alien seeking Z–1 non-  
21          immigrant status must be employed in the United  
22          States on the date of filing of the application for Z–  
23          1 nonimmigrant status.

24           (5) FEES AND PENALTIES.—

25                   (A) PROCESSING FEES.—

1 (i) IN GENERAL.—An alien making an  
2 initial application for Z nonimmigrant sta-  
3 tus shall be required to pay a processing  
4 fee in an amount sufficient to recover the  
5 full cost of adjudicating the application,  
6 but not more than \$1,500 for a single Z  
7 nonimmigrant.

8 (ii) FEE FOR EXTENSION APPLICA-  
9 TION.—An alien applying for extension of  
10 the alien's Z nonimmigrant status shall be  
11 required to pay a processing fee in an  
12 amount sufficient to cover administrative  
13 and other expenses associated with proc-  
14 essing the extension application, but not  
15 more than \$1,500 for a single Z non-  
16 immigrant.

17 (B) PENALTIES.—

18 (i) IN GENERAL.—An alien making an  
19 initial application for Z-1 nonimmigrant  
20 status shall be required to pay, in addition  
21 to the processing fee in subparagraph (A),  
22 a penalty of \$1,000.

23 (ii) DERIVATIVE STATUS.—An alien  
24 making an initial application for Z-1 non-  
25 immigrant status shall be required to pay

1 a \$500 penalty for each alien seeking Z-  
2 nonimmigrant status or Z-3 non-  
3 immigrant status derivative to such appli-  
4 cant for Z-1 nonimmigrant status.

5 (iii) CHANGE OF Z NONIMMIGRANT  
6 CLASSIFICATION.—An alien who is a Z-2  
7 nonimmigrant or Z-3 nonimmigrant and  
8 who has not previously been a Z-1 non-  
9 immigrant, and who changes status to that  
10 of a Z-1 nonimmigrant, shall in addition  
11 to processing fees be required to pay the  
12 initial application penalties applicable to  
13 Z-1 nonimmigrants.

14 (C) STATE IMPACT ASSISTANCE FEE.—In  
15 addition to any other amounts required to be  
16 paid under this subsection, an alien making an  
17 initial application for Z-1 nonimmigrant status  
18 shall be required to pay a State impact assist-  
19 ance fee equal to \$500.

20 (D) DEPOSIT AND SPENDING OF FEES.—  
21 The processing fees under subparagraph (A)  
22 shall be deposited and remain available until ex-  
23 pended as provided by subsections (m) and (n)  
24 of section 286 of the Immigration and Nation-  
25 ality Act (8 U.S.C. 1356).

1 (E) DEPOSIT, ALLOCATION, AND SPEND-  
2 ING OF PENALTIES.—

3 (i) DEPOSIT OF PENALTIES.—The  
4 penalty under subparagraph (B) shall be  
5 deposited and remain available as provided  
6 by subsection (w) of such section 286, as  
7 added by section 402.

8 (ii) DEPOSIT OF STATE IMPACT AS-  
9 SISTANCE FUNDS.—The funds under sub-  
10 paragraph (C) shall be deposited and re-  
11 main available as provided by subsection  
12 (x) of such section 286.

13 (6) HOME APPLICATION.—

14 (A) IN GENERAL.—An alien granted pro-  
15 bationary status under subsection (h) shall not  
16 be eligible for Z-1, Z-2, Z-A, or adult Z-A de-  
17 pendent nonimmigrant status until the alien  
18 has completed the following home application  
19 requirements:

20 (i) SUBMISSION OF SUPPLEMENTAL  
21 CERTIFICATION.—An alien awarded proba-  
22 tionary status who seeks Z-1, Z-2, Z-A,  
23 or adult Z-A dependent nonimmigrant sta-  
24 tus shall, within 2 years of being awarded  
25 a secure ID card under subsection (j), per-

1           fect the alien’s application for such non-  
2           immigrant status at a United States con-  
3           sular office by submitting a supplemental  
4           certification in person in accordance with  
5           the requirements of this subparagraph.

6           (ii) CONTENTS OF SUPPLEMENTAL  
7           CERTIFICATION.—An alien in probationary  
8           status who is seeking a Z–1, Z–2, Z–A, or  
9           adult Z–A dependent nonimmigrant status  
10          shall certify, in addition to any other cer-  
11          tifications specified by the Secretary, that  
12          the alien has during the period of the  
13          alien’s probationary status remained con-  
14          tinuously employed in accordance with the  
15          requirements of subsection (m) and has  
16          paid all tax liabilities owed by the alien  
17          pursuant to the procedures set forth in  
18          section 602(h). The probationary status of  
19          an alien making a false certification under  
20          this subparagraph shall be terminated pur-  
21          suant to subsection (o)(1)(G).

22          (iii) PRESENTATION OF SECURE ID  
23          CARD.—The alien shall present the alien’s  
24          secure ID card at the time the alien sub-  
25          mits the supplemental certification under

1 clause (i) at the United States consular of-  
2 fice. The alien's secure ID card shall be  
3 marked or embossed with a designation as  
4 determined by the Secretary of State and  
5 the Secretary of Homeland Security to dis-  
6 tinguish the card as satisfying all require-  
7 ments for Z-1, Z-2, Z-A, or adult Z-A  
8 dependent nonimmigrant status.

9 (iv) PLACE OF APPLICATION.—Unless  
10 otherwise directed by the Secretary of  
11 State, an alien in probationary status who  
12 is seeking Z-1, Z-2, Z-A, or adult Z-A  
13 dependent nonimmigrant status shall file  
14 the supplemental certification described in  
15 clause (ii) at a consular office in the alien's  
16 country of origin. A consular office in a  
17 country that is not the alien's country of  
18 origin as a matter of discretion may, or at  
19 the direction of the Secretary of State  
20 shall, accept a supplemental certification  
21 from such an alien.

22 (B) EFFECT OF FAILURE TO COMPLY.—  
23 The probationary status of an alien seeking a  
24 Z-1, Z-2, Z-A, or adult Z-A dependent non-  
25 immigrant status who fails to complete the re-

1            requirements of this paragraph shall be termi-  
2            nated in accordance with subsection (o)(1)(G).

3            (C) EXEMPTION.—Subparagraph (A) shall  
4            not apply to an alien who, on the date on which  
5            the alien is granted a secure ID card under  
6            subsection (j), is exempted from the employ-  
7            ment requirements under subsection  
8            (m)(1)(B)(iii).

9            (D) FAILURE TO ESTABLISH LAWFUL AD-  
10            MISSION TO THE UNITED STATES.—Unless ex-  
11            empted under subparagraph (C), an alien in  
12            probationary status who is seeking Z-1, Z-2,  
13            Z-A, or adult Z-A dependent nonimmigrant  
14            status who fails to depart and reenter the  
15            United States in accordance with subparagraph  
16            (A) may not be issued a Z-1, Z-2, Z-A, or  
17            adult Z-A dependent nonimmigrant visa under  
18            this section.

19            (E) DEPENDENTS.—An alien in proba-  
20            tionary status who is seeking Z-3 or minor Z-  
21            A dependent nonimmigrant status shall be  
22            awarded such status upon satisfaction of the re-  
23            quirements set forth in subparagraph (A) by  
24            the principal Z-1 or Z-A nonimmigrant. An  
25            alien in probationary status who is seeking Z-

1           3 or minor Z–A dependent nonimmigrant status  
2           and whose principal Z–1 or Z–A nonimmigrant  
3           fails to satisfy the requirements of subpara-  
4           graph (A) may not be issued a Z–3 or minor  
5           Z–A dependent nonimmigrant visa under this  
6           section unless the principal Z–1 alien is exempt-  
7           ed under subparagraph (C).

8           (7) INTERVIEW.—An applicant for Z non-  
9           immigrant status shall appear to be interviewed.

10           (8) MILITARY SELECTIVE SERVICE.—The alien  
11           shall establish that if the alien is within the age pe-  
12           riod required under the Military Selective Service  
13           Act (50 U.S.C. App. 451 et seq.) that such alien has  
14           registered under that Act.

15           (f) APPLICATION PROCEDURES.—

16           (1) IN GENERAL.—The Secretary of Homeland  
17           Security shall prescribe by notice in the Federal  
18           Register, in accordance with the procedures de-  
19           scribed in section 610, the procedures for an alien  
20           in the United States to apply for Z nonimmigrant  
21           status and the evidence required to demonstrate eli-  
22           gibility for such status.

23           (2) INITIAL RECEIPT OF APPLICATIONS.—The  
24           Secretary, or such other entities as are authorized  
25           by the Secretary to accept applications under the

1 procedures established under this subsection, shall  
2 accept applications from aliens for Z nonimmigrant  
3 status for a period of 1 year starting the first day  
4 of the first month beginning not more than 180 days  
5 after the date of the enactment of this Act. If, dur-  
6 ing the 1-year initial period for the receipt of appli-  
7 cations for Z nonimmigrant status, the Secretary de-  
8 termines that additional time is required to register  
9 applicants for Z nonimmigrant status, the Secretary  
10 may, in the Secretary's discretion, extend the period  
11 for accepting applications by not more than 1 year.

12 (3) BIOMETRIC DATA.—Each alien applying for  
13 Z nonimmigrant status shall submit biometric data  
14 in accordance with procedures established by the  
15 Secretary.

16 (4) HOME APPLICATION.—No alien may be  
17 awarded Z nonimmigrant status until the alien has  
18 completed the home application requirements set  
19 forth in subsection (e)(6).

20 (g) CONTENT OF APPLICATION FILED BY ALIEN.—

21 (1) APPLICATION FORM.—The Secretary shall  
22 create an application form that an alien shall be re-  
23 quired to complete as a condition of obtaining proba-  
24 tionary status.

25 (2) APPLICATION INFORMATION.—

1 (A) IN GENERAL.—The application form  
2 shall request such information as the Secretary  
3 deems necessary and appropriate, including—

4 (i) information concerning the alien’s  
5 physical and mental health;

6 (ii) complete criminal history, includ-  
7 ing all arrests and dispositions;

8 (iii) gang membership or renunciation  
9 of gang affiliation;

10 (iv) immigration history;

11 (v) employment history; and

12 (vi) claims to United States citizen-  
13 ship.

14 (B) STATUS.—An alien applying for Z  
15 nonimmigrant status shall be required to speci-  
16 fy on the application whether the alien ulti-  
17 mately seeks to be awarded Z-1, Z-2, or Z-3  
18 nonimmigrant status.

19 (3) SECURITY AND LAW ENFORCEMENT BACK-  
20 GROUND CHECKS.—

21 (A) SUBMISSION OF FINGERPRINTS.—The  
22 Secretary may not award Z nonimmigrant sta-  
23 tus unless the alien submits fingerprints and  
24 other biometric data in accordance with proce-  
25 dures established by the Secretary.

1                   (B) BACKGROUND CHECKS.—The Sec-  
2                   retary shall utilize fingerprints and other bio-  
3                   metric data provided by the alien to conduct ap-  
4                   propriate background checks of such alien to  
5                   search for criminal, national security, or other  
6                   law enforcement actions that would render the  
7                   alien ineligible for classification under this sec-  
8                   tion.

9                   (h) TREATMENT OF APPLICANTS.—

10                  (1) IN GENERAL.—An alien who files an appli-  
11                  cation for Z nonimmigrant status, upon submission  
12                  of any evidence required under subsections (f) and  
13                  (g) and after the Secretary has conducted appro-  
14                  priate background checks, to include name and fin-  
15                  gerprint checks, that have not by the end of the next  
16                  business day produced information rendering the ap-  
17                  plicant ineligible—

18                         (A) shall be granted probationary status in  
19                         the form of employment authorization pending  
20                         final adjudication of the alien’s application;

21                         (B) may, in the Secretary’s discretion, re-  
22                         ceive advance permission to re-enter the United  
23                         States pursuant to existing regulations gov-  
24                         erning advance parole;

1 (C) may not be detained for immigration  
2 purposes, determined inadmissible or deport-  
3 able, or removed pending final adjudication of  
4 the alien's application, unless the alien is deter-  
5 mined to be ineligible for Z nonimmigrant sta-  
6 tus; and

7 (D) may not be considered an unauthor-  
8 ized alien (as defined in section 274A of the  
9 Immigration and Nationality Act (8 U.S.C.  
10 1324a)) unless employment authorization under  
11 subparagraph (A) is denied.

12 (2) TIMING OF PROBATIONARY STATUS.—No  
13 alien may be granted probationary status until the  
14 alien has passed all appropriate background checks  
15 or the end of the next business day, whichever is  
16 sooner.

17 (3) CONSTRUCTION.—Nothing in this section  
18 shall be construed to limit the Secretary's authority  
19 to conduct any appropriate background and security  
20 checks subsequent to issuance of evidence of proba-  
21 tionary benefits under paragraph (4).

22 (4) PROBATIONARY CARD.—The Secretary shall  
23 provide each alien described in paragraph (1) with  
24 a counterfeit-resistant document that reflects the  
25 benefits and status set forth in that paragraph. The

1 Secretary may by regulation establish procedures for  
2 the issuance of documentary evidence of proba-  
3 tionary status and, except as provided herein, the  
4 conditions under which such documentary evidence  
5 expires, terminates, or is renewed. All documentary  
6 evidence of probationary benefits shall expire not  
7 later than 6 months after the date on which the Sec-  
8 retary begins to issue secure ID cards under sub-  
9 section (j).

10 (5) BEFORE APPLICATION PERIOD.—If an alien  
11 is apprehended between the date of the enactment of  
12 this Act and the date on which the period for initial  
13 registration closes under subsection (f)(2), and the  
14 alien is able to establish prima facie eligibility for Z  
15 nonimmigrant status, the Secretary shall provide the  
16 alien with a reasonable opportunity to file an appli-  
17 cation under this section after such regulations are  
18 promulgated.

19 (6) DURING CERTAIN PROCEEDINGS.—Notwith-  
20 standing any provision of the Immigration and Na-  
21 tionality Act, if the Secretary determines that an  
22 alien who is in removal proceedings is prima facie el-  
23 igible for Z nonimmigrant status, then the Secretary  
24 shall affirmatively communicate such determination  
25 to the immigration judge. The immigration judge

1 shall then terminate or administratively close such  
2 proceedings and permit the alien a reasonable oppor-  
3 tunity to apply for such classification.

4 (i) ADJUDICATION OF APPLICATION FILED BY  
5 ALIEN.—

6 (1) IN GENERAL.—The Secretary may approve  
7 the issuance of a secure ID card, as described in  
8 subsection (j), to an applicant for Z nonimmigrant  
9 status who satisfies the requirements of this section.

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

12 (A) PRESUMPTIVE DOCUMENTS.—A Z  
13 nonimmigrant or an applicant for Z non-  
14 immigrant status may presumptively establish  
15 satisfaction of each required period of presence,  
16 employment, or study by submitting records to  
17 the Secretary that demonstrate such presence,  
18 employment, or study, and that the Secretary  
19 verifies have been maintained by the Social Se-  
20 curity Administration, the Internal Revenue  
21 Service, or any other Federal, State, or local  
22 government agency.

23 (B) VERIFICATION.—Each Federal agency,  
24 and each State or local government agency, as  
25 a condition of receipt of any funds under sub-

1 section (x) of section 286 of the Immigration  
2 and Nationality Act, as added by section 402,  
3 shall within 90 days of the enactment ensure  
4 that procedures are in place under which such  
5 agency shall—

6 (i) consistent with all otherwise appli-  
7 cable laws, including laws governing pri-  
8 vacy, provide documentation to an alien  
9 upon request to satisfy the documentary  
10 requirements of this paragraph; or

11 (ii) notwithstanding any other provi-  
12 sion of law, including section 6103 of the  
13 Internal Revenue Code of 1986, provide  
14 verification to the Secretary of documenta-  
15 tion offered by an alien as evidence of—

16 (I) presence or employment re-  
17 quired under this section; or

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

20 (C) OTHER DOCUMENTS.—A Z non-  
21 immigrant or an applicant for Z nonimmigrant  
22 status who is unable to submit a document de-  
23 scribed in subparagraph (A) may establish sat-  
24 isfaction of each required period of presence,  
25 employment, or study by submitting to the Sec-

1           retary at least 2 other types of reliable docu-  
2           ments that provide evidence of employment, in-  
3           cluding—

4                     (i) bank records;

5                     (ii) business records;

6                     (iii) employer records;

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

9                     (v) remittance records.

10           (D) ADDITIONAL DOCUMENTS.—The Sec-  
11           retary may—

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

15                     (ii) set such terms and conditions on  
16           the use of affidavits as is necessary to  
17           verify and confirm the identity of any affi-  
18           ant or otherwise prevent fraudulent sub-  
19           missions.

20           (3) PAYMENT OF INCOME TAXES.—

21                     (A) IN GENERAL.—Not later than the date  
22           on which status is adjusted under this section,  
23           the alien establishes the payment of any appli-  
24           cable Federal tax liability by establishing that—

25                     (i) no such tax liability exists;

1 (ii) all outstanding liabilities have  
2 been paid; or

3 (iii) the alien has entered into an  
4 agreement for payment of all outstanding  
5 liabilities with the Internal Revenue Serv-  
6 ice.

7 (B) APPLICABLE FEDERAL TAX LIABIL-  
8 ITY.—For purposes of subparagraph (A), the  
9 term “applicable Federal tax liability” means li-  
10 ability for Federal taxes, including penalties  
11 and interest, owed for any year during the pe-  
12 riod of employment required by subparagraph  
13 (D)(i) for which the statutory period for assess-  
14 ment of any deficiency for such taxes has not  
15 expired.

16 (C) IRS COOPERATION.—The Secretary of  
17 the Treasury shall establish rules and proce-  
18 dures under which the Commissioner of Inter-  
19 nal Revenue shall provide documentation to an  
20 alien upon request to establish the payment of  
21 all taxes required by this subparagraph.

22 (D) IN GENERAL.—The alien may satisfy  
23 such requirement by establishing that—

24 (i) no such tax liability exists;

1 (ii) all outstanding liabilities have  
2 been met; or

3 (iii) the alien has entered into an  
4 agreement for payment of all outstanding  
5 liabilities with the Internal Revenue Serv-  
6 ice and with the department of revenue of  
7 each State to which taxes are owed.

8 (4) BURDEN OF PROOF.—An alien who is ap-  
9 plying for a Z nonimmigrant visa under this section  
10 shall prove, by a preponderance of the evidence, that  
11 the alien has satisfied the requirements of this sec-  
12 tion.

13 (5) DENIAL OF APPLICATION.—

14 (A) IN GENERAL.—An alien who fails to  
15 satisfy the eligibility requirements for a Z non-  
16 immigrant visa shall have the alien's application  
17 denied and may not file additional applications.

18 (B) FAILURE TO SUBMIT INFORMATION.—  
19 An alien who fails to submit requested initial  
20 evidence, including requested biometric data,  
21 and requested additional evidence by the date  
22 required by the Secretary shall, except if the  
23 alien demonstrates to the satisfaction of the  
24 Secretary that such failure was reasonably ex-  
25 cusable or was not willful, have the alien's ap-

1           plication considered abandoned. Such applica-  
2           tion shall be denied and the alien may not file  
3           additional applications.

4           (j) SECURE ID CARD EVIDENCING STATUS.—

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

7           (2) FEATURES OF SECURE ID CARD.—Docu-  
8           mentary evidence of Z nonimmigrant status—

9           (A) shall be machine-readable, tamper-re-  
10          sistant, and shall contain a digitized photo-  
11          graph and other biometric identifiers that may  
12          be authenticated;

13          (B) shall be designed in consultation with  
14          U.S. Immigration and Customs Enforcement’s  
15          Forensic Document Laboratory;

16          (C) shall, during the alien’s authorized pe-  
17          riod of admission under subsection (k), serve as  
18          a valid travel and entry document for the pur-  
19          pose of applying for admission to the United  
20          States where the alien is applying for admission  
21          at a port of entry;

22          (D) may be accepted during the period of  
23          its validity by an employer as evidence of em-  
24          ployment authorization and identity under sec-  
25          tion 274A of the Immigration and Nationality

1 Act (8 U.S.C. 1324a), as amended by title III;  
2 and

3 (E) shall be issued to the Z nonimmigrant  
4 by the Secretary promptly after final adjudica-  
5 tion of such alien's application for Z non-  
6 immigrant status, except that an alien may not  
7 be granted permanent Z nonimmigrant status  
8 until all appropriate background checks on the  
9 alien are completed to the satisfaction of the  
10 Secretary.

11 (k) PERIOD OF AUTHORIZED ADMISSION.—

12 (1) INITIAL PERIOD.—The initial period of au-  
13 thorized admission as a Z nonimmigrant shall be 4  
14 years beginning on the date on which the alien is  
15 first issued a secure ID card under subsection (j).

16 (2) EXTENSIONS.—

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

20 (B) REQUIREMENTS.—In order to be eligi-  
21 ble for an extension of the initial or any subse-  
22 quent period of authorized admission under this  
23 paragraph, an alien must satisfy the following  
24 requirements:

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

4 (ii) ENGLISH LANGUAGE AND  
5 CIVICS.—

6 (I) REQUIREMENT AT FIRST RE-  
7 NEWAL.—At or before the time of ap-  
8 plication for the first extension of Z  
9 nonimmigrant status, an alien who is  
10 18 years of age or older must dem-  
11 onstrate an attempt to gain an under-  
12 standing of the English language and  
13 knowledge of United States civics by  
14 taking the naturalization test de-  
15 scribed in paragraphs (1) and (2) of  
16 section 312(a) of the Immigration and  
17 Nationality Act (8 U.S.C. 1423(a)) by  
18 demonstrating enrollment in or place-  
19 ment on a waiting list for English  
20 classes.

21 (II) REQUIREMENT AT SECOND  
22 RENEWAL.—At or before the time of  
23 application for the second extension of  
24 Z nonimmigrant status, an alien who  
25 is 18 years of age or older must pass

1 the naturalization test described in  
2 such paragraphs (1) and (2) of such  
3 section 312(a). The alien may make  
4 up to 3 attempts to demonstrate such  
5 understanding and knowledge, but  
6 shall satisfy this requirement prior to  
7 the expiration of the second extension  
8 of Z nonimmigrant status.

9 (III) EXCEPTION.—The require-  
10 ments of subclauses (I) and (II) shall  
11 not apply to any person who, on the  
12 date of the filing of the person's appli-  
13 cation for an extension of Z non-  
14 immigrant status—

15 (aa) is unable because of  
16 physical or developmental dis-  
17 ability or mental impairment to  
18 meet the requirements of such  
19 subclauses;

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

24 (cc) is over 55 years of age  
25 and has been living in the United

1 States for periods totaling at  
2 least 15 years.

3 (iii) EMPLOYMENT.—With respect to  
4 an extension of Z–1 nonimmigrant status  
5 or Z–3 nonimmigrant status, an alien shall  
6 demonstrate satisfaction of the employ-  
7 ment or study requirements provided in  
8 subsection (m) during the alien’s most re-  
9 cent period of authorized admission as of  
10 the date of application.

11 (iv) FEES.—The alien must pay a  
12 processing fee in an amount sufficient to  
13 recover the full cost of adjudicating the ap-  
14 plication, but not more than \$1,500 for a  
15 single Z nonimmigrant.

16 (C) SECURITY AND LAW ENFORCEMENT  
17 BACKGROUND CHECKS.—An alien applying for  
18 extension of Z nonimmigrant status may be re-  
19 quired to submit to a renewed security and law  
20 enforcement background check that shall be  
21 completed to the satisfaction of the Secretary  
22 before such extension may be granted.

23 (D) TIMELY FILING AND MAINTENANCE OF  
24 STATUS.—

1 (i) IN GENERAL.—An extension of a  
2 period of authorized admission under this  
3 paragraph, or a change of status to an-  
4 other Z nonimmigrant status under sub-  
5 section (l), may not be approved for an ap-  
6 plicant who failed to maintain Z non-  
7 immigrant status or if such status expired  
8 or terminated before the application was  
9 filed.

10 (ii) EXCEPTION.—Failure to file be-  
11 fore the period of previously authorized ad-  
12 mission expired or terminated may be ex-  
13 cused in the discretion of the Secretary  
14 and without separate application, with any  
15 extension granted from the date the pre-  
16 viously authorized admission expired, if it  
17 is demonstrated at the time of filing  
18 that—

19 (I) the delay was due to extraor-  
20 dinary circumstances beyond the con-  
21 trol of the applicant, and the Sec-  
22 retary finds the delay commensurate  
23 with the circumstances; and

1 (II) the alien has not otherwise  
2 violated the alien's Z nonimmigrant  
3 status.

4 (iii) EXEMPTIONS FROM PENALTY  
5 AND EMPLOYMENT REQUIREMENTS.—An  
6 alien demonstrating extraordinary cir-  
7 cumstances under clause (ii), including the  
8 spouse of a Z-1 nonimmigrant who has  
9 been battered or has been the subject of  
10 extreme cruelty perpetrated by the Z-1  
11 nonimmigrant, and who is changing to Z-  
12 1 nonimmigrant status, may be exempted  
13 by the Secretary, in the Secretary's discre-  
14 tion, from the requirements under sub-  
15 section (m) for a period of up to 180 days;  
16 and

17 (E) BARS TO EXTENSION.—Except as pro-  
18 vided in subparagraph (D), a Z nonimmigrant  
19 shall not be eligible to extend such non-  
20 immigrant status if—

21 (i) the alien has violated any term or  
22 condition of the alien's Z nonimmigrant  
23 status, including failing to comply with the  
24 change of address reporting requirements

1 under section 265 of the Immigration and  
2 Nationality Act (8 U.S.C. 1305);

3 (ii) the period of authorized admission  
4 of the Z nonimmigrant has been termi-  
5 nated for any reason; or

6 (iii) with respect to a Z-2 non-  
7 immigrant or a Z-3 nonimmigrant, the  
8 principal alien's Z-1 nonimmigrant status  
9 has been terminated.

10 (l) CHANGE OF STATUS.—

11 (1) CHANGE FROM Z NONIMMIGRANT STA-  
12 TUS.—

13 (A) IN GENERAL.—A Z nonimmigrant may  
14 not change status under section 248 of the Im-  
15 migration and Nationality Act (8 U.S.C. 1258)  
16 to another nonimmigrant status, except another  
17 Z nonimmigrant status or status under sub-  
18 paragraph (U) of section 101(a)(15) of such  
19 Act (8 U.S.C. 1101(a)(15)).

20 (B) CHANGE FROM Z-A STATUS.—A Z-A  
21 nonimmigrant may change status to Z non-  
22 immigrant status at the time of renewal ref-  
23 erenced in section 214A(j)(1)(C) of the Immi-  
24 gration and Nationality Act, as added by sec-  
25 tion 631.

1           (C) LIMIT ON CHANGES.—A Z non-  
2 immigrant may not change status more than  
3 one time per 365-day period. The Secretary  
4 may, in the Secretary's discretion, waive the ap-  
5 plication of this subparagraph to an alien if it  
6 is established to the satisfaction of the Sec-  
7 retary that application of this subparagraph  
8 would result in extreme hardship to the alien.

9           (2) NO CHANGE TO Z NONIMMIGRANT STA-  
10 TUS.—A nonimmigrant under the immigration laws  
11 may not change status under section 248 of the Im-  
12 migration and Nationality Act (8 U.S.C. 1258) to Z  
13 nonimmigrant status.

14       (m) EMPLOYMENT.—

15           (1) Z-1 AND Z-3 NONIMMIGRANTS.—

16           (A) IN GENERAL.—Z-1 nonimmigrants  
17 and Z-3 nonimmigrants shall be authorized to  
18 work in the United States.

19           (B) CONTINUOUS EMPLOYMENT REQUIRE-  
20 MENT.—All requirements that an alien be em-  
21 ployed or seeking employment for purposes of  
22 this title shall not apply to an alien who is  
23 under 16 years or over 65 years of age. A Z-  
24 1 nonimmigrant or Z-3 nonimmigrant between  
25 16 and 65 years of age, or an alien in proba-

1           tionary status between 16 and 65 years of age  
2           who is seeking to become a Z-1 or Z-3 non-  
3           immigrant, shall remain continuously employed  
4           full time in the United States as a condition of  
5           such nonimmigrant status, except if—

6                   (i) the alien is pursuing a full course  
7                   of study at an established college, univer-  
8                   sity, seminary, conservatory, trade school,  
9                   academic high school, elementary school, or  
10                  other academic institution or language  
11                  training program;

12                  (ii) the alien is employed while also  
13                  engaged in study at an established college,  
14                  university, seminary, conservatory, aca-  
15                  demic high school, elementary school, or  
16                  other academic institution or language  
17                  training program;

18                  (iii) the alien cannot demonstrate em-  
19                  ployment because of a physical or mental  
20                  disability (as defined under section 3(2) of  
21                  the Americans with Disabilities Act of  
22                  1990 (42 U.S.C. 12102(2)) or as a result  
23                  of pregnancy if such condition is evidenced  
24                  by the submission of documentation pre-  
25                  scribed by the Secretary; or

1 (iv) the alien's ability to work has  
2 been temporarily interrupted by an event  
3 that the Secretary has determined to be a  
4 force majeure interruption.

5 (2) Z-2 NONIMMIGRANTS.—Z-2 nonimmigrants  
6 shall be authorized to work in the United States.

7 (3) PORTABILITY.—Nothing in this subsection  
8 shall be construed to limit the ability of a Z non-  
9 immigrant to change employers during the alien's  
10 period of authorized admission.

11 (n) TRAVEL OUTSIDE THE UNITED STATES.—

12 (1) IN GENERAL.—An alien who has been  
13 issued a secure ID card under subsection (j) and  
14 who is in probationary status or is a Z non-  
15 immigrant—

16 (A) may travel outside of the United  
17 States; and

18 (B) may be readmitted (if otherwise admis-  
19 sible) without having to obtain a visa if—

20 (i) the alien's most recent period of  
21 authorized admission has not expired;

22 (ii) the alien is the bearer of valid  
23 documentary evidence of Z nonimmigrant  
24 status that satisfies the conditions set out  
25 in subsection (j); and

1 (iii) the alien is not subject to the  
2 bars on extension described in subsection  
3 (k)(2)(E).

4 (2) ADMISSIBILITY.—On seeking readmission to  
5 the United States after travel outside the United  
6 States an alien granted Z nonimmigrant status shall  
7 establish that such alien is not inadmissible, except  
8 as provided by subsection (d)(2).

9 (3) EFFECT ON PERIOD OF AUTHORIZED AD-  
10 MISSION.—Time spent outside the United States  
11 under paragraph (1) shall not extend the most re-  
12 cent period of authorized admission in the United  
13 States under subsection (k).

14 (o) TERMINATION OF BENEFITS.—

15 (1) IN GENERAL.—Any benefit provided to a Z  
16 nonimmigrant or an applicant for Z nonimmigrant  
17 status under this section shall terminate if—

18 (A) the Secretary determines that the alien  
19 is ineligible for such classification and all review  
20 procedures under section 603 of this Act have  
21 been exhausted or waived by the alien;

22 (B)(i) the alien is found removable from  
23 the United States under section 237 of the Im-  
24 migration and Nationality Act (8 U.S.C. 1227);

1           (ii) the alien becomes inadmissible under  
2 section 212 of such Act (8 U.S.C. 1227) (ex-  
3 cept as provided in subsection (d)(2)); or

4           (iii) the alien becomes ineligible under sub-  
5 section (d)(1);

6           (C) the alien has used documentation  
7 issued under this section for unlawful or fraud-  
8 ulent purposes;

9           (D) in the case of the spouse or child of  
10 an alien applying for a Z nonimmigrant visa, in  
11 probationary status, or classified as a Z non-  
12 immigrant under this section, the benefits for  
13 the principal alien are terminated;

14           (E) with respect to a Z-1 nonimmigrant or  
15 Z-3 nonimmigrant, the employment or study  
16 requirements under subsection (m) have been  
17 violated;

18           (F) with respect to an alien in proba-  
19 tionary status, the alien's application for Z non-  
20 immigrant status is denied; or

21           (G) with respect to an alien awarded pro-  
22 bationary status who seeks to become a Z non-  
23 immigrant or a Z-A nonimmigrant, the alien  
24 fails to complete the home application require-

1           ment set forth in subsection (e)(6) within 2  
2           years of receiving a secure ID card.

3           (2) DENIAL OF IMMIGRANT VISA OR ADJUST-  
4           MENT APPLICATION.—Any application for an immi-  
5           grant visa or adjustment of status to lawful perma-  
6           nent resident status made under this section by an  
7           alien whose Z nonimmigrant status is terminated  
8           under paragraph (1) shall be denied.

9           (3) DEPARTURE FROM THE UNITED STATES.—  
10          Any alien whose period of authorized admission or  
11          probationary benefits is terminated under paragraph  
12          (1), as well as the alien's Z-2 nonimmigrant or Z-  
13          3 nonimmigrant dependents, shall depart the United  
14          States immediately.

15          (4) INVALIDATION OF DOCUMENTATION.—Any  
16          documentation that is issued by the Secretary of  
17          Homeland Security under subsection (j) or pursuant  
18          to subsection (h)(4) to any alien, whose period of au-  
19          thorized admission terminates under paragraph (1),  
20          shall automatically be rendered invalid for any pur-  
21          pose except departure.

22          (p) REVOCATION.—If, at any time after an alien has  
23          obtained status under this section, but not yet adjusted  
24          such status to that of an alien lawfully admitted for per-  
25          manent residence under section 602, the Secretary of

1 Homeland Security may, for good and sufficient cause, if  
2 it appears that the alien was not in fact eligible for status  
3 under this section, revoke the alien's status following ap-  
4 propriate notice to the alien.

5 (q) DISSEMINATION OF INFORMATION ON Z PRO-  
6 GRAM.—During the 2-year period immediately after the  
7 issuance of regulations implementing this title, the Sec-  
8 retary, in cooperation with entities approved by the Sec-  
9 retary, shall broadly disseminate information respecting Z  
10 nonimmigrant classification under this section and the re-  
11 quirements to be satisfied to obtain such classification.  
12 The Secretary shall disseminate information to employers  
13 and labor unions to advise them of the rights and protec-  
14 tions available to them and to workers who file applica-  
15 tions under this section. Such information shall be broadly  
16 disseminated, in no fewer than the top 5 principal lan-  
17 guages, as determined by the Secretary in the Secretary's  
18 discretion, spoken by aliens who would qualify for classi-  
19 fication under this section, including to television, radio,  
20 and print media to which such aliens would have access.

21 (r) DEFINITIONS.—In this title:

22 (1) Z NONIMMIGRANT.—The term “Z non-  
23 immigrant” means an alien admitted to the United  
24 States under subparagraph (Z) of section 101(a)(15)  
25 of the Immigration and Nationality Act (8 U.S.C.

1       1101(a)(15)), as added by subsection (b). The term  
2       does not include aliens granted probationary benefits  
3       under subsection (h) or whose applications for non-  
4       immigrant status under such subparagraph (Z) have  
5       not yet been adjudicated.

6           (2) Z-1 NONIMMIGRANT.—The term “Z-1 non-  
7       immigrant” means an alien admitted to the United  
8       States under clause (i) of section 101(a)(15)(Z) of  
9       the Immigration and Nationality Act, as added by  
10      subsection (b).

11          (3) Z-A NONIMMIGRANT.—The term “Z-A non-  
12      immigrant” means an alien admitted to the United  
13      States under subparagraph (Z-A) of section  
14      101(a)(15) of the Immigration and Nationality Act,  
15      as added by section 631.

16          (4) Z-2 NONIMMIGRANT.—The term “Z-2 non-  
17      immigrant” means an alien admitted to the United  
18      States under clause (ii) of section 101(a)(15)(Z) of  
19      the Immigration and Nationality Act, as added by  
20      subsection (b).

21          (5) Z-3 NONIMMIGRANT.—The term “Z-3 non-  
22      immigrant” means an alien admitted to the United  
23      States under clause (iii) of section 101(a)(15)(Z) of  
24      the Immigration and Nationality Act, as added by  
25      subsection (b).

1 **SEC. 02. EARNED ADJUSTMENT FOR Z STATUS ALIENS.**

2 (a) Z-1 NONIMMIGRANTS.—

3 (1) PROHIBITION ON IMMIGRANT VISA.—A Z-1  
4 nonimmigrant may not be issued an immigrant visa  
5 pursuant to sections 221 and 222 of the Immigra-  
6 tion and Nationality Act (8 U.S.C. 1201 and 1202).

7 (2) ADJUSTMENT.—Notwithstanding sub-  
8 sections (a) and (c) of section 245 of the Immigra-  
9 tion and Nationality Act (8 U.S.C. 1255), the status  
10 of any Z-1 nonimmigrant may be adjusted by the  
11 Secretary to that of an alien lawfully admitted for  
12 permanent residence.

13 (3) REQUIREMENTS.—A Z-1 nonimmigrant  
14 may adjust status to that of an alien lawfully admit-  
15 ted for permanent residence upon satisfying, in addi-  
16 tion to all other requirements imposed by law, in-  
17 cluding the merit requirements set forth in section  
18 203(b)(1)(A) of the Immigration and Nationality  
19 Act, as amended by section 502, the following re-  
20 quirements:

21 (A) STATUS.—The alien must be in valid  
22 Z-1 nonimmigrant status.

23 (B) APPROVED PETITION.—The alien must  
24 be the beneficiary of an approved petition under  
25 section 204 of the Immigration and Nationality  
26 Act (8 U.S.C. 1154) or have an approved peti-

1           tion that was filed pursuant to the evaluation  
2           system under section 203(b)(1)(A) of such Act,  
3           as amended by section 502.

4           (C) ADMISSIBILITY.—The alien must not  
5           be inadmissible under section 212(a) of such  
6           Act, except for those grounds previously waived  
7           under subsection (d)(2) of section 601.

8           (D) FEES AND PENALTIES.—In addition to  
9           the fees payable to the Secretary of Homeland  
10          Security and the Secretary of State in connec-  
11          tion with the filing of an immigrant petition  
12          and application for adjustment of status, a Z-  
13          1 nonimmigrant who is the head of household  
14          shall pay a \$4,000 penalty at the time of sub-  
15          mission of any immigrant petition on the alien’s  
16          behalf, regardless of whether the alien submits  
17          such petition on the alien’s own behalf or the  
18          alien is the beneficiary of an immigrant petition  
19          filed by another party.

20          (b) Z-2 AND Z-3 NONIMMIGRANTS.—

21           (1) RESTRICTION ON VISA ISSUANCE OR AD-  
22          JUSTMENT.—An application for an immigrant visa  
23          or for adjustment of status to that of an alien law-  
24          fully admitted for permanent residence of a Z-2  
25          nonimmigrant or a Z-3 nonimmigrant who is under

1 18 years of age may not be approved before the ad-  
2 justment of status of the alien's principal Z-1 non-  
3 immigrant.

4 (2) ADJUSTMENT OF STATUS.—

5 (A) ADJUSTMENT.—Notwithstanding sub-  
6 sections (a) and (c) of section 245 of the Immi-  
7 gration and Nationality Act (8 U.S.C. 1255),  
8 the status of any Z-2 nonimmigrant or Z-3  
9 nonimmigrant may be adjusted by the Secretary  
10 of Homeland Security to that of an alien law-  
11 fully admitted for permanent residence.

12 (B) REQUIREMENTS.—A Z-2 non-  
13 immigrant or Z-3 nonimmigrant may adjust  
14 status to that of an alien lawfully admitted for  
15 permanent residence upon satisfying, in addi-  
16 tion to all other requirements imposed by law,  
17 the following requirements:

18 (i) STATUS.—The alien must be in  
19 valid Z-2 nonimmigrant or Z-3 non-  
20 immigrant status.

21 (ii) APPROVED PETITION.—The alien  
22 must be the beneficiary of an approved pe-  
23 tition under section 204 of the Immigra-  
24 tion and Nationality Act (8 U.S.C. 1154)  
25 or have an approved petition that was filed

1                   pursuant to the merit-based evaluation sys-  
2                   tem under section 203(b)(1)(A) of such  
3                   Act, as amended by section 502.

4                   (iii) ADMISSIBILITY.—The alien must  
5                   not be inadmissible under section 212(a) of  
6                   the Immigration and Nationality Act (8  
7                   U.S.C. 1182(a)), except for those grounds  
8                   previously waived under subsection (d)(2)  
9                   of section 601.

10                  (iv) FEES.—The alien must pay the  
11                  fees payable to the Secretary of Homeland  
12                  Security and the Secretary of State in con-  
13                  nection with the filing of an immigrant pe-  
14                  tition and application for an immigrant  
15                  visa.

16                  (c) MAINTENANCE OF WAIVERS OF INADMIS-  
17                  SIBILITY.—The grounds of inadmissibility not applicable  
18                  under subsection (d)(2) of section 601 shall also be consid-  
19                  ered inapplicable for purposes of admission as an immi-  
20                  grant or adjustment pursuant to this section.

21                  (d) APPLICATION OF OTHER LAW.—In processing  
22                  applications under this section on behalf of aliens who  
23                  have been battered or subjected to extreme cruelty, the  
24                  Secretary of Homeland Security shall apply—

1           (1) the provisions under section 204(a)(1)(J) of  
2           the Immigration and Nationality Act (8 U.S.C.  
3           1154(a)(1)(J)); and

4           (2) the protections, prohibitions, and penalties  
5           under section 384 of the Illegal Immigration Reform  
6           and Immigrant Responsibility Act of 1996 (8 U.S.C.  
7           1367).

8           (e) **BACK OF THE LINE.**—An alien may not adjust  
9           status to that of a lawful permanent resident under this  
10          section until 30 days after an immigrant visa becomes  
11          available for approved petitions filed under sections 201,  
12          202, and 203 of the Immigration and Nationality Act (8  
13          U.S.C. 1151, 1152, and 1153) that were filed before May  
14          1, 2005.

15          (f) **INELIGIBILITY FOR PUBLIC BENEFITS.**—For pur-  
16          poses of section 403 of the Personal Responsibility and  
17          Work Opportunity Reconciliation Act of 1996 (8 U.S.C.  
18          1613), an alien whose status has been adjusted under this  
19          section shall not be eligible for any Federal means-tested  
20          public benefit unless the alien meets the alien eligibility  
21          criteria for such benefit under title IV of such Act (8  
22          U.S.C. 1601 et seq.).

23          (g) **MEDICAL EXAMINATION.**—An applicant for  
24          earned adjustment shall undergo an appropriate medical  
25          examination (including a determination of immunization

1 status) that conforms to generally accepted professional  
2 standards of medical practice.

3 (h) PAYMENT OF INCOME TAXES.—

4 (1) IN GENERAL.—Not later than the date on  
5 which status is adjusted under this section, the ap-  
6 plicant shall satisfy any applicable Federal tax liabil-  
7 ity accrued during the period of Z nonimmigrant  
8 status by establishing that—

9 (A) no such tax liability exists;

10 (B) all outstanding liabilities have been  
11 paid; or

12 (C) the applicant has entered into, and is  
13 in compliance with, an agreement for payment  
14 of all outstanding liabilities with the Internal  
15 Revenue Service.

16 (2) IRS COOPERATION.—The Secretary of the  
17 Treasury shall establish rules and procedures under  
18 which the Commissioner of Internal Revenue shall  
19 provide documentation to—

20 (A) the applicant, upon request, to estab-  
21 lish the payment of all taxes required under  
22 this subsection; or

23 (B) the Secretary, upon request, regarding  
24 the payment of Federal taxes by an alien apply-  
25 ing for a benefit under this section.

1 (i) DEPOSIT OF FEES.—Fees collected under this  
2 paragraph shall be deposited into the Immigration Exam-  
3 ination Fee Account and shall remain available as pro-  
4 vided under subsections (m) and (n) of section 286 of the  
5 Immigration and Nationality Act (8 U.S.C. 1356).

6 (j) DEPOSIT OF PENALTIES.—Penalties collected  
7 under this paragraph shall be deposited into the Tem-  
8 porary Worker Program Account and shall remain avail-  
9 able as provided under subsection (w) of section 286 of  
10 the Immigration and Nationality Act (8 U.S.C. 1356), as  
11 added by section 402.

12 **SEC. 03. ADMINISTRATIVE REVIEW, REMOVAL PRO-**  
13 **CEEDINGS, AND JUDICIAL REVIEW FOR**  
14 **ALIENS WHO HAVE APPLIED FOR LEGAL STA-**  
15 **TUS.**

16 (a) ADMINISTRATIVE REVIEW FOR ALIENS WHO  
17 HAVE APPLIED FOR STATUS UNDER THIS TITLE.—

18 (1) EXCLUSIVE REVIEW.—Administrative re-  
19 view of a determination respecting nonimmigrant  
20 status under this title shall be conducted solely in  
21 accordance with this subsection.

22 (2) ADMINISTRATIVE APPELLATE REVIEW.—  
23 Except as provided in subsection (b)(2), an alien  
24 whose status under this title has been denied, termi-  
25 nated, or revoked may file not more than one appeal

1 of the denial, termination, or rescission with the Sec-  
2 retary not later than 30 calendar days after the date  
3 of the decision or mailing thereof, whichever occurs  
4 later in time. The Secretary shall establish an appel-  
5 late authority to provide for a single level of admin-  
6 istrative appellate review of a denial, termination, or  
7 rescission of status under this Act.

8 (3) STANDARD FOR REVIEW.—Such administra-  
9 tive appellate review shall be based solely upon the  
10 administrative record established at the time of the  
11 determination on the application and upon such ad-  
12 ditional newly discovered or previously unavailable  
13 evidence as the administrative appellate review au-  
14 thority may decide to consider at the time of the de-  
15 termination.

16 (4) LIMITATION ON MOTIONS TO REOPEN AND  
17 RECONSIDER.—During the administrative appellate  
18 review process the alien may file not more than one  
19 motion to reopen or to reconsider. The Secretary's  
20 decision whether to consider any such motion is  
21 committed to the Secretary's discretion.

22 (b) REMOVAL OF ALIENS WHO HAVE BEEN DENIED  
23 STATUS UNDER THIS TITLE.—

24 (1) SELF-INITIATED REMOVAL.—Any alien who  
25 receives a denial under subsection (a) may request,

1 not later than 30 calendar days after the date of the  
2 denial or the mailing thereof, whichever occurs later  
3 in time, that the Secretary place the alien in removal  
4 proceedings. The Secretary shall place the alien in  
5 removal proceedings to which the alien would other-  
6 wise be subject, unless the alien is subject to an ad-  
7 ministratively final order of removal, provided that  
8 no court shall have jurisdiction to review the timing  
9 of the Secretary's initiation of such proceedings. If  
10 the alien is subject to an administratively final order  
11 of removal, the alien may seek review of the denial  
12 under this section pursuant to subsection (h) of sec-  
13 tion 242 of the Immigration and Nationality Act (8  
14 U.S.C. 1252), as added by subsection (c), as though  
15 the order of removal had been entered on the date  
16 of the denial, provided that the court shall not re-  
17 view the order of removal except as otherwise pro-  
18 vided by law.

19 (2) ALIENS WHO ARE DETERMINED TO BE IN-  
20 ELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

21 (A) AGGRAVATED FELONS.—Notwith-  
22 standing any other provision of this Act, an  
23 alien whose application for status under this  
24 title has been denied or whose status has been  
25 terminated or revoked by the Secretary under

1           subclause (II) of subsection 601(d)(1)(A)(vi)  
2           because the alien has been convicted of an ag-  
3           gravated felony (as defined in section  
4           101(a)(43) of the Immigration and Nationality  
5           Act (8 U.S.C. 1101(a)(43))) may be placed  
6           forthwith in proceedings pursuant to section  
7           238(b) of such Act (8 U.S.C. 1228(b)).

8           (B) OTHER CRIMINALS.—Notwithstanding  
9           any other provision of this Act, any other alien  
10          whose application for status under this title has  
11          been denied or whose status has been termi-  
12          nated or revoked by the Secretary under sub-  
13          clause (I), (III), or (IV) of section  
14          601(d)(1)(A)(vi) may be placed immediately in  
15          removal proceedings under section 240 of the  
16          Immigration and Nationality Act (8 U.S.C.  
17          1229a).

18          (C) FINAL DENIAL, TERMINATION, OR RE-  
19          SCISSION.—The Secretary's denial, termination,  
20          or rescission of the status of any alien described  
21          in subparagraph (A) or (B) shall be final for  
22          purposes of subsection (h)(3)(C) of section 242  
23          of the Immigration and Nationality Act, as  
24          added by subsection (c), and shall represent the  
25          exhaustion of all review procedures for purposes

1           of subsection (h) or (o) of section 601, notwith-  
2           standing subsection (a)(2) of this section.

3           (3) LIMITATION ON MOTIONS TO REOPEN AND  
4           RECONSIDER.—During the removal process under  
5           this subsection the alien may file not more than 1  
6           motion to reopen or to reconsider. The Secretary’s  
7           or Attorney General’s decision whether to consider  
8           any such motion is committed to the discretion of  
9           the Secretary or the Attorney General, as appro-  
10          priate.

11          (c) JUDICIAL REVIEW.—Section 242 of the Immigra-  
12          tion and Nationality Act (8 U.S.C. 1252) is amended by  
13          adding at the end the following new subsection:

14          “(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINA-  
15          TIONS RELATING TO STATUS UNDER THE SECURE BOR-  
16          DERS, ECONOMIC OPPORTUNITY AND IMMIGRATION RE-  
17          FORM ACT OF 2007.—

18                 “(1) EXCLUSIVE REVIEW.—Notwithstanding  
19                 any other provision of law, including section 2241 of  
20                 title 28, United States Code, or any other habeas  
21                 corpus provision, and sections 1361 and 1651 of  
22                 such title, and except as provided in this subsection,  
23                 no court shall have jurisdiction to review a deter-  
24                 mination respecting an application for status under  
25                 title \_\_\_\_ of the Secure Borders, Economic Oppor-

1 tunity and Immigration Reform Act of 2007, includ-  
2 ing, without limitation, a denial, termination, or re-  
3 scission of such status.

4 “(2) NO REVIEW FOR LATE FILINGS.—An alien  
5 may not file an application for status under title  
6 \_\_\_\_ of the Secure Borders, Economic Opportunity  
7 and Immigration Reform Act of 2007 beyond the pe-  
8 riod for receipt of such applications established by  
9 section \_\_01(f) of that Act. The denial of any appli-  
10 cation filed beyond the expiration of the period es-  
11 tablished by that subsection shall not be subject to  
12 judicial review or remedy.

13 “(3) REVIEW OF A DENIAL, TERMINATION, OR  
14 RESCISSION OF STATUS.—A denial, termination, or  
15 rescission of status under section \_\_01 of the Secure  
16 Borders, Economic Opportunity and Immigration  
17 Reform Act of 2007 may be reviewed only in con-  
18 junction with the judicial review of an order of re-  
19 moval under this section, provided that—

20 “(A) the venue provision set forth in sub-  
21 section (b)(2) shall govern;

22 “(B) the deadline for filing the petition for  
23 review in subsection (b)(1) shall control;

24 “(C) the alien has exhausted all adminis-  
25 trative remedies available to the alien as of

1 right, including the timely filing of an adminis-  
2 trative appeal pursuant to section \_\_03(a) of  
3 the Secure Borders, Economic Opportunity and  
4 Immigration Reform Act of 2007;

5 “(D) the court shall decide a challenge to  
6 the denial of status only on the administrative  
7 record on which the Secretary’s denial, termi-  
8 nation, or rescission was based;

9 “(E) notwithstanding any other provision  
10 of law, including section 2241 of title 28,  
11 United States Code, or any other habeas corpus  
12 provision, and sections 1361 and 1651 of such  
13 title, no court reviewing a denial, termination,  
14 or rescission of status under title \_\_\_\_ of the  
15 Secure Borders, Economic Opportunity and Im-  
16 migration Reform Act of 2007 may review any  
17 discretionary decision or action of the Secretary  
18 regarding any application for or termination or  
19 rescission of such status; and

20 “(F) an alien may file not more than 1  
21 motion to reopen or to reconsider in pro-  
22 ceedings brought under this section.

23 “(4) STANDARD FOR JUDICIAL REVIEW.—Judi-  
24 cial review of the Secretary of Homeland Security’s  
25 denial, termination, or rescission of status under

1 title \_\_\_\_ of the Secure Borders, Economic Oppor-  
2 tunity and Immigration Reform Act of 2007 relating  
3 to any alien shall be based solely upon the adminis-  
4 trative record before the Secretary when the Sec-  
5 retary enters a final denial, termination, or rescis-  
6 sion. The administrative findings of fact are conclu-  
7 sive unless any reasonable adjudicator would be com-  
8 pelled to conclude to the contrary. The legal deter-  
9 minations are conclusive unless manifestly contrary  
10 to law.

11 “(5) CHALLENGES ON VALIDITY OF THE SYS-  
12 TEM.—

13 “(A) IN GENERAL.—Any claim that title  
14 \_\_\_\_ of the Secure Borders, Economic Oppor-  
15 tunity and Immigration Reform Act of 2007, or  
16 any regulation, written policy, or written direc-  
17 tive issued or unwritten policy or practice initi-  
18 ated by or under the authority of the Secretary  
19 of Homeland Security to implement such title,  
20 violates the Constitution of the United States or  
21 is otherwise in violation of law, is available ex-  
22 clusively in an action instituted in the United  
23 States District Court for the District of Colum-  
24 bia in accordance with the procedures pre-  
25 scribed in this paragraph. Nothing in this sub-

1 paragraph shall preclude an applicant for status  
2 under such title from asserting that an action  
3 taken or decision made by the Secretary with  
4 respect to the applicant's status under such  
5 title was contrary to law in a proceeding under  
6 section \_\_03 of the Secure Borders, Economic  
7 Opportunity and Immigration Reform Act of  
8 2007 and subsection (b)(2) of this section.

9 “(B) DEADLINES FOR BRINGING AC-  
10 TIONS.—Any action instituted under this para-  
11 graph—

12 “(i) shall, if it asserts a claim that  
13 title \_\_\_\_\_ of the Secure Borders, Economic  
14 Opportunity and Immigration Reform Act  
15 of 2007 or any regulation, written policy,  
16 or written directive issued by or under the  
17 authority of the Secretary to implement  
18 such title violates the Constitution or is  
19 otherwise unlawful, be filed not later than  
20 1 year after the date of the publication or  
21 promulgation of the challenged regulation,  
22 policy, or directive or, in cases challenging  
23 the validity of such Act, not later than 1  
24 year after the date of the enactment of  
25 such Act; and

1                   “(ii) shall, if it asserts a claim that an  
2                   unwritten policy or practice initiated by or  
3                   under the authority of the Secretary vio-  
4                   lates the Constitution or is otherwise un-  
5                   lawful, be filed not later than 1 year after  
6                   the plaintiff knew or reasonably should  
7                   have known of the unwritten policy or  
8                   practice.

9                   “(C) CLASS ACTIONS.—Any claim de-  
10                  scribed in subparagraph (A) that is brought as  
11                  a class action shall be brought in conformity  
12                  with the Class Action Fairness Act of 2005  
13                  (Public Law 109–2; 119 Stat. 4), the amend-  
14                  ments made by that Act, and the Federal Rules  
15                  of Civil Procedure.

16                  “(D) PRECLUSIVE EFFECT.—The final dis-  
17                  position of any claim brought under subpara-  
18                  graph (A) shall be preclusive of any such claim  
19                  asserted in a subsequent proceeding under this  
20                  subsection or under section \_\_03 of the Secure  
21                  Borders, Economic Opportunity and Immigra-  
22                  tion Reform Act of 2007.

23                  “(E) EXHAUSTION AND STAY OF PRO-  
24                  CEEDINGS.—No claim brought under this para-  
25                  graph shall require the plaintiff to exhaust ad-

1           ministrative remedies under section \_\_03 of the  
2           Secure Borders, Economic Opportunity and Im-  
3           migration Reform Act of 2007, but nothing  
4           shall prevent the court from staying pro-  
5           ceedings under this paragraph to permit the  
6           Secretary to evaluate an allegation of an un-  
7           written policy or practice or to take corrective  
8           action. In issuing such a stay, the court shall  
9           take into account any harm the stay may cause  
10          to the claimant. The court shall have no author-  
11          ity to stay proceedings initiated under any other  
12          section of this Act.”.

13 **SEC. \_\_04. MANDATORY DISCLOSURE OF INFORMATION.**

14          (a) IN GENERAL.—Except as otherwise provided in  
15 this section, no Federal agency or bureau, or any officer  
16 or employee of such agency or bureau, may—

17           (1) use the information furnished by the appli-  
18          cant pursuant to an application filed under section  
19          \_\_01 and \_\_02, for any purpose, other than to make  
20          a determination on the application;

21           (2) make any publication through which the in-  
22          formation furnished by any particular applicant can  
23          be identified; or

24           (3) permit anyone other than the sworn offi-  
25          cers, employees or contractors of such agency, bu-

1       reau, or approved entity, as approved by the Sec-  
2       retary of Homeland Security, to examine individual  
3       applications that have been filed.

4       (b) **REQUIRED DISCLOSURES.**—The Secretary of  
5       Homeland Security and the Secretary of State shall pro-  
6       vide the information furnished pursuant to an application  
7       filed under section 601 and 602, and any other informa-  
8       tion derived from such furnished information, to—

9               (1) a law enforcement entity, intelligence agen-  
10       cy, national security agency, component of the De-  
11       partment of Homeland Security, court, or grand  
12       jury in connection with a criminal investigation or  
13       prosecution or a national security investigation or  
14       prosecution, in each instance about an individual  
15       suspect or group of suspects, when such information  
16       is requested by such entity;

17               (2) a law enforcement entity, intelligence agen-  
18       cy, national security agency, or component of the  
19       Department of Homeland Security in connection  
20       with a duly authorized investigation of a civil viola-  
21       tion, in each instance about an individual suspect or  
22       group of suspects, when such information is re-  
23       quested by such entity; or

24               (3) an official coroner for purposes of affirma-  
25       tively identifying a deceased individual, whether or

1 not the death of such individual resulted from a  
2 crime.

3 (c) INAPPLICABILITY AFTER DENIAL.—The limita-  
4 tions under subsection (a)—

5 (1) shall apply only until an application filed  
6 under section \_\_ 01 and \_\_ 02 is denied and all op-  
7 portunities for administrative appeal of the denial  
8 have been exhausted; and

9 (2) shall not apply to the use of the information  
10 furnished pursuant to such application in any re-  
11 moval proceeding or other criminal or civil case or  
12 action relating to an alien whose application has  
13 been granted that is based upon any violation of law  
14 committed or discovered after such grant.

15 (d) CRIMINAL CONVICTIONS.—Notwithstanding any  
16 other provision of this section, information concerning  
17 whether the applicant has at any time been convicted of  
18 a crime may be used or released for immigration enforce-  
19 ment and law enforcement purposes.

20 (e) AUDITING AND EVALUATION OF INFORMATION.—  
21 The Secretary may audit and evaluate information fur-  
22 nished as part of any application filed under sections \_\_ 01  
23 and \_\_ 02, any application to extend such status under sec-  
24 tion \_\_ 01(k), or any application to adjust status to that  
25 of an alien lawfully admitted for permanent residence

1 under section \_\_02, for purposes of identifying fraud or  
2 fraud schemes, and may use any evidence detected by  
3 means of audits and evaluations for purposes of inves-  
4 tigating, prosecuting or referring for prosecution, denying,  
5 or terminating immigration benefits.

6 (f) USE OF INFORMATION IN PETITIONS AND APPLI-  
7 CATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If  
8 the Secretary has adjusted an alien’s status to that of an  
9 alien lawfully admitted for permanent residence pursuant  
10 to section \_\_02, then at any time thereafter the Secretary  
11 may use the information furnished by the alien in the ap-  
12 plication for adjustment of status or in the applications  
13 for status pursuant to sections \_\_01 or \_\_02 to make a  
14 determination on any petition or application.

15 (g) CRIMINAL PENALTY.—Any person who knowingly  
16 uses, publishes, or permits information to be examined in  
17 violation of this section shall be fined not more than  
18 \$10,000.

19 (h) CONSTRUCTION.—Nothing in this section shall be  
20 construed to limit the use, or release, for immigration en-  
21 forcement purposes of information contained in files or  
22 records of the Secretary or Attorney General pertaining  
23 to an applications filed under sections \_\_01 or \_\_02, other  
24 than information furnished by an applicant pursuant to

1 the application, or any other information derived from the  
2 application, that is not available from any other source.

3 (i) REFERENCES.—References in this section to sec-  
4 tion \_\_01 or \_\_02 are references to sections \_\_01 and  
5 \_\_02 of this Act and the amendments made by those sec-  
6 tions.

7 **SEC. \_\_05. EMPLOYER PROTECTIONS.**

8 (a) IN GENERAL.—Copies of employment records or  
9 other evidence of employment provided by an alien or by  
10 an alien’s employer in support of an alien’s application  
11 for Z nonimmigrant status shall not be used in a prosecu-  
12 tion or investigation (civil or criminal) of that employer  
13 under section 274A of the Immigration and Nationality  
14 Act (8 U.S.C. 1324a), as amended by title \_\_\_\_, or under  
15 the tax laws of the United States for the prior unlawful  
16 employment of that alien, regardless of the adjudication  
17 of such application or reconsideration by the Secretary of  
18 such alien’s prima facie eligibility determination.

19 (b) APPLICABILITY OF OTHER LAW.—Nothing in  
20 this section may be used to shield an employer from liabil-  
21 ity under section 274B of the Immigration and Nation-  
22 ality Act (8 U.S.C. 1324b) or any other labor or employ-  
23 ment law.

1 **SEC. 06. ENUMERATION OF SOCIAL SECURITY NUMBER.**

2 The Secretary of Homeland Security, in coordination  
3 with the Commissioner of Social Security, shall implement  
4 a system to allow for the prompt enumeration of a social  
5 security account number after the Secretary has granted  
6 an alien Z nonimmigrant status or any probationary bene-  
7 fits based upon application for such status.

8 **SEC. 07. PRECLUSION OF SOCIAL SECURITY CREDITS FOR**  
9 **YEARS PRIOR TO ENUMERATION.**

10 (a) **INSURED STATUS.**—Section 214 of the Social Se-  
11 curity Act (42 U.S.C. 414) is amended by striking sub-  
12 section (c) and inserting the following:

13 “(c)(1) Except as provided in paragraph (2), for pur-  
14 poses of subsections (a) and (b), no quarter of coverage  
15 shall be credited for any calendar year beginning on or  
16 after January 1, 2004, with respect to an individual who  
17 is not a natural-born United States citizen, unless the  
18 Commissioner of Social Security determines, on the basis  
19 of information provided to the Commissioner in accord-  
20 ance with an agreement entered into under subsection (d)  
21 or otherwise, that the individual was authorized to be em-  
22 ployed in the United States during such quarter.

23 “(2) Paragraph (1) shall not apply to an individual  
24 who was assigned a social security account number prior  
25 to January 1, 2004.

1           “(d) Not later than 180 days after the date of the  
2 enactment of this subsection, the Secretary of Homeland  
3 Security shall enter into an agreement with the Commis-  
4 sioner of Social Security to provide such information as  
5 the Commissioner determines necessary to carry out the  
6 limitation on crediting quarters of coverage under sub-  
7 section (c).”.

8           (b) **BENEFIT COMPUTATION.**—Section 215(e) of the  
9 Social Security Act (42 U.S.C. 415(e)) is amended—

10           (1) by striking “and” at the end of paragraph

11           (1);

12           (2) by striking the period at the end of para-  
13 graph (2) and inserting “; and”; and

14           (3) by adding at the end the following new  
15 paragraph:

16           “(3) in computing the average indexed monthly  
17 earnings of an individual, there shall not be counted  
18 any wages or self-employment income for any year  
19 for which no quarter of coverage may be credited to  
20 such individual as a result of the application of sec-  
21 tion 214(c).”.

22           (c) **EFFECTIVE DATE.**—The amendments made by  
23 this section shall apply to benefit applications filed on or  
24 after the date that is 180 days after the date of the enact-  
25 ment of this Act based on the wages or self-employment

1 income of an individual with respect to whom a primary  
2 insurance amount has not been determined under title II  
3 of the Social Security Act (42 U.S.C. 401 et seq.) before  
4 such date.

5 **SEC. \_\_08. PAYMENT OF PENALTIES AND USE OF PEN-**  
6 **ALTIES COLLECTED.**

7 (a) PROCEDURES.—The Secretary shall by regulation  
8 establish procedures allowing for the payment of 80 per-  
9 cent of the penalties described in section \_\_01(e)(5)(B)  
10 and section \_\_02(a)(3)(D) through an installment pay-  
11 ment plan.

12 (b) USE.—Any penalties received under this title with  
13 respect to an application for Z–1 nonimmigrant status  
14 shall be used in the following order of priority:

15 (1) Such penalties shall be credited as offset-  
16 ting collections to appropriations provided pursuant  
17 to section \_\_11 for the fiscal year in which this Act  
18 is enacted and the subsequent fiscal year.

19 (2) Such penalties shall be deposited and re-  
20 main available as otherwise provided under this title.

21 **SEC. \_\_09. LIMITATIONS ON ELIGIBILITY.**

22 (a) IN GENERAL.—An alien is not ineligible for any  
23 immigration benefit under any provision of this title, or  
24 any amendment made by this title, solely on the basis that  
25 the alien violated section 1543, 1544, or 1546 of title 18,

1 United States Code, or any amendments made by this Act,  
2 during the period beginning on the date of the enactment  
3 of this Act and ending on the date on which the alien ap-  
4 plies for any benefits under this title, except with respect  
5 to any forgery, fraud, or misrepresentation on the applica-  
6 tion for Z nonimmigrant status filed by the alien.

7 (b) PROSECUTION.—An alien who commits a viola-  
8 tion of section 1543, 1544, or 1546 of title 18, United  
9 States Code, or any amendments made by this Act, during  
10 the period beginning on the date of the enactment of this  
11 Act and ending on the date on which the alien applies for  
12 eligibility for an immigration benefit described in sub-  
13 section (a) may be prosecuted for the violation if the  
14 alien’s application for such benefit is denied.

15 **SEC. 10. RULEMAKING.**

16 (a) INTERIM FINAL RULE.—The Secretary shall  
17 issue an interim final rule within 6 months of the date  
18 of the enactment of this subtitle to implement this title  
19 and the amendments made by this title. The interim final  
20 rule shall become effective immediately upon publication  
21 in the Federal Register. The interim final rule shall sunset  
22 2 years after issuance unless the Secretary issues a final  
23 rule within 2 years of the issuance of the interim final  
24 rule.

1 (b) EXEMPTION.—The exemption provided under this  
2 section shall sunset not later than 2 years after the date  
3 of the enactment of this subtitle, provided that, such sun-  
4 set shall not be construed to impose any requirements on,  
5 or affect the validity of, any rule issued or other action  
6 taken by the Secretary under such exemptions.

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There are authorized to be appro-  
9 priated to the Secretary of Homeland Security such sums  
10 as may be necessary to carry out this title and the amend-  
11 ments made by this title.

12 (b) AVAILABILITY OF FUNDS.—Funds appropriated  
13 pursuant to subsection (a) shall remain available until ex-  
14 pended.

15 (c) SENSE OF CONGRESS.—It is the sense of the Con-  
16 gress that funds authorized to be appropriated under sub-  
17 section (a) should be directly appropriated so as to facili-  
18 tate the orderly and timely commencement of the proc-  
19 essing of applications filed under sections 01 and 02.

20 **Subtitle B—Dream Act**

21 **SEC. 20. SHORT TITLE.**

22 This subtitle may be cited as the “Development, Re-  
23 lief, and Education for Alien Minors Act of 2007” or the  
24 “DREAM Act of 2007”.

1 **SEC. 21. DEFINITIONS.**

2 In this subtitle:

3 (1) INSTITUTION OF HIGHER EDUCATION.—The  
4 term “institution of higher education” has the  
5 meaning given that term in section 101 of the High-  
6 er Education Act of 1965 (20 U.S.C. 1001).

7 (2) UNIFORMED SERVICES.—The term “uni-  
8 formed services” has the meaning given that term in  
9 section 101(a) of title 10, United States Code.

10 **SEC. 22. ADJUSTMENT OF STATUS OF CERTAIN LONG-  
11 TERM RESIDENTS WHO ENTERED THE  
12 UNITED STATES AS CHILDREN.**

13 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-  
14 DENTS WHO ENTERED THE UNITED STATES AS CHIL-  
15 DREN.—

16 (1) IN GENERAL.—Notwithstanding any other  
17 provision of law and except as otherwise provided in  
18 this subtitle, the Secretary of Homeland Security  
19 may beginning on the date that is 3 years after the  
20 date of the enactment of this Act adjust to the sta-  
21 tus of an alien lawfully admitted for permanent resi-  
22 dence an alien who is determined to be eligible for  
23 or has been granted probationary or Z non-  
24 immigrant status if the alien demonstrates that—

25 (A) the alien has been physically present in  
26 the United States for a continuous period since

1           January 1, 2007, is under 30 years of age on  
2           the date of the enactment of this Act, and had  
3           not yet reached the age of 16 years at the time  
4           of initial entry;

5                   (B) the alien has earned a high school di-  
6           ploma or obtained a general education develop-  
7           ment certificate in the United States;

8                   (C) subject to paragraph (2), the alien has  
9           not abandoned the alien's residence in the  
10          United States;

11                   (D) the alien has—

12                           (i) acquired a degree from an institu-  
13                           tion of higher education in the United  
14                           States or has completed at least 2 years, in  
15                           good standing, in a program for a bach-  
16                           elor's degree or higher degree in the  
17                           United States; or

18                           (ii) served in the uniformed services  
19                           for at least 2 years and, if discharged, has  
20                           received an honorable discharge;

21                   (E) the alien has provided a list of all of  
22           the secondary educational institutions that the  
23           alien attended in the United States; and

1 (F) the alien is in compliance with the eli-  
2 gibility and admissibility criteria set forth in  
3 section 601(d).

4 (2) ABANDONMENT.—The Secretary shall pre-  
5 sume that the alien has abandoned such residence if  
6 the alien is absent from the United States for more  
7 than 365 days, in the aggregate, during the period  
8 of conditional residence, unless the alien dem-  
9 onstrates that alien has not abandoned the alien’s  
10 residence. An alien who is absent from the United  
11 States due to active service in the uniformed services  
12 has not abandoned the alien’s residence in the  
13 United States during the period of such service.

14 (b) TREATMENT OF PERIOD FOR PURPOSES OF NAT-  
15 URALIZATION.—Solely for purposes of title III of the Im-  
16 migration and Nationality Act (8 U.S.C. 1401 et seq.),  
17 an alien who has been granted probationary or Z non-  
18 immigrant status and has satisfied the requirements of  
19 paragraphs (A) through (F) of subsection (a)(1) shall be-  
20 ginning on the date that is 8 years after the date of the  
21 enactment of this Act be considered to have satisfied the  
22 requirements of section 316(a)(1) of the Immigration and  
23 Nationality Act (8 U.S.C. 1427(a)(1)).

24 (c) EXEMPTION FROM NUMERICAL LIMITATIONS.—  
25 Nothing in this section may be construed to apply a nu-

1 merical limitation on the number of aliens who may be  
2 eligible for adjustment of status.

3 (d) REGULATIONS.—

4 (1) PROPOSED REGULATIONS.—Not later than  
5 180 days after the date of the enactment of this Act,  
6 the Secretary shall publish proposed regulations im-  
7 plementing this section. Such regulations shall be ef-  
8 fective immediately on an interim basis, but are sub-  
9 ject to change and revision after public notice and  
10 opportunity for a period for public comment.

11 (2) INTERIM, FINAL REGULATIONS.—Within a  
12 reasonable time after publication of the interim reg-  
13 ulations in accordance with paragraph (1), the Sec-  
14 retary shall publish final regulations implementing  
15 this section.

16 **SEC. 23. EXPEDITED PROCESSING OF APPLICATIONS;**  
17 **PROHIBITION ON FEES.**

18 Regulations promulgated under this subtitle shall  
19 provide that no additional fee will be charged to an appli-  
20 cant for a Z nonimmigrant visa for applying for benefits  
21 under this subtitle.

22 **SEC. 24. HIGHER EDUCATION ASSISTANCE.**

23 (a) INAPPLICABILITY OF OTHER LAWS.—Section 505  
24 of the Illegal Immigration Reform and Immigrant Respon-  
25 sibility Act of 1996 (8 U.S.C. 1623) shall have no force

1 or effect with respect to an alien who has been granted  
2 probationary or Z nonimmigrant status.

3 (b) ASSISTANCE.—Notwithstanding any provision of  
4 the Higher Education Act of 1965 (20 U.S.C. 1001 et  
5 seq.), with respect to assistance provided under title IV  
6 of the Higher Education Act of 1965 (20 U.S.C. 1070  
7 et seq.), an alien who adjusts status to that of a lawful  
8 permanent resident under this title, or who is a proba-  
9 tionary Z or Z nonimmigrant under this title and who  
10 meets the eligibility criteria set forth in subparagraphs  
11 (A), (B), and (F) of section 622(a)(1), shall be eligible  
12 for the following assistance under such title IV:

13 (1) Student loans under parts B, D, and E of  
14 such title IV, subject to the requirements of such  
15 parts.

16 (2) Federal work-study programs under part C  
17 of such title IV, subject to the requirements of such  
18 part.

19 (3) Services under such title IV, subject to the  
20 requirements for such services.

21 **SEC. \_\_ 25. DELAY OF FINES AND FEES.**

22 (a) IN GENERAL.—Payment of the penalties and fees  
23 specified in section \_\_ 01(e)(5) shall not be required with  
24 respect to an alien who meets the eligibility criteria set  
25 forth in subparagraphs (A), (B), and (F) of section

1 \_\_22(a)(1) until the date that is 6 years and 6 months  
2 after the date of the enactment of this Act or the alien  
3 reaches the age of 24, whichever is later. If the alien  
4 makes all of the demonstrations specified in section  
5 \_\_22(a)(1) by such date, the penalties shall be waived. If  
6 the alien fails to make the demonstrations specified in sec-  
7 tion \_\_22(a)(1) by such date, the alien's Z nonimmigrant  
8 status will be terminated unless the alien pays the pen-  
9 alties and fees specified in section \_\_01(e)(5) consistent  
10 with the procedures set forth in section \_\_08 within 90  
11 days.

12 (b) REFUNDS.—With respect to an alien who meets  
13 the eligibility criteria set forth in subparagraphs (A) and  
14 (F) of section \_\_22(a)(1), but not the eligibility criteria  
15 in section \_\_22(a)(1)(B), the individual who pays the pen-  
16 alties specified in section \_\_01(e)(5) shall be entitled to  
17 a refund when the alien makes all the demonstrations  
18 specified in section \_\_22(a)(1).

19 **SEC. 26. GAO REPORT.**

20 Not later than 7 years after the date of the enact-  
21 ment of this Act, the Comptroller General of the United  
22 States shall submit a report to the Committee on the Judi-  
23 ciary of the Senate and the Committee on the Judiciary  
24 of the House of Representatives, which sets forth—

1           (1) the number of aliens who were eligible for  
2           adjustment of status under section \_\_22;

3           (2) the number of aliens who applied for adjust-  
4           ment of status under section \_\_22; and

5           (3) the number of aliens who were granted ad-  
6           justment of status under section \_\_22.

7 **SEC. \_\_27. REGULATIONS; EFFECTIVE DATE; AUTHORIZA-**  
8 **TION OF APPROPRIATIONS.**

9           (a) **REGULATIONS.**—The Secretary of Homeland Se-  
10          curity shall issue regulations to carry out the amendments  
11          made by this subtitle not later than the first day of the  
12          seventh month that begins after the date of the enactment  
13          of this Act.

14          (b) **EFFECTIVE DATE.**—This subtitle shall take effect  
15          on the date that regulations required by subsection (a) are  
16          issued, regardless of whether such regulations are issued  
17          on an interim basis or on any other basis.

18          (c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
19          are authorized to be appropriated to the Secretary of  
20          Homeland Security such sums as may be necessary to im-  
21          plement this subtitle, including any sums needed for costs  
22          associated with the initiation of such implementation.

## 1     **Subtitle C—Agricultural Workers**

### 2     **SEC. \_\_ 30. SHORT TITLE.**

3           This subtitle may be cited as the “Agricultural Job  
4 Opportunities, Benefits, and Security Act of 2007” or the  
5 “AgJOBS Act of 2007”.

### 6                           **PART I—ADMISSION**

### 7     **SEC. \_\_ 31. ADMISSION OF AGRICULTURAL WORKERS.**

8           (a) Z–A NONIMMIGRANT VISA CATEGORY.—

9                   (1) ESTABLISHMENT.—Paragraph (15) of sec-  
10 tion 101(a) of the Immigration and Nationality Act  
11 (8 U.S.C. 1101(a)), as amended by section \_\_ 01(b),  
12 is further amended by adding at the end the fol-  
13 lowing new subparagraph:

14                           “(Z–A)(i) an alien who is coming to the  
15 United States to perform any service or activity  
16 that is considered to be agricultural under sec-  
17 tion 3(f) of the Fair Labor Standards Act of  
18 1938 (29 U.S.C. 203(f)), agricultural labor  
19 under section 3121(g) of the Internal Revenue  
20 Code of 1986, or the performance of agricul-  
21 tural labor or services described in subpara-  
22 graph (H)(ii)(a), who meets the requirements of  
23 section 214A; or

1                   “(ii) the spouse or minor child of an alien  
2                   described in clause (i) who is residing in the  
3                   United States.”.

4           (b) REQUIREMENTS FOR ISSUANCE OF NON-  
5 IMMIGRANT VISA.—Chapter 2 of title II of the Immigra-  
6 tion and Nationality Act (8 U.S.C. 1181 et seq.) is amend-  
7 ed by inserting after section 214 the following:

8 **“SEC. 214A. ADMISSION OF AGRICULTURAL WORKERS.**

9           “(a) DEFINITIONS.—In this section:

10                   “(1) AGRICULTURAL EMPLOYMENT.—The term  
11                   ‘agricultural employment’ means any service or ac-  
12                   tivity that is considered to be agricultural under sec-  
13                   tion 3(f) of the Fair Labor Standards Act of 1938  
14                   (29 U.S.C. 203(f)) or agricultural labor under sec-  
15                   tion 3121(g) of the Internal Revenue Code of 1986  
16                   or the performance of agricultural labor or services  
17                   described in section 101(a)(15)(H)(ii)(a).

18                   “(2) DEPARTMENT.—The term ‘Department’  
19                   means the Department of Homeland Security.

20                   “(3) EMPLOYER.—The term ‘employer’ means  
21                   any person or entity, including any farm labor con-  
22                   tractor and any agricultural association, that em-  
23                   ploys workers in agricultural employment.

24                   “(4) QUALIFIED DESIGNATED ENTITY.—The  
25                   term ‘qualified designated entity’ means—

1           “(A) a qualified farm labor organization or  
2           an association of employers designated by the  
3           Secretary; or

4           “(B) any such other person designated by  
5           the Secretary if the Secretary determines such  
6           person is qualified and has substantial experi-  
7           ence, demonstrated competence, and a history  
8           of long-term involvement in the preparation and  
9           submission of applications for adjustment of  
10          status under section 209, 210, or 245, the Act  
11          entitled ‘An Act to adjust the status of Cuban  
12          refugees to that of lawful permanent residents  
13          of the United States, and for other purposes’,  
14          approved November 2, 1966 (Public Law 89–  
15          732; 8 U.S.C. 1255 note), Public Law 95–145  
16          (8 U.S.C. 1255 note), or the Immigration Re-  
17          form and Control Act of 1986 (Public Law 99–  
18          603; 100 Stat. 3359) or any amendment made  
19          by such Act.

20          “(5) SECRETARY.—Except as otherwise pro-  
21          vided, the term ‘Secretary’ means the Secretary of  
22          Homeland Security.

23          “(6) TEMPORARY.—A worker is employed on a  
24          ‘temporary’ basis when the employment is intended  
25          not to exceed 10 months.

1           “(7) WORK DAY.—The term ‘work day’ means  
2 any day in which the individual is employed 5.75 or  
3 more hours in agricultural employment.

4           “(8) Z–A DEPENDENT VISA.—The term ‘Z–A  
5 dependent visa’ means a nonimmigrant visa issued  
6 pursuant to section 101(a)(15)(Z–A)(ii).

7           “(9) Z–A VISA.—The term ‘Z–A visa’ means a  
8 nonimmigrant visa issued pursuant to section  
9 101(a)(15)(Z–A)(i).

10          “(b) AUTHORIZATION FOR PRESENCE, EMPLOY-  
11 MENT, AND TRAVEL IN THE UNITED STATES.—

12           “(1) IN GENERAL.—An alien issued a Z–A visa  
13 or a Z–A dependent visa may remain in, and be em-  
14 ployed in, the United States during the period such  
15 visa is valid.

16           “(2) AUTHORIZED EMPLOYMENT.—The Sec-  
17 retary shall provide an alien who is issued a Z–A  
18 visa or a Z–A dependent visa an employment author-  
19 ized endorsement or other appropriate work permit,  
20 in the same manner as an alien lawfully admitted  
21 for permanent residence.

22           “(3) AUTHORIZED TRAVEL.—An alien who is  
23 issued a Z–A visa or a Z–A dependent visa is au-  
24 thorized to travel outside the United States (includ-  
25 ing commuting to the United States from a resi-

1        dence in a foreign country) in the same manner as  
2        an alien lawfully admitted for permanent residence.

3        “(c) QUALIFICATIONS.—

4            “(1) Z–A VISA.—Notwithstanding any other  
5        provision of law, the Secretary shall, pursuant to the  
6        requirements of this section, issued a Z–A visa to an  
7        alien if the Secretary determines that the alien—

8            “(A) has performed agricultural employ-  
9        ment in the United States for at least 863  
10       hours or 150 work days during the 24-month  
11       period ending on December 31, 2006;

12           “(B) applied for such status during the  
13       18-month application period beginning on the  
14       first day of the seventh month that begins after  
15       the date of the enactment of this Act;

16           “(C) is admissible to the United States  
17       under section 212, except as otherwise provided  
18       in paragraph (4);

19           “(D) has not been convicted of any felony  
20       or a misdemeanor, an element of which involves  
21       bodily injury, threat of serious bodily injury, or  
22       harm to property in excess of \$500; and

23           “(E) meets the requirements of paragraph  
24       (3).

1           “(2) Z–A DEPENDENT VISA.—Notwithstanding  
2 any other provision of law, the Secretary shall issue  
3 a Z–A dependent visa to an alien who is—

4           “(A) described in section 101(a)(15)(Z–  
5 A)(ii);

6           “(B) meets the requirements of paragraph  
7 (3); and

8           “(C) is admissible to the United States  
9 under section 212, except as otherwise provided  
10 in paragraph (4).

11           “(3) SECURITY AND LAW ENFORCEMENT BACK-  
12 GROUND CHECKS.—

13           “(A) FINGERPRINTS.—An alien seeking a  
14 Z–A visa or a Z–A dependent visa shall submit  
15 fingerprints to the Secretary at such time and  
16 in manner as the Secretary may require.

17           “(B) BACKGROUND CHECKS.—The Sec-  
18 retary shall utilize fingerprints provided under  
19 subparagraph (A) and other biometric data pro-  
20 vided by an alien to conduct a background  
21 check of the alien, including searching the  
22 alien’s criminal history and any law enforce-  
23 ment actions taken with respect to the alien  
24 and ensuring that the alien is not a risk to na-  
25 tional security.

1           “(4) WAIVER OF CERTAIN GROUNDS OF INAD-  
2           MISSIBILITY.—In the determination of an alien’s eli-  
3           gibility for a Z–A visa or a Z–A dependent visa the  
4           following shall apply:

5                   “(A) GROUNDS OF EXCLUSION NOT APPLI-  
6           CABLE.—The provisions of paragraphs (5),  
7           (6)(A), (7), and (9) of section 212(a) shall not  
8           apply.

9                   “(B) WAIVER OF OTHER GROUNDS.—

10                   “(i) IN GENERAL.—Except as pro-  
11           vided in clause (ii), the Secretary may  
12           waive any provision of section 212(a),  
13           other than the paragraphs described in  
14           subparagraph (A), in the case of individual  
15           aliens for humanitarian purposes, to en-  
16           sure family unity, or if such waiver is oth-  
17           erwise in the public interest.

18                   “(ii) GROUNDS THAT MAY NOT BE  
19           WAIVED.—Except as provided in subpara-  
20           graph (C), subparagraphs (A), (B), and  
21           (C) of paragraph (2), and paragraphs (3)  
22           and (4) of section 212(a) may not be  
23           waived by the Secretary under clause (i).

24                   “(iii) CONSTRUCTION.—Nothing in  
25           this subparagraph shall be construed as af-

1           fecting the authority of the Secretary other  
2           than under this subparagraph to waive  
3           provisions of such section 212(a).

4           “(C) SPECIAL RULE FOR DETERMINATION  
5           OF PUBLIC CHARGE.—An alien is not ineligible  
6           for a Z–A visa or a Z–A dependent visa by rea-  
7           son of a ground of inadmissibility under section  
8           212(a)(4) if the alien demonstrates a history of  
9           employment in the United States evidencing  
10          self-support without reliance on public cash as-  
11          sistance.

12          “(d) APPLICATION.—

13           “(1) IN GENERAL.—An alien seeking a Z–A  
14          visa shall submit an application to the Secretary for  
15          such a visa, including information regarding any Z–  
16          A dependent visa for the spouse of child of the alien.

17           “(2) SUBMISSION.—Applications for a Z–A visa  
18          under paragraph (1) may be submitted—

19           “(A) to the Secretary if the applicant is  
20          represented by an attorney or a nonprofit reli-  
21          gious, charitable, social service, or similar orga-  
22          nization recognized by the Board of Immigra-  
23          tion Appeals under section 292.2 of title 8,  
24          Code of Federal Regulations (or similar suc-  
25          cessor regulations); or

1           “(B) to a qualified designated entity if the  
2           applicant consents to the forwarding of the ap-  
3           plication to the Secretary.

4           “(3) PROOF OF ELIGIBILITY.—

5           “(A) IN GENERAL.—An alien may estab-  
6           lish that the alien meets the requirement for a  
7           Z–A visa through government employment  
8           records or records supplied by employers or col-  
9           lective bargaining organizations, and other reli-  
10          able documentation as the alien may provide.  
11          The Secretary shall establish special procedures  
12          to properly credit work in cases in which an  
13          alien was employed under an assumed name.

14          “(B) DOCUMENTATION OF WORK HIS-  
15          TORY.—

16                 “(i) BURDEN OF PROOF.—An alien  
17                 applying for a Z–A visa or applying for ad-  
18                 justment of status described in subsection  
19                 (j) has the burden of proving by a prepon-  
20                 derance of the evidence that the alien has  
21                 performed the requisite number of hours or  
22                 days of agricultural employment required  
23                 for such application or adjustment of sta-  
24                 tus, as applicable.



1           whom the application is being submitted  
2           has consented to such forwarding;

3           “(ii) not to forward to the Secretary  
4           any such application if such an alien has  
5           not consented to such forwarding; and

6           “(iii) to assist an alien in obtaining  
7           documentation of the alien’s work history,  
8           if the alien requests such assistance.

9           “(B) NO AUTHORITY TO MAKE DETER-  
10          MINATIONS.—No qualified designated entity  
11          may make a determination required by this sec-  
12          tion to be made by the Secretary.

13          “(5) APPLICATION FEES.—

14          “(A) FEE SCHEDULE.—The Secretary  
15          shall provide for a schedule of fees that—

16                 “(i) shall be charged for applying for  
17                 a Z–A visa under this section or for an ad-  
18                 justment of status described in subsection  
19                 (j); and

20                 “(ii) may be charged by qualified des-  
21                 ignated entities to help defray the costs of  
22                 services provided to such aliens making  
23                 such an application.

24          “(B) PROHIBITION ON EXCESS FEES BY  
25          QUALIFIED DESIGNATED ENTITIES.—A quali-

1           fied designated entity may not charge any fee  
2           in excess of, or in addition to, the fees author-  
3           ized under subparagraph (A)(ii) for services  
4           provided to applicants.

5           “(6) LIMITATION ON ACCESS TO INFORMA-  
6           TION.—Files and records collected or compiled by a  
7           qualified designated entity for the purposes of this  
8           section are confidential and the Secretary shall not  
9           have access to such a file or record relating to an  
10          alien without the consent of the alien, except as al-  
11          lowed by a court order.

12          “(7) TREATMENT OF APPLICANTS.—

13                 “(A) IN GENERAL.—An alien who files an  
14                 application under this section to receive a Z–A  
15                 visa and any spouse or child of the alien seek-  
16                 ing a Z–A dependant visa, on the date de-  
17                 scribed in subparagraph (B)—

18                         “(i) shall be granted probationary  
19                         benefits in the form of employment author-  
20                         ization pending final adjudication of the  
21                         alien’s application;

22                         “(ii) may in the Secretary’s discretion  
23                         receive advance permission to re-enter the  
24                         United States pursuant to existing regula-  
25                         tions governing advance parole;

1           “(iii) may not be detained for immi-  
2           gration purposes, determined inadmissible  
3           or deportable, or removed pending final ad-  
4           judication of the alien’s application, unless  
5           the alien is determined to be ineligible for  
6           Z–A visa; and

7           “(iv) may not be considered an unau-  
8           thorized alien (as defined in section 274A)  
9           until the date on which the alien’s applica-  
10          tion for a Z–A visa is denied.

11          “(B) TIMING OF PROBATIONARY BENE-  
12          FITS.—

13           “(i) IN GENERAL.—Subject to clause  
14           (ii), an alien who submits an application  
15           for a Z–A visa under this subsection, in-  
16           cluding any evidence required under this  
17           subsection, and any spouse or child of the  
18           alien seeking a Z–A dependent visa shall  
19           receive the probationary benefits described  
20           in clauses (i) through (iv) of subparagraph  
21           (A) at the earlier of—

22           “(I) the date and time that the  
23           alien has passed all appropriate back-  
24           ground checks, including name and  
25           fingerprint checks; or

1                   “(II) the end of the next business  
2                   day after the date that the Secretary  
3                   receives the alien’s application for a  
4                   Z–A visa.

5                   “(ii) EXCEPTION.—If the Secretary  
6                   determines that the alien fails the back-  
7                   ground checks referred to in clause (i)(I),  
8                   the alien may not be granted probationary  
9                   benefits described in clauses (i) through  
10                  (iv) of subparagraph (A).

11                  “(C) PROBATIONARY AUTHORIZATION DOC-  
12                  UMENT.—The Secretary shall provide each alien  
13                  granted probationary benefits described in  
14                  clauses (i) through (iv) of subparagraph (A)  
15                  with a counterfeit-resistant document that re-  
16                  flects the benefits and status set forth in sub-  
17                  paragraph (A). The Secretary may, by regula-  
18                  tion, establish procedures for the issuance of  
19                  documentary evidence of probationary benefits  
20                  and, except as provided herein, the conditions  
21                  under which such documentary evidence ex-  
22                  pires, terminates, or is renewed.

23                  “(D) CONSTRUCTION.—Nothing in this  
24                  section may be construed to limit the Sec-  
25                  retary’s authority to conduct any appropriate

1 background and security checks subsequent to  
2 issuance of evidence of probationary benefits  
3 under this paragraph.

4 “(8) TEMPORARY STAY OF REMOVAL AND WORK  
5 AUTHORIZATION FOR CERTAIN APPLICANTS.—

6 “(A) BEFORE APPLICATION PERIOD.—Be-  
7 ginning on the date of the enactment of the  
8 AgJOBS Act of 2007, the Secretary shall pro-  
9 vide that, in the case of an alien who is appre-  
10 hended prior to the first date of the application  
11 period described in subsection (c)(1)(B) and  
12 who can establish a nonfrivolous case of eligi-  
13 bility for a Z–A visa (but for the fact that the  
14 alien may not apply for such status until the  
15 beginning of such period), the alien—

16 “(i) may not be removed; and

17 “(ii) shall be granted authorization to  
18 engage in employment in the United States  
19 and be provided an employment authorized  
20 endorsement or other appropriate work  
21 permit for such purpose.

22 “(B) DURING APPLICATION PERIOD.—The  
23 Secretary shall provide that, in the case of an  
24 alien who presents a nonfrivolous application  
25 for Z–A visa during the application period de-

1           scribed in subsection (c)(1)(B), including an  
2           alien who files such an application within 30  
3           days of the alien’s apprehension, and until a  
4           final determination on the application has been  
5           made in accordance with this section, the  
6           alien—

7                           “(i) may not be removed; and

8                           “(ii) shall be granted authorization to  
9                           engage in employment in the United States  
10                          and be provided an employment authorized  
11                          endorsement or other appropriate work  
12                          permit for such purpose.

13           “(e) NUMERICAL LIMITATIONS.—

14                          “(1) Z–A VISA.—The Secretary may not issue  
15                          more than 1,500,000 Z–A visas.

16                          “(2) Z–A DEPENDENT VISA.—The Secretary  
17                          may not count any Z–A dependent visa issued  
18                          against the numerical limitation described in para-  
19                          graph (1).

20           “(f) EVIDENCE OF NONIMMIGRANT STATUS.—

21                          “(1) IN GENERAL.—Documentary evidence of  
22                          nonimmigrant status shall be issued to each alien  
23                          granted a Z–A visa or a Z–A dependent visa.

1           “(2) FEATURES OF DOCUMENTATION.—Docu-  
2           mentary evidence of a Z–A visa or a Z–A dependent  
3           visa—

4                   “(A) shall be machine-readable, tamper-re-  
5                   sistant, and shall contain a digitized photo-  
6                   graph and other biometric identifiers that can  
7                   be authenticated;

8                   “(B) shall be designed in consultation with  
9                   U.S. Immigration and Customs Enforcement’s  
10                  Forensic Document Laboratory;

11                  “(C) shall serve as a valid travel and entry  
12                  document for an alien granted a Z–A visa or a  
13                  Z–A dependent visa for the purpose of applying  
14                  for admission to the United States where the  
15                  alien is applying for admission at a port of  
16                  entry;

17                  “(D) may be accepted during the period of  
18                  its validity by an employer as evidence of em-  
19                  ployment authorization and identity under sec-  
20                  tion 274A; and

21                  “(E) shall be issued to the alien granted  
22                  the visa by the Secretary promptly after final  
23                  adjudication of such alien’s application for the  
24                  visa, except that an alien may not be granted  
25                  a Z–A visa or a Z–A dependent visa until all

1           appropriate background checks on each alien  
2           are completed to the satisfaction of the Sec-  
3           retary.

4           “(g) FINE.—An alien granted a Z–A visa shall pay  
5 a fine of \$100 to the Secretary.

6           “(h) TREATMENT OF ALIENS GRANTED A Z–A  
7 VISA.—

8           “(1) IN GENERAL.—Except as otherwise pro-  
9           vided under this subsection, an alien issued a Z–A  
10          visa or a Z–A dependent visa shall be considered to  
11          be an alien lawfully admitted for permanent resi-  
12          dence for purposes of any law other than any provi-  
13          sion of this Act.

14          “(2) DELAYED ELIGIBILITY FOR CERTAIN FED-  
15          ERAL PUBLIC BENEFITS.—An alien issued a Z–A  
16          visa shall not be eligible, by reason of such status,  
17          for any form of assistance or benefit described in  
18          section 403(a) of the Personal Responsibility and  
19          Work Opportunity Reconciliation Act of 1996 (8  
20          U.S.C. 1613(a)) until 5 years after the date on  
21          which the alien is granted an adjustment of status  
22          under subsection (d).

23          “(3) TERMS OF EMPLOYMENT.—

24                  “(A) PROHIBITION.—No alien issued a Z–  
25          A visa may be terminated from employment by

1 any employer during the period of a Z–A visa  
2 except for just cause.

3 “(B) TREATMENT OF COMPLAINTS.—

4 “(i) ESTABLISHMENT OF PROCESS.—

5 The Secretary shall establish a process for  
6 the receipt, initial review, and disposition  
7 of complaints by aliens issued a Z–A visa  
8 who allege that they have been terminated  
9 without just cause. No proceeding shall be  
10 conducted under this subparagraph with  
11 respect to a termination unless the Sec-  
12 retary determines that the complaint was  
13 filed not later than 6 months after the  
14 date of the termination.

15 “(ii) INITIATION OF ARBITRATION.—

16 If the Secretary finds that an alien has  
17 filed a complaint in accordance with clause  
18 (i) and there is reasonable cause to believe  
19 that the alien was terminated from employ-  
20 ment without just cause, the Secretary  
21 shall initiate binding arbitration pro-  
22 ceedings by requesting the Federal Medi-  
23 ation and Conciliation Service to appoint a  
24 mutually agreeable arbitrator from the ros-  
25 ter of arbitrators maintained by such Serv-

1           ice for the geographical area in which the  
2           employer is located. The procedures and  
3           rules of such Service shall be applicable to  
4           the selection of such arbitrator and to such  
5           arbitration proceedings. The Secretary  
6           shall pay the fee and expenses of the arbi-  
7           trator, subject to the availability of appro-  
8           priations for such purpose.

9           “(iii) ARBITRATION PROCEEDINGS.—

10          The arbitrator shall conduct the pro-  
11          ceeding under this subparagraph in accord-  
12          ance with the policies and procedures pro-  
13          mulgated by the American Arbitration As-  
14          sociation applicable to private arbitration  
15          of employment disputes. The arbitrator  
16          shall make findings respecting whether the  
17          termination was for just cause. The arbi-  
18          trator may not find that the termination  
19          was for just cause unless the employer so  
20          demonstrates by a preponderance of the  
21          evidence. If the arbitrator finds that the  
22          termination was not for just cause, the ar-  
23          bitrator shall make a specific finding of the  
24          number of days or hours of work lost by  
25          the employee as a result of the termi-

1 nation. The arbitrator shall have no au-  
2 thority to order any other remedy, includ-  
3 ing reinstatement, back pay, or front pay  
4 to the affected employee. Not later than 30  
5 days after the date of the conclusion of the  
6 arbitration proceeding, the arbitrator shall  
7 transmit the findings in the form of a writ-  
8 ten opinion to the parties to the arbitration  
9 and the Secretary. Such findings shall be  
10 final and conclusive, and no official or  
11 court of the United States shall have the  
12 power or jurisdiction to review any such  
13 findings.

14 “(iv) EFFECT OF ARBITRATION FIND-  
15 INGS.—If the Secretary receives a finding  
16 of an arbitrator that an employer has ter-  
17 minated the employment of an alien who is  
18 issued a Z–A visa without just cause, the  
19 Secretary shall credit the alien for the  
20 number of days of work not performed  
21 during such period of termination for the  
22 purpose of determining if the alien meets  
23 the qualifying employment requirement of  
24 subsection (f)(2).

1           “(v) TREATMENT OF ATTORNEY’S  
2 FEES.—Each party to an arbitration under  
3 this subparagraph shall bear the cost of  
4 their own attorney’s fees for the arbitra-  
5 tion.

6           “(vi) NONEXCLUSIVE REMEDY.—The  
7 complaint process provided for in this sub-  
8 paragraph is in addition to any other  
9 rights an employee may have in accordance  
10 with applicable law.

11           “(vii) EFFECT ON OTHER ACTIONS OR  
12 PROCEEDINGS.—Any finding of fact or  
13 law, judgment, conclusion, or final order  
14 made by an arbitrator in the proceeding  
15 before the Secretary shall not be conclusive  
16 or binding in any separate or subsequent  
17 action or proceeding between the employee  
18 and the employee’s current or prior em-  
19 ployer brought before an arbitrator, admin-  
20 istrative agency, court, or judge of any  
21 State or the United States, regardless of  
22 whether the prior action was between the  
23 same or related parties or involved the  
24 same facts, except that the arbitrator’s  
25 specific finding of the number of days or

1 hours of work lost by the employee as a re-  
2 sult of the employment termination may be  
3 referred to the Secretary pursuant to  
4 clause (iv).

5 “(4) RECORD OF EMPLOYMENT.—

6 “(A) IN GENERAL.—Each employer of an  
7 alien who is issued a Z–A visa shall annually—

8 “(i) provide a written record of em-  
9 ployment to the alien; and

10 “(ii) provide a copy of such record to  
11 the Secretary.

12 “(B) CIVIL PENALTIES.—

13 “(i) IN GENERAL.—If the Secretary  
14 finds, after notice and opportunity for a  
15 hearing, that an employer of an alien  
16 issued a Z–A visa has failed to provide the  
17 record of employment required under sub-  
18 paragraph (A) or has provided a false  
19 statement of material fact in such a  
20 record, the employer shall be subject to a  
21 civil money penalty in an amount not to  
22 exceed \$1,000 per violation.

23 “(ii) LIMITATION.—The penalty appli-  
24 cable under clause (i) for failure to provide  
25 records shall not apply unless the alien has

1 provided the employer with evidence of em-  
2 ployment authorization granted under this  
3 subsection.

4 “(i) TERMINATION OF A GRANT OF Z–A VISA.—

5 “(1) IN GENERAL.—The Secretary may termi-  
6 nate a Z–A visa or a Z–A dependent visa issued to  
7 an alien only if the Secretary determines that the  
8 alien is deportable.

9 “(2) GROUNDS FOR TERMINATION.—Prior to  
10 the date that an alien granted a Z–A visa or a Z–  
11 A dependent visa becomes eligible for adjustment of  
12 status described in subsection (j), the Secretary may  
13 deny adjustment to permanent resident status and  
14 provide for termination of the alien’s Z–A visa or Z–  
15 A dependent visa if—

16 “(A) the Secretary finds, by a preponder-  
17 ance of the evidence, that the issuance of a Z–  
18 A visa was the result of fraud or willful mis-  
19 representation (as described in section  
20 212(a)(6)(C)(i)); or

21 “(B) the alien—

22 “(i) commits an act that makes the  
23 alien inadmissible to the United States as  
24 an immigrant, except as provided under  
25 subsection (c)(4);

1           “(ii) is convicted of a felony or 3 or  
2           more misdemeanors committed in the  
3           United States;

4           “(iii) is convicted of an offense, an  
5           element of which involves bodily injury,  
6           threat of serious bodily injury, or harm to  
7           property in excess of \$500; or

8           “(iv) in the case of an alien issued a  
9           Z–A visa, fails to perform the agricultural  
10          employment described in subsection  
11          (j)(1)(A) unless the alien was unable to  
12          work in agricultural employment due to  
13          the extraordinary circumstances described  
14          in subsection (j)(1)(A)(iii).

15          “(3) REPORTING REQUIREMENT.—The Sec-  
16          retary shall promulgate regulations to ensure that  
17          the alien issued a Z–A visa complies with the quali-  
18          fying agricultural employment described in sub-  
19          section (j)(1)(A) at the end of the 5-year work pe-  
20          riod, which may include submission of an application  
21          pursuant to this subsection.

22          “(j) ADJUSTMENT TO PERMANENT RESIDENCE.—

23                 “(1) Z–A VISA.—Except as provided in this  
24                 subsection, the Secretary shall award the maximum  
25                 number of points available pursuant to section



1 least 150 workdays during 3 years of those  
2 4 years and at least 100 workdays during  
3 the remaining year, during the 4-year pe-  
4 riod beginning on such date of enactment.

5 “(iii) EXTRAORDINARY CIR-  
6 CUMSTANCES.—In determining whether an  
7 alien has met the requirement of clause (i),  
8 the Secretary may credit the alien with not  
9 more than 12 additional months to meet  
10 the requirement of that clause if the alien  
11 was unable to work in agricultural employ-  
12 ment due to—

13 “(I) pregnancy, injury, or dis-  
14 ease, if the alien can establish such  
15 pregnancy, disabling injury, or disease  
16 through medical records;

17 “(II) illness, disease, or other  
18 special needs of a minor child, if the  
19 alien can establish such illness, dis-  
20 ease, or special needs through medical  
21 records; or

22 “(III) severe weather conditions  
23 that prevented the alien from engag-  
24 ing in agricultural employment for a  
25 significant period of time.

1           “(B) PROOF.—An alien may demonstrate  
2 compliance with the requirements of subpara-  
3 graph (A) by submitting—

4                   “(i) the record of employment de-  
5 scribed in subsection (h)(4); or

6                   “(ii) such documentation as may be  
7 submitted under subsection (d)(3).

8           “(C) APPLICATION PERIOD.—Not later  
9 than 8 years after the date of the enactment of  
10 the AgJOBS Act of 2007, the alien must—

11                   “(i) apply for adjustment of status; or

12                   “(ii) renew the alien’s Z visa status as  
13 described in section 601(k)(2).

14           “(D) FINE.—The alien pays to the Sec-  
15 retary a fine of \$400.

16           “(2) SPOUSES AND MINOR CHILDREN.—Not-  
17 withstanding any other provision of law, the Sec-  
18 retary shall confer the status of lawful permanent  
19 resident on the spouse and minor child of an alien  
20 granted any adjustment of status under paragraph  
21 (1), including any individual who was a minor child  
22 on the date such alien was granted a Z–A visa, if  
23 the spouse or minor child applies for such status, or  
24 if the principal alien includes the spouse or minor

1 child in an application for adjustment of status to  
2 that of a lawful permanent resident.

3 “(3) GROUNDS FOR DENIAL OF ADJUSTMENT  
4 OF STATUS.—The Secretary may deny an alien  
5 granted a Z–A visa or a Z–A dependent visa an ad-  
6 justment of status under this Act and provide for  
7 termination of such visa if—

8 “(A) the Secretary finds by a preponder-  
9 ance of the evidence that grant of the Z–A visa  
10 was the result of fraud or willful misrepresenta-  
11 tion (as described in section 212(a)(6)(C)(i)); or

12 “(B) the alien—

13 “(i) commits an act that makes the  
14 alien inadmissible to the United States  
15 under section 212, except as provided  
16 under subsection (c)(4);

17 “(ii) is convicted of a felony or 3 or  
18 more misdemeanors committed in the  
19 United States; or

20 “(iii) is convicted of an offense, an  
21 element of which involves bodily injury,  
22 threat of serious bodily injury, or harm to  
23 property in excess of \$500.

24 “(4) GROUNDS FOR REMOVAL.—Any alien  
25 granted Z–A visa status who does not apply for ad-

1       justment of status or renewal of Z status under sec-  
2       tion \_\_01(k)(2) of the Secure Borders, Economic  
3       Opportunity and Immigration Reform Act of 2007  
4       prior to the expiration of the application period de-  
5       scribed in subsection (c)(1)(B) or who fails to meet  
6       the other requirements of paragraph (1) by the end  
7       of the application period, is deportable and may be  
8       removed under section 240.

9               “(5) PAYMENT OF TAXES.—

10              “(A) IN GENERAL.—Not later than the  
11              date on which an alien’s status is adjusted as  
12              described in this subsection, the alien shall es-  
13              tablish that the alien does not owe any applica-  
14              ble Federal tax liability by establishing that—

15                      “(i) no such tax liability exists;

16                      “(ii) all such outstanding tax liabil-  
17                      ities have been paid; or

18                      “(iii) the alien has entered into an  
19                      agreement for payment of all outstanding  
20                      liabilities with the Internal Revenue Serv-  
21                      ice.

22              “(B) APPLICABLE FEDERAL TAX LIABIL-  
23              ITY.—In this paragraph, the term ‘applicable  
24              Federal tax liability’ means liability for Federal  
25              taxes, including penalties and interest, owed for

1 any year during the period of employment re-  
2 quired under paragraph (1)(A) for which the  
3 statutory period for assessment of any defi-  
4 ciency for such taxes has not expired.

5 “(C) IRS COOPERATION.—The Secretary  
6 of the Treasury shall establish rules and proce-  
7 dures under which the Commissioner of Inter-  
8 nal Revenue shall provide documentation to an  
9 alien upon request to establish the payment of  
10 all taxes required by this subsection.

11 “(6) ENGLISH LANGUAGE.—

12 “(A) IN GENERAL.—Not later than the  
13 date on which a Z–A nonimmigrant’s status is  
14 adjusted or renewed under section \_\_01(k)(2)  
15 of the Secure Borders, Economic Opportunity  
16 and Immigration Reform Act of 2007, a Z–A  
17 nonimmigrant who is 18 years of age or older  
18 shall pass the naturalization test described in  
19 paragraph (1) and (2) of section 312(a).

20 “(B) EXCEPTION.—The requirement of  
21 subparagraph (A) shall not apply to any person  
22 who, on the date of the filing of the person’s  
23 application for an extension of Z–A non-  
24 immigrant status—

1 “(i) is unable because of physical or  
2 developmental disability or mental impair-  
3 ment to comply therewith;

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

7 “(iii) is over 55 years of age and has  
8 been living in the United States for periods  
9 totaling at least 15 years.

10 “(7) PRIORITY OF APPLICATIONS.—

11 “(A) BACK OF LINE.—An alien may not  
12 adjust status to that of a lawful permanent  
13 resident under this subsection until 30 days  
14 after the date on which an immigrant visa be-  
15 comes available for approved petitions filed  
16 under sections 201, 202, and 203 that were  
17 filed before May 1, 2005 (referred to in this  
18 paragraph as the ‘processing date’).

19 “(B) OTHER APPLICANTS.—The proc-  
20 essing of applications for an adjustment of sta-  
21 tus under this subsection shall be processed not  
22 later than 1 year after the processing date.

23 “(C) CONSULAR APPLICATION.—

24 “(i) IN GENERAL.—A Z-A non-  
25 immigrant’s application for adjustment of

1 status to that of an alien lawfully admitted  
2 for permanent residence shall be filed in  
3 person with a United States consulate  
4 abroad.

5 “(ii) PLACE OF APPLICATION.—Un-  
6 less otherwise directed by the Secretary of  
7 State, a Z–A nonimmigrant applying for  
8 adjustment of status under this paragraph  
9 shall make an application at a consular of-  
10 fice in the alien’s country of origin. The  
11 Secretary of State shall direct a consular  
12 office in a country that is not a Z–A non-  
13 immigrant’s country of origin to accept an  
14 application for adjustment of status from  
15 such an alien, where the Z–A non-  
16 immigrant’s country of origin is not contig-  
17 uous to the United States, and as consular  
18 resources make possible.

19 “(k) CONFIDENTIALITY OF INFORMATION.—Appli-  
20 cants for Z–A nonimmigrant status under this section  
21 shall be afforded confidentiality as provided under section  
22 \_\_04 of the Secure Borders, Economic Opportunity and  
23 Immigration Reform Act of 2007.

24 “(l) PENALTIES FOR FALSE STATEMENTS IN APPLI-  
25 CATIONS.—

1 “(1) CRIMINAL PENALTY.—Any person who—

2 “(A) applies for a Z–A visa or a Z–A de-  
3 pendent visa under this section or an adjust-  
4 ment of status described in subsection (j) and  
5 knowingly and willfully falsifies, conceals, or  
6 covers up a material fact or makes any false,  
7 fictitious, or fraudulent statements or represen-  
8 tations, or makes or uses any false writing or  
9 document knowing the same to contain any  
10 false, fictitious, or fraudulent statement or  
11 entry; or

12 “(B) creates or supplies a false writing or  
13 document for use in making such an applica-  
14 tion,

15 shall be fined in accordance with title 18, United  
16 States Code, imprisoned not more than 5 years, or  
17 both.

18 “(2) INADMISSIBILITY.—An alien who is con-  
19 victed of a crime under paragraph (1) shall be con-  
20 sidered to be inadmissible to the United States on  
21 the ground described in section 212(a)(6)(C)(i).

22 “(m) ELIGIBILITY FOR LEGAL SERVICES.—Section  
23 504(a)(11) of Public Law 104–134 (110 Stat. 1321–54)  
24 shall not be construed to prevent a recipient of funds  
25 under the Legal Services Corporation Act (42 U.S.C. 2996

1 et seq.) from providing legal assistance directly related to  
2 an application for a Z–A visa under subsection (b) or an  
3 adjustment of status under subsection (j).

4 “(n) ADMINISTRATIVE AND JUDICIAL REVIEW.—Ad-  
5 ministrative or judicial review of a determination on an  
6 application for a Z–A visa shall be such as is provided  
7 under section \_\_03 of the Secure Borders, Economic Op-  
8 portunity and Immigration Reform Act of 2007.

9 “(o) PUBLIC OUTREACH.—Beginning not later than  
10 the first day of the application period described in sub-  
11 section (c)(1)(B), the Secretary shall cooperate with quali-  
12 fied designated entities to broadly disseminate information  
13 regarding the availability of Z–A visas, the benefits of  
14 such visas, and the requirements to apply for and be  
15 granted such a visa.”.

16 (c) NUMERICAL LIMITATIONS.—

17 (1) WORLDWIDE LEVEL OF IMMIGRATION.—  
18 Section 201(b)(1) of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1151(b)(1)), as amended by this  
20 Act, is further amended—

21 (A) in subparagraph (A), by striking “sub-  
22 paragraph (A) or (B)” and inserting “subpara-  
23 graph (A), (B), or (N)”; and

24 (B) by adding at the end the following:

1           “(N) Aliens issued a Z–A visa or a Z–A de-  
2           pendent visa (as those terms are defined in section  
3           214A) who receive an adjustment of status to that  
4           of an alien lawfully admitted for permanent resi-  
5           dence.”.

6           (2) NUMERICAL LIMITATIONS ON INDIVIDUAL  
7           FOREIGN STATES.—Section 202(a) of such Act (8  
8           U.S.C. 1152) is amended by adding at the end the  
9           following:

10           “(6) SPECIAL RULE FOR Z–A NON-  
11           IMMIGRANTS.—An immigrant visa may be made  
12           available to an alien issued a Z–A visa or a Z–A de-  
13           pendent visa (as those terms are defined in section  
14           214A) without regard to the numerical limitations of  
15           this section.”.

16           (d) CLERICAL AMENDMENT.—The table of contents  
17           of the Immigration and Nationality Act (8 U.S.C. 1101  
18           et seq.) is amended by inserting after the item relating  
19           to section 214 the following:

          “Sec. 214A. Admission of agricultural workers.”.

20           **SEC. 32. AGRICULTURAL WORKER IMMIGRATION STATUS**  
21   **ADJUSTMENT ACCOUNT.**

22           Section 286 of the Immigration and Nationality Act  
23           (8 U.S.C. 1356) is amended by adding at the end the fol-  
24           lowing:

1 “(y) AGRICULTURAL WORKER IMMIGRATION STATUS  
2 ADJUSTMENT ACCOUNT.—

3 “(1) ESTABLISHMENT.—There is established in  
4 the general fund of the Treasury a separate account,  
5 which shall be known as the ‘Agricultural Worker  
6 Immigration Status Adjustment Account’. Notwith-  
7 standing any other provision of law, there shall be  
8 deposited as offsetting receipts into the account all  
9 fees collected under section 214A.

10 “(2) USE OF FEES.—The fees deposited into  
11 the Agricultural Worker Immigration Status Adjust-  
12 ment Account shall be used by the Secretary of  
13 Homeland Security for processing applications made  
14 by aliens seeking nonimmigrant status under section  
15 101(a)(15)(Z–A) or for processing applications made  
16 by such an alien who is seeking an adjustment of  
17 status.

18 “(3) AVAILABILITY OF FUNDS.—All amounts  
19 deposited in the Agricultural Worker Immigration  
20 Status Adjustment Account under this subsection  
21 shall remain available until expended.”.

22 **SEC. 33. REGULATIONS; EFFECTIVE DATE; AUTHORIZA-**  
23 **TION OF APPROPRIATIONS.**

24 (a) REGULATIONS.—The Secretary shall issue regula-  
25 tions to carry out the amendments made by this subtitle

1 not later than the first day of the seventh month that be-  
2 gins after the date of the enactment of this Act.

3 (b) EFFECTIVE DATE.—This subtitle shall take effect  
4 on the date that regulations required by subsection (a) are  
5 issued, regardless of whether such regulations are issued  
6 on an interim basis or on any other basis.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Secretary such  
9 sums as may be necessary to implement this subtitle and  
10 the amendments made by this subtitle, including any sums  
11 needed for costs associated with the initiation of such im-  
12 plementation.

13 **SEC. 34. CORRECTION OF SOCIAL SECURITY RECORDS.**

14 (a) IN GENERAL.—Section 208(e)(1) of the Social  
15 Security Act (42 U.S.C. 408(e)(1)) is amended—

16 (1) in subparagraph (B)(ii), by striking “or” at  
17 the end;

18 (2) in subparagraph (C), by inserting “or” at  
19 the end;

20 (3) by inserting after subparagraph (C) the fol-  
21 lowing:

22 “(D) who is granted nonimmigrant status  
23 pursuant to section 101(a)(15)(Z–A) of the Im-  
24 migration and Nationality Act,”; and

1           (4) by striking “1990.” and inserting “1990, or  
2           in the case of an alien described in subparagraph  
3           (D), if such conduct is alleged to have occurred be-  
4           fore the date on which the alien was granted such  
5           nonimmigrant status.”.

6           (b) **EFFECTIVE DATE.**—The amendments made by  
7           subsection (a) shall take effect on the first day of the sev-  
8           enth month that begins after the date of the enactment  
9           of this Act.

1 **SEC. \_\_\_\_ . ESTABLISHMENT OF Z NONIMMIGRANT CAT-**  
2 **EGORY.**

3 (a) IN GENERAL.—Section 101(a)(15)(Z) of the Im-  
4 migration and Nationality Act, as added by section  
5 601(b), is amended to read as follows:

6 “(Z) subject to title VI of the Secure Bor-  
7 ders, Economic Opportunity and Immigration  
8 Reform Act of 2007, an alien who—

9 “(i)(I) has maintained a continuous  
10 physical presence in the United States  
11 since the date that is 4 years before the  
12 date of the enactment of the Secure Bor-  
13 ders, Economic Opportunity and Immigra-  
14 tion Reform Act of 2007;

15 “(II) is employed, and seeks to con-  
16 tinue performing labor, services, or edu-  
17 cation; and

18 “(III) the Secretary of Homeland Se-  
19 curity determines has sufficient ties to a  
20 community in the United States, based  
21 on—

22 “(aa) whether the applicant has  
23 immediate relatives (as defined in sec-  
24 tion 201(b)(2)(A)) residing in the  
25 United States;

1                   “(bb) the amount of cumulative  
2 time the applicant has lived in the  
3 United States;

4                   “(cc) whether the applicant owns  
5 property in the United States;

6                   “(dd) whether the applicant owns  
7 a business in the United States;

8                   “(ee) the extent to which the ap-  
9 plicant knows the English language;

10                  “(ff) the applicant’s work history  
11 in the United States;

12                  “(gg) whether the applicant at-  
13 tended school (either primary, sec-  
14 ondary, college, post-graduate) in the  
15 United States;

16                  “(hh) the extent to which the ap-  
17 plicant has a history of paying Fed-  
18 eral and State income taxes;

19                  “(ii) whether the applicant has  
20 been convicted of criminal activity in  
21 the United States; and

22                  “(jj) whether the applicant has  
23 certifies his or her intention to ulti-  
24 mately become a United States cit-  
25 izen;

1 “(ii)(I) is the spouse or parent (65  
2 years of age or older) of an alien described  
3 in clause (i);

4 “(II) was, during the 2-year period  
5 ending on the date on which the Secure  
6 Borders, Economic Opportunity and Immi-  
7 gration Reform Act of 2007 was intro-  
8 duced in the Senate, the spouse of an alien  
9 who was subsequently classified as a Z  
10 nonimmigrant under this section, or is eli-  
11 gible for such classification, if—

12 “(aa) the termination of the rela-  
13 tionship with such spouse was con-  
14 nected to domestic violence; and

15 “(bb) the spouse has been bat-  
16 tered or subjected to extreme cruelty  
17 by the spouse or parent who is a Z  
18 nonimmigrant; or

19 “(III) is under 18 years of age at the  
20 time of application for nonimmigrant sta-  
21 tus under this subparagraph and was born  
22 to, or legally adopted by, a parent de-  
23 scribed in clause (i).”.

24 (b) RULEMAKING.—Not later than 6 months after  
25 the date of the enactment of this Act, the Secretary shall

1 promulgate regulations, in accordance with the procedures  
2 set forth in sections 555, 556, and 557 of title 5, United  
3 States Code, which establish the precise system that the  
4 Secretary shall use to make a determination under section  
5 101(a)(15)(Z)(ii) of the Immigration and Nationality Act,  
6 as added by subsection (a).

7 (c) ADDITIONAL Z NONIMMIGRANT ELIGIBILITY RE-  
8 QUIREMENTS.—

9 (1) IN GENERAL.—Notwithstanding any provi-  
10 sion of section 601(e), an alien is not eligible for Z-  
11 1 or Z-2 nonimmigrant status, or for nonimmigrant  
12 status under section 101(a)(15)(Z)(iii)(I) of the Im-  
13 migration and Nationality Act unless—

14 (A) the alien was physically present in the  
15 United States on the date that is 4 years before  
16 the date of the enactment of this Act and has  
17 maintained physical presence in the United  
18 States since that date; and

19 (B) the alien was, on the date that is 4  
20 years before the date of the enactment of this  
21 Act, not present in lawful status in the United  
22 States under any classification described in sec-  
23 tion 101(a)(15) of the Immigration and Nation-  
24 ality Act or any other immigration status made

1           available under a treaty or other multinational  
2           agreement that has been ratified by the Senate.

3           (2) TREATMENT OF APPLICANTS.—Notwith-  
4           standing any provision of section 601(h), an alien  
5           who files an application for Z nonimmigrant status  
6           shall submit sufficient evidence that the alien resided  
7           in the United States for not less than 4 years before  
8           the date of the enactment of this Act before receiv-  
9           ing any benefit under section 601(h).

10          (3) APPLICATION.—Notwithstanding any provi-  
11          sion of section 602(a)(1), a Z-1 nonimmigrant's ap-  
12          plication for adjustment of status to that of an alien  
13          lawfully admitted for permanent residence may be  
14          filed in person with a United States consulate out-  
15          side the United States or with United States Citi-  
16          zenship and Immigration Services at any location in  
17          the United States designated by the Secretary.

1 **SEC. \_\_\_\_ . PROHIBITION ON ADJUSTMENT OF STATUS FOR**  
2 **Z NONIMMIGRANTS.**

3 Notwithstanding any provision of section 602—

4 (1) a Z nonimmigrant may not be issued an im-  
5 migrant visa pursuant to section 221 or 222 of the  
6 Immigration and Nationality Act (8 U.S.C. 1201  
7 and 1202); and

8 (2) the status of a Z nonimmigrant may not be  
9 adjusted to that of an alien lawfully admitted for  
10 permanent residence.

1 **SEC. \_\_\_\_ . FAMILY-SPONSORED IMMIGRANTS.**

2 (a) PREFERENCE CATEGORIES.—Section 203(a) of  
3 the Immigration and Nationality Act (8 U.S.C. 1153(a)),  
4 as amended by section 503(c) of this Act, is further  
5 amended to read as follows:

6 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
7 SORED IMMIGRANTS.—Aliens subject to the worldwide  
8 level specified in section 201(c) for family-sponsored immi-  
9 grants shall be allotted immigrant visas as follows:

10 “(1) PARENTS OF A CITIZEN OF THE UNITED  
11 STATES IF THE CITIZEN IS AT LEAST 21 YEARS OF  
12 AGE.—Qualified immigrants who are the parents of  
13 a citizen of the United States if the citizen at least  
14 21 years of age shall be allocated immigrant visas in  
15 a number not to exceed the sum of—

16 “(A) 90,000; and

17 “(B) the number of visas not required for  
18 the classes specified in paragraph (3).

19 “(2) SPOUSES OR CHILDREN OF AN ALIEN LAW-  
20 FULLY ADMITTED FOR PERMANENT RESIDENCE OR  
21 A NATIONAL.—Qualified immigrants who are the  
22 spouses or children of an alien lawfully admitted for  
23 permanent residence or a noncitizen national of the  
24 United States (as defined in section 101(a)(22)(B))  
25 who is resident in the United States shall be allo-

1 cated immigrant visas in a number not to exceed the  
2 sum of—

3 “(A) 87,000; and

4 “(B) the number of visas not required for  
5 the class specified in paragraph (1).

6 “(3) FAMILY-SPONSORED IMMIGRANTS WHO  
7 ARE BENEFICIARIES OF FAMILY-BASED VISA PETI-  
8 TIONS FILED BEFORE MAY 1, 2005.—Immigrant visas  
9 totaling 440,000 shall be allotted as follows:

10 “(A) Qualified immigrants who are the un-  
11 married sons or daughters of citizens of the  
12 United States shall be allocated visas in a num-  
13 ber not to exceed the sum of—

14 “(i) 70,400; and

15 “(ii) the number of visas not required  
16 for the class specified in subparagraph  
17 (D).

18 “(B) Qualified immigrants who are the un-  
19 married sons or unmarried daughters of an  
20 alien lawfully admitted for permanent residence,  
21 shall be allocated visas in a number not to ex-  
22 ceed the sum of—

23 “(i) 110,000; and

24 “(ii) the number of visas not required  
25 for the class specified in subparagraph (A).

1           “(C) Qualified immigrants who are the  
2           married sons or married daughters of citizens  
3           of the United States shall be allocated visas in  
4           a number not to exceed the sum of—

5                     “(i) 70,400; and

6                     “(ii) the number of visas not required  
7           for the classes specified in subparagraphs  
8           (A) and (B).

9           “(D) Qualified immigrants who are the  
10          brothers or sisters of citizens of the United  
11          States, if such citizens are at least 21 years of  
12          age, shall be allocated visas in a number not to  
13          exceed the sum of—

14                    “(i) 189,200; and

15                    “(ii) the number of visas not required  
16          for the classes specified in subparagraphs  
17          (A), (B), and (C).”.

18          (b) PARENT VISITOR VISAS.—Section 214(s) of the  
19          Immigration and Nationality Act, as added by section  
20          506(b) of this Act, is amended to read as follows:

21                    “(s) PARENT VISITOR VISAS.—

22                    “(1) IN GENERAL.—The parent of a United  
23          States citizen at least 21 years of age, or the spouse  
24          or child of an alien in nonimmigrant status under  
25          101(a)(15)(Y)(i), demonstrating satisfaction of the

1 requirements of this subsection may be granted a re-  
2 newable nonimmigrant visa valid for 3 years for a  
3 visit or visits for an aggregate period not in excess  
4 of 180 days in any one year period under section  
5 101(a)(15)(B) as a temporary visitor for pleasure.

6 “(2) REQUIREMENTS.—An alien seeking a non-  
7 immigrant visa under this subsection must dem-  
8 onstrate through presentation of such documentation  
9 as the Secretary may by regulations prescribe,  
10 that—

11 “(A) the alien’s United States citizen son  
12 or daughter who is at least 21 years of age or  
13 the alien’s spouse or parent in nonimmigrant  
14 status under 101(a)(15)(Y)(i), is sponsoring the  
15 alien’s visit to the United States;

16 “(B) the sponsoring United States citizen,  
17 or spouse or parent in nonimmigrant status  
18 under 101(a)(15)(Y)(i), has, according to such  
19 procedures as the Secretary may by regulations  
20 prescribe, posted on behalf of the alien a bond  
21 in the amount of \$1,000, which shall be for-  
22 feited if the alien overstays the authorized pe-  
23 riod of admission (except as provided in sub-  
24 paragraph (5)(B)) or otherwise violates the

1 terms and conditions of his or her non-  
2 immigrant status; and

3 “(C) the alien, the sponsoring United  
4 States citizen son or daughter, or the spouse or  
5 parent in nonimmigrant status under  
6 101(a)(15)(Y)(i), possesses the ability and fi-  
7 nancial means to return the alien to his or her  
8 country of residence.

9 “(3) TERMS AND CONDITIONS.—An alien ad-  
10 mitted as a visitor for pleasure under the provisions  
11 of this subsection—

12 “(A) may not stay in the United States for  
13 an aggregate period in excess of 180 days with-  
14 in any calendar year unless an extension of stay  
15 is granted upon the specific approval of the dis-  
16 trict director for good cause;

17 “(B) shall, according to such procedures as  
18 the Secretary may by regulations prescribe, reg-  
19 ister with the Secretary upon departure from  
20 the United States; and

21 “(C) may not be issued employment au-  
22 thorization by the Secretary or be employed.

23 “(4) PERMANENT BARS FOR OVERSTAYS.—

24 “(A) IN GENERAL.—Any alien admitted as  
25 a visitor for pleasure under the terms and con-

1           ditions of this subsection who remains in the  
2           United States beyond his or her authorized pe-  
3           riod of admission is permanently barred from  
4           any future immigration benefits under the im-  
5           migration laws, except—

6                   “(i) asylum under section 208(a);

7                   “(ii) withholding of removal under  
8                   section 241(b)(3); or

9                   “(iii) protection under the Convention  
10                  Against Torture and Other Cruel, Inhu-  
11                  man or Degrading Treatment or Punish-  
12                  ment, done at New York December 10,  
13                  1984.

14               “(B) EXCEPTION.—Overstay of the au-  
15               thorized period of admission granted to aliens  
16               admitted as visitors for pleasure under the  
17               terms and conditions of this subsection may be  
18               excused in the discretion of the Secretary where  
19               it is demonstrated that:

20                   “(i) the period of overstay was due to  
21                   extraordinary circumstances beyond the  
22                   control of the applicant, and the Secretary  
23                   finds the period commensurate with the  
24                   circumstances; and

1                   “(ii) the alien has not otherwise vio-  
2                   lated his or her nonimmigrant status.

3                   “(5) BAR ON SPONSOR OF OVERSTAY.—The  
4                   United States citizen or Y–1 nonimmigrant sponsor  
5                   of an alien—

6                   “(A) admitted as a visitor for pleasure  
7                   under the terms and conditions of this sub-  
8                   section, and

9                   “(B) who remains in the United States be-  
10                  yond his or her authorized period of admission,  
11                  shall be permanently barred from sponsoring that  
12                  alien for admission as a visitor for pleasure under  
13                  the terms and conditions of this subsection, and, in  
14                  the case of a Y–1 nonimmigrant sponsor, shall have  
15                  his Y–1 nonimmigrant status terminated.

16                  “(6) CONSTRUCTION.—Except as specifically  
17                  provided in this subsection, nothing in this sub-  
18                  section may be construed to make inapplicable—

19                  “(A) the requirements for admissibility  
20                  and eligibility; or

21                  “(B) the terms and conditions of admis-  
22                  sion as a nonimmigrant under section  
23                  101(a)(15)(B).”.

24

1 **SEC. \_\_\_\_ . REDUCING CHAIN MIGRATION AND PERMITTING**  
2 **PETITIONS BY NATIONALS.**

3 (a) PREFERENCE CATEGORIES.—Section 203(a)(2)  
4 of the Immigration and Nationality Act (8 U.S.C.  
5 1153(a)), as amended by section 503(c), is further amend-  
6 ed—

7 (1) by striking “not to exceed” and inserting  
8 “equal to”; and

9 (2) by adding at the end the following: “If the  
10 number of visas issued pursuant to this paragraph  
11 is fewer than 87,000, such unused visas may be  
12 available for visas issued pursuant to paragraph  
13 (1).”.

14 (b) PARENT VISITOR VISAS.—Section 214(s)(4) of  
15 the Immigration and Nationality Act, as added by section  
16 506(b), is amended by striking “7 percent” each place it  
17 appears and inserting “5 percent”.

1 **SEC. \_\_\_\_ . EFFECT OF EXTENDED FAMILY ON MERIT-BASED**  
 2 **EVALUATION SYSTEM.**

3 Section 203(b)(1)(A) of the Immigration and Nation-  
 4 ality Act, as amended by section 502(b)(1), is amended  
 5 by striking the merit-based evaluation system set forth in  
 6 all the matter relating to “Extended family” and insert  
 7 the following:

<b>Extended family</b>	Adult (21 or older) son or daughter of a United States citizen – <b>10 points</b> Adult (21 or older) son or daughter of a legal permanent resident – <b>10 points</b> Sibling of a United States citizen or legal permanent resident – <b>10 points</b> If an alien had applied for a family visa in any of the above categories after May 1, 2005 – <b>5 points</b>	<b>15</b>
<b>Total</b>		<b>105</b>

1 **SEC. \_\_\_\_ . IDENTIFICATION CARD STANDARDS.**

2 (a) REPEAL.—Section 306 of this Act is repealed.

3 (b) LIMITATION.—Notwithstanding any other provi-  
4 sion of this Act or the amendments made by this Act—

5 (1) no Federal agency may require that a driv-  
6 er's license or personal identification card meet the  
7 standards specified under the REAL ID Act of 2005  
8 (division B of Public Law 109–13) to establish em-  
9 ployment authorization or identity in order to be  
10 hired by an employer; and

11 (2) no Federal funds may be provided under  
12 this Act to assist States to meet such standards to  
13 establish employment authorization or identity in  
14 order to be hired by an employer.

1           **TITLE \_\_\_\_\_ —UNLAWFUL**  
2           **EMPLOYMENT OF ALIENS**

3   **SEC. \_01. REPEAL OF TITLE III.**

4           Title III of this Act is repealed and the amendments  
5 made by title III of this Act are null and void.

6   **SEC. \_02. UNLAWFUL EMPLOYMENT OF ALIENS.**

7           (a) IN GENERAL.—Section 274A of the Immigration  
8 and Nationality Act (8 U.S.C. 1324a) is amended to read  
9 as follows:

10   **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

11           “(a) MAKING EMPLOYMENT OF UNAUTHORIZED  
12 ALIENS UNLAWFUL.—

13                   “(1) IN GENERAL.—It is unlawful for an em-  
14 ployer—

15                           “(A) to hire, or to recruit or refer for a  
16 fee, an alien for employment in the United  
17 States knowing, or with reckless disregard for  
18 the fact that, the alien is an unauthorized alien  
19 with respect to such employment; or

20                           “(B) to hire, or to recruit or refer for a  
21 fee, an individual for employment in the United  
22 States, unless such employer meets the require-  
23 ments of subsections (c) and (d).

24                   “(2) CONTINUING EMPLOYMENT.—It is unlaw-  
25 ful for an employer, after hiring an alien for employ-

1       ment, to continue to employ the alien in the United  
2       States knowing, or with reckless disregard for the  
3       fact that, the alien is (or has become) an unauthor-  
4       ized alien with respect to such employment.

5           “(3) USE OF LABOR THROUGH CONTRACT.—

6           “(A) IN GENERAL.—It is unlawful for an  
7       employer to obtain, or continue to obtain, the  
8       labor of an alien through a contract, sub-  
9       contract, or exchange knowing that the alien is,  
10      or has become, an unauthorized alien with re-  
11      spect to such employment

12          “(B) REBUTTABLE PRESUMPTION.—There  
13      shall be a rebuttable presumption that the em-  
14      ployer has violated subparagraph (A) if the em-  
15      ployer fails to terminate such contract or sub-  
16      contract upon written or electronic notice from  
17      the Secretary that such alien is, or has become,  
18      an unauthorized alien with respect to such em-  
19      ployment.

20          “(C) NOTIFICATION.—The Secretary shall  
21      establish procedures to permit the notification  
22      of employers under subparagraph (B).

23          “(4) DEFENSE.—

24          “(A) IN GENERAL.—Subject to subpara-  
25      graph (B), an employer that establishes that

1 the employer has complied in good faith with  
2 the requirements of subsections (c) and (d) has  
3 established an affirmative defense that the em-  
4 ployer has not violated paragraph (1)(A) with  
5 respect to such hiring, recruiting, or referral.

6 “(B) EXCEPTION.—Until the date that an  
7 employer is required to participate in the Elec-  
8 tronic Employment Verification System under  
9 subsection (d) or is participating in such Sys-  
10 tem on a voluntary basis, the employer may es-  
11 tablish an affirmative defense under subpara-  
12 graph (A) by complying with the requirements  
13 of subsection (c).

14 “(b) ORDER OF INTERNAL REVIEW AND CERTIFI-  
15 CATION OF COMPLIANCE.—

16 “(1) AUTHORITY TO REQUIRE CERTIFI-  
17 CATION.—If the Secretary has reasonable cause to  
18 believe that an employer has failed to comply with  
19 this section, the Secretary is authorized, at any time,  
20 to require that the employer certify that the em-  
21 ployer is in compliance with this section, or has in-  
22 stituted a program to come into compliance.

23 “(2) CONTENT OF CERTIFICATION.—Not later  
24 than 60 days after the date an employer receives a  
25 request for a certification under paragraph (1) the

1 employer shall certify under penalty of perjury  
2 that—

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

5 “(B) that the employer has instituted a  
6 program to come into compliance with such re-  
7 quirements.

8 “(3) EXTENSION.—The 60-day period referred  
9 to in paragraph (2), may be extended by the Sec-  
10 retary for good cause, at the request of the em-  
11 ployer.

12 “(4) PUBLICATION.—The Secretary is author-  
13 ized to publish in the Federal Register standards or  
14 methods for certification under paragraph (1) and  
15 for specific recordkeeping practices with respect to  
16 such certification, and procedures for the audit of  
17 any records related to such certification.

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

23 “(1) ATTESTATION BY EMPLOYER.—

24 “(A) REQUIREMENTS.—

1           “(i) IN GENERAL.—The employer  
2           shall attest, under penalty of perjury and  
3           on a form prescribed by the Secretary, that  
4           the employer has verified the identity and  
5           eligibility for employment of the individual  
6           by examining a document described in sub-  
7           paragraph (B).

8           “(ii) SIGNATURE REQUIREMENTS.—  
9           An attestation required by clause (i) may  
10          be manifested by a handwritten or elec-  
11          tronic signature.

12          “(iii) STANDARDS FOR EXAMINA-  
13          TION.—The employer has complied with  
14          the requirement of this paragraph with re-  
15          spect to examination of documentation if a  
16          reasonable person would conclude that the  
17          document examined is genuine and relates  
18          to the individual whose identity and eligi-  
19          bility for employment in the United States  
20          is being verified. If the individual provides  
21          a document sufficient to meet the require-  
22          ments of this paragraph, nothing in this  
23          paragraph shall be construed as requiring  
24          an employer to solicit any other document

1 or as requiring the individual to produce  
2 any other document.

3 “(B) IDENTIFICATION DOCUMENTS.—A  
4 document described in this subparagraph is—

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

7 “(I) a United States passport, or  
8 passport card issued pursuant to the  
9 Secretary of State’s authority under  
10 the first section of the Act of July 3,  
11 1926 (44 Stat. 887, Chapter 772; 22  
12 U.S.C. 211a); or

13 “(II) a driver’s license or identity  
14 card issued by a State, the Common-  
15 wealth of the Northern Mariana Is-  
16 lands, or an outlying possession of the  
17 United States that—

18 “(aa) contains a photograph  
19 of the individual and other identi-  
20 fying information, including the  
21 individual’s name, date of birth,  
22 gender, and address; and

23 “(bb) contains security fea-  
24 tures to make the license or card

1 resistant to tampering, counter-  
2 feiting, and fraudulent use;

3 “(ii) in the case of an alien lawfully  
4 admitted for permanent residence in the  
5 United States, a permanent resident card,  
6 as specified by the Secretary that meets  
7 the requirements of items (aa) and (bb) of  
8 clause (i)(II);

9 “(iii) in the case of an alien who is  
10 authorized to be employed in the United  
11 States, an employment authorization card,  
12 as specified by the Secretary that meets  
13 the requirements of such items (aa) and  
14 (bb); or

15 “(iv) in the case of an individual who  
16 is unable to obtain a document described  
17 in clause (i), (ii), or (iii), a document des-  
18 ignated by the Secretary that meets the re-  
19 quirements of such items (aa) and (bb).

20 “(C) AUTHORITY TO PROHIBIT USE OF  
21 CERTAIN DOCUMENTS.—

22 “(i) AUTHORITY.—If the Secretary  
23 finds that a document or class of docu-  
24 ments described in subparagraph (B) is  
25 not reliable to establish identity or is being

1 used fraudulently to an unacceptable de-  
2 gree, the Secretary shall prohibit, or im-  
3 pose conditions, on the use of such docu-  
4 ment or class of documents for purposes of  
5 this subsection.

6 “(ii) REQUIREMENT FOR PUBLICA-  
7 TION.—The Secretary shall publish notice  
8 of any findings under clause (i) in the Fed-  
9 eral Register.

10 “(2) ATTESTATION OF EMPLOYEE.—

11 “(A) REQUIREMENTS.—

12 “(i) IN GENERAL.—The individual  
13 shall attest, under penalty of perjury on  
14 the form described in paragraph (1)(A)(i),  
15 that the individual is a national of the  
16 United States, an alien lawfully admitted  
17 for permanent residence, or an alien who is  
18 authorized to be hired, or to be recruited  
19 or referred for a fee, in the United States.

20 “(ii) SIGNATURE FOR EXAMINA-  
21 TION.—An attestation required by clause  
22 (i) may be manifested by a handwritten or  
23 electronic signature.

24 “(B) PENALTIES.—An individual who  
25 falsely represents that the individual is eligible

1           for employment in the United States in an at-  
2           testation required by subparagraph (A) shall,  
3           for each such violation, be subject to a fine of  
4           not more than \$5,000, a term of imprisonment  
5           not to exceed 3 years, or both.

6           “(3) RETENTION OF ATTESTATION.—The em-  
7           ployer shall retain a paper, microfiche, microfilm, or  
8           electronic version of the attestations made under  
9           paragraphs (1) and (2) and make such attestations  
10          available for inspection by an officer of the Depart-  
11          ment of Homeland Security, any other person des-  
12          ignated by the Secretary, the Special Counsel for  
13          Immigration-Related Unfair Employment Practices  
14          of the Department of Justice, or the Secretary of  
15          Labor during a period beginning on the date of the  
16          hiring, or recruiting or referring for a fee, of the in-  
17          dividual and ending—

18                 “(A) in the case of the recruiting or refer-  
19                 ral for a fee (without hiring) of an individual,  
20                 5 years after the date of the recruiting or refer-  
21                 ral; or

22                 “(B) in the case of the hiring of an indi-  
23                 vidual the later of—

24                         “(i) 5 years after the date of such hir-  
25                         ing;

1           “(ii) 1 year after the date the individ-  
2           ual’s employment is terminated; or

3           “(iii) in the case of an employer or  
4           class of employers, a period that is less  
5           than the applicable period described in  
6           clause (i) or (ii) if the Secretary reduces  
7           such period for such employer or class of  
8           employers.

9           “(4) DOCUMENT RETENTION AND RECORD-  
10          KEEPING REQUIREMENTS.—

11           “(A) RETENTION OF DOCUMENTS.—Not-  
12          withstanding any other provision of law, an em-  
13          ployer shall retain, for the applicable period de-  
14          scribed in paragraph (3), the following docu-  
15          ments:

16           “(i) IN GENERAL.—The employer  
17          shall copy all documents presented by an  
18          individual described in paragraph (1)(B)  
19          and shall retain paper, microfiche, micro-  
20          film, or electronic copies of such docu-  
21          ments. Such copies shall be designated as  
22          copied documents.

23           “(ii) OTHER DOCUMENTS.—The em-  
24          ployer shall maintain records of any action  
25          taken and copies of any correspondence

1           written or received with respect to the  
2           verification of an individual's identity or  
3           eligibility for employment in the United  
4           States.

5           “(B) USE OF RETAINED DOCUMENTS.—An  
6           employer shall use copies retained under clause  
7           (i) or (ii) of subparagraph (A) only for the pur-  
8           poses of complying with the requirements of  
9           this subsection, except as otherwise permitted  
10          under law.

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

15          “(6) NO AUTHORIZATION OF NATIONAL IDENTI-  
16          FICATION CARDS.—Nothing in this section may be  
17          construed to authorize, directly or indirectly, the  
18          issuance, use, or establishment of a national identi-  
19          fication card.

20          “(d) ELECTRONIC EMPLOYMENT VERIFICATION SYS-  
21          TEM.—

22          “(1) REQUIREMENT FOR SYSTEM.—The Sec-  
23          retary, in cooperation with the Commissioner of So-  
24          cial Security, shall implement an Electronic Employ-



1                   6103(l)(21) of the Internal Revenue Code  
2                   of 1986; and

3                   “(ii) has not been previously verified  
4                   through the System.

5                   “(3) OTHER PARTICIPATION IN SYSTEM.—Not-  
6                   withstanding paragraph (2), the Secretary has the  
7                   authority—

8                   “(A) to permit any employer that is not re-  
9                   quired to participate in the System under para-  
10                  graph (2) to participate in the System on a vol-  
11                  untary basis; and

12                  “(B) to require any employer or class of  
13                  employers to participate on a priority basis in  
14                  the System with respect to individuals employed  
15                  as of, or hired after, the date of enactment of  
16                  this section—

17                  “(i) if the Secretary designates such  
18                  employer or class of employers as a critical  
19                  employer based on an assessment of home-  
20                  land security or national security needs; or

21                  “(ii) if the Secretary has reasonable  
22                  cause to believe that the employer has en-  
23                  gaged in material violations of paragraph  
24                  (1), (2), or (3) of subsection (a).

1           “(4) REQUIREMENT TO NOTIFY.—The Sec-  
2           retary shall notify the employer or class of employers  
3           in writing regarding the requirement for participa-  
4           tion in the System under paragraph (2) or (3)(B)  
5           not less than 60 days prior to the effective date of  
6           such requirement. Such notice shall include the  
7           training materials described in paragraph (8)(E)(iv).

8           “(5) REGISTRATION OF EMPLOYERS.—An em-  
9           ployer shall register the employer’s participation in  
10          the System in the manner prescribed by the Sec-  
11          retary prior to the date the employer is required or  
12          permitted to submit information with respect to an  
13          employee under this subsection.

14          “(6) ADDITIONAL GUIDANCE.—A registered em-  
15          ployer shall be permitted to utilize any technology  
16          that is consistent with this section and with any reg-  
17          ulation or guidance from the Secretary to streamline  
18          the procedures to facilitate compliance with—

19                 “(A) the attestation requirement in sub-  
20                 section (c); and

21                 “(B) the employment eligibility verification  
22                 requirements in this subsection.

23          “(7) CONSEQUENCE OF FAILURE TO PARTICI-  
24          PATE.—If an employer is required to participate in

1 the System and fails to comply with the require-  
2 ments of the System with respect to an employee—

3 “(A) such failure shall be treated as a vio-  
4 lation of subsection (a)(1)(B); and

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

9 “(8) DESIGN AND OPERATION OF SYSTEM.—

10 “(A) IN GENERAL.—The Secretary shall,  
11 through the System—

12 “(i) respond to each inquiry made by  
13 a registered employer through the Internet  
14 or other electronic media, or over a toll-  
15 free telephone line regarding an individ-  
16 ual’s identity and eligibility for employ-  
17 ment in the United States; and

18 “(ii) maintain a record of each such  
19 inquiry and the information provided in re-  
20 sponse to such inquiry.

21 “(B) INITIAL INQUIRY.—

22 “(i) INFORMATION REQUIRED.—A  
23 registered employer shall with respect to  
24 hiring or recruiting or referring for a fee  
25 any individual for employment in the

1 United States, obtain from the individual  
2 and record on the form described in sub-  
3 section (c)(1)(A)(i)—

4 “(I) the individual’s name and  
5 date of birth;

6 “(II) the individual’s social secu-  
7 rity account number;

8 “(III) the identification number  
9 contained on the document presented  
10 by the individual pursuant to sub-  
11 section (c)(1)(B); and

12 “(IV) in the case of an individual  
13 who does not attest that the indi-  
14 vidual is a national of the United  
15 States under subsection (c)(1)(A)(i),  
16 such alien identification or authoriza-  
17 tion number that the Secretary shall  
18 require.

19 “(ii) SUBMISSION TO SYSTEM.—A reg-  
20 istered employer shall submit an inquiry  
21 through the System to seek confirmation of  
22 the individual’s identity and eligibility for  
23 employment in the United States—

24 “(I) not earlier than the date of  
25 hire and no later than the first day of

1 employment, or recruiting or referring  
2 for a fee, of the individual (as the  
3 case may be); or

4 “(II) in the case of an employee  
5 hired before such employer was re-  
6 quired to participate in the system, at  
7 such time as the Secretary shall speci-  
8 fy.

9 “(C) INITIAL RESPONSE.—Not later than  
10 3 days after an employer submits an inquiry to  
11 the System regarding an individual, the Sec-  
12 retary shall provide, through the System, to the  
13 employer—

14 “(i) if the System is able to confirm  
15 the individual’s identity and eligibility for  
16 employment in the United States, a con-  
17 firmation notice, including the appropriate  
18 codes on such confirmation notice; or

19 “(ii) if the System is unable to con-  
20 firm the individual’s identity or eligibility  
21 for employment in the United States, and  
22 after a secondary manual verification has  
23 been conducted, a tentative nonconfirma-  
24 tion notice, including the appropriate codes  
25 on such tentative nonconfirmation notice.



1 shall record on the form described in sub-  
2 section (c)(1)(A)(i), the appropriate code  
3 provided through the System to indicate  
4 the individual did not contest the tentative  
5 nonconfirmation. An individual's failure to  
6 contest a tentative nonconfirmation shall  
7 not be considered an admission of guilt  
8 with respect to any violation of this Act or  
9 any other provision of law.

10 “(iv) CONTEST.—If the individual  
11 contests the tentative nonconfirmation no-  
12 tice, the individual shall submit appro-  
13 priate information to contest such notice  
14 under the procedures established in sub-  
15 paragraph (E)(ii) not later than 10 days  
16 after receiving the notice from the individ-  
17 ual's employer.

18 “(v) EFFECTIVE PERIOD OF TEN-  
19 TATIVE NONCONFIRMATION NOTICE.—A  
20 tentative nonconfirmation notice shall re-  
21 main in effect until such notice becomes  
22 final under clause (iii) or a final confirma-  
23 tion notice or final nonconfirmation notice  
24 is issued through the System.

1                   “(vi) EFFECTIVE PERIOD OF FINAL  
2 NOTICE.—A final confirmation notice  
3 issued under this paragraph for an indi-  
4 vidual shall remain in effect—

5                   “(I) during any continuous pe-  
6 riod of employment of such individual  
7 by such employer, unless the Sec-  
8 retary determines the final confirma-  
9 tion was the result of error or fraud;  
10 or

11                   “(II) in the case of an alien au-  
12 thorized to be employed in the United  
13 States for a temporary period, during  
14 such period.

15                   “(vii) PROHIBITION ON TERMI-  
16 NATION.—An employer may not terminate  
17 such employment of an individual based on  
18 a tentative nonconfirmation notice until  
19 such notice becomes final under clause (iii)  
20 or a final nonconfirmation notice is issued  
21 for the individual by the System. Nothing  
22 in this clause shall prohibit the termination  
23 of such employment for any reason other  
24 than such tentative nonconfirmation.

1                   “(viii) RECORDING OF CONTEST RESO-  
2                   LUTION.—The employer shall record on  
3                   the form described in subsection  
4                   (c)(1)(A)(i) the appropriate code that is  
5                   provided through the System to indicate a  
6                   final confirmation notice or final noncon-  
7                   firmation notice.

8                   “(ix) CONSEQUENCES OF NONCON-  
9                   FIRMATION.—If the employer has received  
10                  a final nonconfirmation regarding an indi-  
11                  vidual, the employer shall immediately ter-  
12                  minate the employment, recruitment, or re-  
13                  ferral of the individual. Such employer  
14                  shall provide to the Secretary any informa-  
15                  tion relating to the individual that the Sec-  
16                  retary determines would assist the Sec-  
17                  retary in enforcing or administering the  
18                  immigration laws. If the employer con-  
19                  tinues to employ, recruit, or refer the indi-  
20                  vidual after receiving final nonconfirma-  
21                  tion, a rebuttable presumption is created  
22                  that the employer has violated subsections  
23                  (a)(1)(A) and (a)(2). Such presumption  
24                  may not apply to a prosecution under sub-  
25                  section (f)(1).

1                   “(E) RESPONSIBILITIES OF THE SEC-  
2                   RETARY.—

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

7                   “(I) a determination of whether  
8                   the name and alien identification or  
9                   authorization number provided in an  
10                  inquiry by an employer is consistent  
11                  with such information maintained by  
12                  the Secretary in order to confirm the  
13                  validity of the information provided;  
14                  and

15                  “(II) a determination of whether  
16                  the individual is authorized to be em-  
17                  ployed in the United States.

18                  “(ii) CONTEST AND SELF-  
19                  VERIFICATION.—The Secretary in con-  
20                  sultation with the Commissioner of Social  
21                  Security, shall establish procedures to per-  
22                  mit an individual who contests a tentative  
23                  or final nonconfirmation notice, or seeks to  
24                  verify the individual’s own employment eli-  
25                  gibility prior to obtaining or changing em-

1                   ployment, to contact the appropriate agen-  
2                   cy and, in a timely manner, correct or up-  
3                   date the information used by the System.

4                   “(iii) INFORMATION TO EMPLOYEE.—  
5                   The Secretary shall develop a written form  
6                   for employers to provide to individuals who  
7                   receive a tentative or final nonconfirmation  
8                   notice. Such form shall be made available  
9                   in a language other than English, as nec-  
10                  essary and reasonable, and shall include—

11                               “(I) information about the reason  
12                               for such notice;

13                               “(II) the right to contest such  
14                               notice;

15                               “(III) contact information for the  
16                               appropriate agency and instructions  
17                               for initiating such contest; and

18                               “(IV) a 24-hour toll-free tele-  
19                               phone number to respond to inquiries  
20                               related to such notice.

21                   “(iv) TRAINING MATERIALS.—The  
22                   Secretary shall make available or provide  
23                   to the employer, upon request, not later  
24                   than 60 days prior to such employer’s par-  
25                   ticipation in the System, appropriate train-

1           ing materials to facilitate compliance with  
2           this subsection, and sections 274B(a)(7)  
3           and 274C(a).

4           “(F) RESPONSIBILITIES OF THE COMMIS-  
5           SIONER OF SOCIAL SECURITY.—The responsibil-  
6           ities of the Commissioner of Social Security  
7           with respect to the System are set out in sec-  
8           tion 205(c)(2) of the Social Security Act.

9           “(G) RESPONSIBILITIES OF THE SEC-  
10          RETARY OF STATE.—The Secretary of State  
11          shall establish a reliable, secure method to pro-  
12          vide through the System a confirmation of the  
13          issuance of identity documents described in sub-  
14          section (c)(1)(B)(i)(I) and transmit to the Sec-  
15          retary the related photographic image or other  
16          identifying information.

17          “(H) RESPONSIBILITIES OF A STATE.—  
18          The official responsible for issuing drivers’ li-  
19          censes and identity cards for a State shall es-  
20          tablish a reliable, secure method to provide  
21          through the System a confirmation of the  
22          issuance of identity documents described in sub-  
23          section (c)(1)(B)(i)(II) and transmit to the Sec-  
24          retary the related photographic image or other  
25          identifying information.

1           “(9) PROTECTION FROM LIABILITY.—No em-  
2           ployer that participates in the System shall be liable  
3           under any law for any employment-related action  
4           taken with respect to an individual in good faith reli-  
5           ance on information provided by the System.

6           “(10) ADMINISTRATIVE REVIEW.—

7           “(A) IN GENERAL.—An individual who is  
8           terminated from employment as a result of a  
9           final nonconfirmation notice may, not later than  
10          30 days after the date of such termination, file  
11          an appeal of such notice.

12          “(B) PROCEDURES.—The Secretary and  
13          Commissioner of Social Security shall develop  
14          procedures to review appeals filed under sub-  
15          paragraph (A) and to make final determina-  
16          tions on such appeals.

17          “(C) REVIEW FOR ERRORS.—If a final de-  
18          termination on an appeal filed under subpara-  
19          graph (A) results in a confirmation of an indi-  
20          vidual’s eligibility to work in the United States,  
21          the administrative review process shall require  
22          the Secretary to determine whether the final  
23          nonconfirmation notice issued for the individual  
24          was the result of—

1 “(i) the decision rules, processes, or  
2 procedures utilized by the System;

3 “(ii) a natural disaster, or other event  
4 beyond the control of the government;

5 “(iii) acts or omissions of an employee  
6 or official operating or responsible for the  
7 System;

8 “(iv) acts or omissions of the individ-  
9 ual’s employer;

10 “(v) acts or omissions of the indi-  
11 vidual; or

12 “(vi) any other reason.

13 “(D) COMPENSATION FOR ERROR.—

14 “(i) IN GENERAL.—If the Secretary  
15 makes a determination under subpara-  
16 graph (C) that the final nonconfirmation  
17 notice issued for an individual was caused  
18 by a negligent, reckless, willful, or mali-  
19 cious act of the government, and was not  
20 due to an act or omission of the individual,  
21 the Secretary, subject to the availability of  
22 appropriations made in accordance with  
23 paragraph (12)(B), shall compensate the  
24 individual for lost wages.

1                   “(ii) CALCULATION OF LOST  
2                   WAGES.—Lost wages shall be calculated  
3                   based on the wage rate and work schedule  
4                   that prevailed prior to termination. The in-  
5                   dividual shall be compensated for wages  
6                   lost during the period beginning on the  
7                   date the individual files a notice of appeal  
8                   under this paragraph and ending on the  
9                   earlier of—

10                           “(I) the date which is 180 days  
11                           thereafter; or

12                                   “(II) the day after the date the  
13                           individual receives a confirmation de-  
14                           scribed in subparagraph (C).

15                   “(11) JUDICIAL REVIEW.—

16                           “(A) IN GENERAL.—After the Secretary  
17                           makes a final determination on an appeal filed  
18                           by an individual under the administrative re-  
19                           view process described in paragraph (10), the  
20                           individual may obtain judicial review of such  
21                           determination by a civil action commenced not  
22                           later than 30 days after the date of such deci-  
23                           sion, or such further time as the Secretary may  
24                           allow.

1           “(B) JURISDICTION.—A civil action for  
2 such judicial review shall be brought in the dis-  
3 trict court of the United States for the judicial  
4 district in which the plaintiff resides, or has a  
5 principal place of business, or, if the plaintiff  
6 does not reside or have a principal place of  
7 business within any such judicial district, in the  
8 District Court of the United States for the Dis-  
9 trict of Columbia.

10           “(C) ANSWER.—As part of the Secretary’s  
11 answer to a complaint for such judicial review,  
12 the Secretary shall file a certified copy of the  
13 administrative record compiled during the ad-  
14 ministrative review under paragraph (10), in-  
15 cluding the evidence upon which the findings  
16 and decision complained of are based. The court  
17 shall have power to enter, upon the pleadings  
18 and transcript of the record, a judgment affirm-  
19 ing or reversing the result of that administra-  
20 tive review, with or without remanding the  
21 cause for a rehearing.

22           “(D) COMPENSATION FOR ERROR.—

23           “(i) IN GENERAL.—In cases in which  
24 such judicial review reverses the final de-  
25 termination of the Secretary made under

1 paragraph (10), the court, subject to the  
2 availability of appropriations made in ac-  
3 cordance with paragraph (12)(B), shall  
4 compensate the individual for lost wages.

5 “(ii) CALCULATION OF LOST  
6 WAGES.—Lost wages shall be calculated  
7 based on the wage rate and work scheduled  
8 that prevailed prior to termination. The in-  
9 dividual shall be compensated for wages  
10 lost during the period beginning on the  
11 date the individual files a notice of appeal  
12 under paragraph (10) and ending on the  
13 earlier of—

14 “(I) the date which is 180 days  
15 thereafter; or

16 “(II) the day after the date the  
17 individual receives a reversal described  
18 in clause (i).

19 “(12) COMPENSATION FOR LOSS OF EMPLOY-  
20 MENT.—For purposes of paragraphs (10) and  
21 (11)—

22 “(A) LIMITATION ON COMPENSATION.—  
23 For purposes of determining an individual’s  
24 compensation for the loss of employment, such  
25 compensation shall not include any period in

1           which the individual was not present in, or was  
2           ineligible for employment in, the United States.

3           “(B) AUTHORIZATION OF APPROPRIATION  
4           OF FUNDS.—There is authorized to be appro-  
5           priated such sums as may be necessary to pro-  
6           vide the compensation or reimbursement pro-  
7           vided for under such paragraphs. An appropria-  
8           tion made pursuant to this authorization shall  
9           be in addition to any funds otherwise author-  
10          ized to be appropriated to the Department of  
11          Homeland Security.

12          “(13) LIMITATION ON COLLECTION AND USE  
13          OF DATA.—

14                 “(A) LIMITATION ON COLLECTION OF  
15                 DATA.—

16                         “(i) IN GENERAL.—The Secretary  
17                         shall collect and maintain only the min-  
18                         imum data necessary to facilitate the suc-  
19                         cessful operation of the System, and in no  
20                         case shall the data be other than—

21                                 “(I) information necessary to  
22                                 register employers under paragraph  
23                                 (5);

1                   “(II) information necessary to  
2                   initiate and respond to inquiries or  
3                   contests under paragraph (8);

4                   “(III) information necessary to  
5                   establish and enforce compliance with  
6                   paragraphs (5) and (8);

7                   “(IV) information necessary to  
8                   detect and prevent employment-re-  
9                   lated identity fraud; and

10                  “(V) such other information the  
11                  Secretary determines is necessary,  
12                  subject to a 180-day notice and com-  
13                  ment period in the Federal Register.

14                  “(ii) PENALTIES.—Any officer, em-  
15                  ployee, or contractor who willfully and  
16                  knowingly collects and maintains data in  
17                  the System other than data described in  
18                  clause (i) shall be guilty of a misdemeanor  
19                  and fined \$1,000 for each violation.

20                  “(B) LIMITATION ON USE OF DATA.—  
21                  Whoever willfully and knowingly accesses, dis-  
22                  closes, or uses any information obtained or  
23                  maintained by the System—

24                         “(i) for the purpose of committing  
25                         identity fraud, or assisting another person

1 in committing identity fraud, as defined in  
2 section 1028 of title 18, United States  
3 Code;

4 “(ii) for the purpose of unlawfully ob-  
5 taining employment in the United States  
6 or unlawfully obtaining employment in the  
7 United States for any other person; or

8 “(iii) for any purpose other than as  
9 provided for under any provision of law;

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

14 “(C) EXCEPTIONS.—Nothing in subpara-  
15 graph (A) or (B) may be construed to limit the  
16 collection, maintenance, or use of data by the  
17 Commissioner of Internal Revenue or the Com-  
18 missioner of Social Security as provided by law.

19 “(14) MODIFICATION AUTHORITY.—The Sec-  
20 retary, after notice is submitted to Congress and  
21 provided to the public in the Federal Register, is au-  
22 thorized to modify the requirements of this sub-  
23 section with respect to completion of forms, method  
24 of storage, attestations, copying of documents, sig-  
25 natures, methods of transmitting information, and

1 other operational and technical aspects to improve  
2 the efficiency, accuracy, and security of the System.  
3 The Secretary shall minimize the collection and stor-  
4 age of paper documents and maximize the use of  
5 electronic records, including electronic signatures.

6 “(15) ANNUAL GAO STUDY AND REPORT.—

7 “(A) REQUIREMENT.—The Comptroller  
8 General of the United States shall conduct an  
9 annual study of the System.

10 “(B) PURPOSE.—The study shall evaluate  
11 the accuracy, efficiency, integrity, and impact of  
12 the System.

13 “(C) REPORT.—Not later than the date  
14 that is 24 months after the date of the enact-  
15 ment of this section, and annually thereafter,  
16 the Comptroller General shall submit to Con-  
17 gress a report containing the findings of the  
18 study carried out under this paragraph. Each  
19 such report shall include, at a minimum, the  
20 following:

21 “(i) An assessment of System per-  
22 formance with respect to the rate at which  
23 individuals who are eligible for employment  
24 in the United States are correctly approved  
25 within each of the periods specified in

1 paragraph (8), including a separate assess-  
2 ment of such rate for nationals and aliens.

3 “(ii) An assessment of the privacy and  
4 security of the System and its effects on  
5 identity fraud or the misuse of personal  
6 data.

7 “(iii) An assessment of the effects of  
8 the System on the employment of unau-  
9 thorized aliens.

10 “(iv) An assessment of the effects of  
11 the System, including the effects of ten-  
12 tative confirmations on unfair immigra-  
13 tion-related employment practices, and em-  
14 ployment discrimination based on national  
15 origin or citizenship status.

16 “(v) An assessment of whether the  
17 Secretary and the Commissioner of Social  
18 Security have adequate resources to carry  
19 out the duties and responsibilities of this  
20 section.

21 “(e) COMPLIANCE.—

22 “(1) COMPLAINTS AND INVESTIGATIONS.—The  
23 Secretary shall establish procedures—

1           “(A) for individuals and entities to file  
2 complaints regarding potential violations of sub-  
3 section (a);

4           “(B) for the investigation of such com-  
5 plaints that the Secretary determines are ap-  
6 propriate to investigate; and

7           “(C) for the investigation of other viola-  
8 tions of subsection (a) that the Secretary deter-  
9 mines is appropriate.

10       “(2) AUTHORITY IN INVESTIGATIONS.—

11           “(A) IN GENERAL.—In conducting inves-  
12 tigations and hearings under this subsection, of-  
13 ficers and employees of the Department of  
14 Homeland Security—

15           “(i) shall have reasonable access to  
16 examine evidence regarding any employer  
17 being investigated; and

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

23           “(B) FAILURE TO COOPERATE.—In case of  
24 refusal to obey a subpoena lawfully issued  
25 under subparagraph (A)(ii), the Secretary may

1 request that the Attorney General apply in an  
2 appropriate district court of the United States  
3 for an order requiring compliance with such  
4 subpoena, and any failure to obey such order  
5 may be punished by such court as contempt.

6 “(C) DEPARTMENT OF LABOR.—The Sec-  
7 retary of Labor shall have the investigative au-  
8 thority provided under section 11(a) of the Fair  
9 Labor Standards Act of 1938 (29 U.S.C.  
10 211(a)) to ensure compliance with the provi-  
11 sions of this section.

12 “(3) COMPLIANCE PROCEDURES.—

13 “(A) PREPENALTY NOTICE.—If the Sec-  
14 retary has reasonable cause to believe that  
15 there has been a violation of a requirement of  
16 this section and determines that further pro-  
17 ceedings related to such violation are war-  
18 ranted, the Secretary shall issue to the em-  
19 ployer concerned a written notice of the Sec-  
20 retary’s intention to issue a claim for a fine or  
21 other penalty. Such notice shall—

22 “(i) describe the violation;

23 “(ii) specify the laws and regulations  
24 allegedly violated;

1           “(iii) specify the amount of fines or  
2 other penalties to be imposed;

3           “(iv) disclose the material facts which  
4 establish the alleged violation; and

5           “(v) inform such employer that the  
6 employer shall have a reasonable oppor-  
7 tunity to make representations as to why a  
8 claim for a monetary or other penalty  
9 should not be imposed.

10           “(B) REMISSION OR MITIGATION OF PEN-  
11 ALTIES.—

12           “(i) REVIEW BY SECRETARY.—If the  
13 Secretary determines that such fine or  
14 other penalty was incurred erroneously, or  
15 determines the existence of such mitigating  
16 circumstances as to justify the remission  
17 or mitigation of such fine or penalty, the  
18 Secretary may remit or mitigate such fine  
19 or other penalty on the terms and condi-  
20 tions as the Secretary determines are rea-  
21 sonable and just, or order termination of  
22 any proceedings related to the notice. Such  
23 mitigating circumstances may include good  
24 faith compliance and participation in, or

1 agreement to participate in, the System, if  
2 not otherwise required.

3 “(ii) APPLICABILITY.—This subpara-  
4 graph may not apply to an employer that  
5 has or is engaged in a pattern or practice  
6 of violations of paragraph (1), (2), or (3)  
7 of subsection (a) or of any other require-  
8 ments of this section.

9 “(C) PENALTY CLAIM.—After considering  
10 evidence and representations offered by the em-  
11 ployer, the Secretary shall determine whether  
12 there was a violation and promptly issue a writ-  
13 ten final determination setting forth the find-  
14 ings of fact and conclusions of law on which the  
15 determination is based and the appropriate pen-  
16 alty.

17 “(4) CIVIL PENALTIES.—

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

23 “(i) Pay a civil penalty of \$5,000 for  
24 each unauthorized alien with respect to  
25 each such violation.

1           “(ii) If the employer has previously  
2           been fined 1 time under this subparagraph,  
3           pay a civil penalty of \$10,000 for each un-  
4           authorized alien with respect to each such  
5           violation.

6           “(iii) If the employer has previously  
7           been fined more than 1 time under this  
8           subparagraph or has failed to comply with  
9           a previously issued and final order related  
10          to any such provision, pay a civil penalty  
11          of \$25,000 for each unauthorized alien  
12          with respect to each such violation.

13          “(iv) If the employer has previously  
14          been fined more than 2 times under this  
15          subparagraph or has failed to comply with  
16          a previously issued and final order related  
17          to any such provision, pay a civil penalty  
18          of \$75,000 for each unauthorized alien  
19          with respect to each such violation.

20          “(v) An employer who fails to comply  
21          with a written final determination under  
22          paragraph (3)(C) shall be fined \$75,000  
23          for each violation, in addition to any fines  
24          or other penalties imposed by such deter-  
25          mination.

1           “(B) RECORDKEEPING OR VERIFICATION  
2 PRACTICES.—Any employer that violates or fails  
3 to comply with the recordkeeping requirements  
4 of subsections (a), (c), and (d), shall pay a civil  
5 penalty as follows:

6           “(i) Pay a civil penalty of \$1,000 for  
7 each such violation.

8           “(ii) If the employer has previously  
9 been fined 1 time under this subparagraph,  
10 pay a civil penalty of \$2,000 for each such  
11 violation.

12           “(iii) If the employer has previously  
13 been fined more than 1 time under this  
14 subparagraph, pay a civil penalty of  
15 \$5,000 for each such violation.

16           “(iv) If the employer has previously  
17 been fined more than 2 times under this  
18 subparagraph, pay a civil penalty of  
19 \$15,000 for each such violation.

20           “(v) An employer who fails to comply  
21 with a written final determination under  
22 paragraph (3) shall be fined \$15,000 for  
23 each violation, in addition to any fines or  
24 other penalties imposed by such determina-  
25 tion.

1           “(C) OTHER PENALTIES.—Notwith-  
2 standing subparagraphs (A) and (B), the Sec-  
3 retary may impose additional penalties for vio-  
4 lations, including violations of cease and desist  
5 orders, specially designed compliance plans to  
6 prevent further violations, suspended fines to  
7 take effect in the event of a further violation,  
8 and in appropriate cases, the criminal penalty  
9 described in subsection (f).

10           “(5) JUDICIAL REVIEW.—An employer ad-  
11 versely affected by a final determination may, within  
12 30 days after the date the final determination is  
13 issued, file a petition in any appropriate district  
14 court of the United States. The filing of a petition  
15 as provided in this paragraph shall stay the Sec-  
16 retary’s determination until entry of judgment by  
17 the court. The burden shall be on the employer to  
18 show that the final determination was not supported  
19 by substantial evidence. The Secretary is authorized  
20 to require that the petitioner provide, prior to filing  
21 for review, security for payment of fines and pen-  
22 alties through bond or other guarantee of payment  
23 acceptable to the Secretary.

24           “(6) ENFORCEMENT OF ORDERS.—If an em-  
25 ployer fails to comply with a final determination

1 issued against that employer under this subsection,  
2 and the final determination is not subject to review  
3 as provided in paragraph (5), the Attorney General  
4 may file suit to enforce compliance with the final de-  
5 termination, not earlier than 31 days and not later  
6 than 180 days after the date the final determination  
7 is issued, in any appropriate district court of the  
8 United States. In any such suit, the validity and ap-  
9 propriateness of the final determination shall not be  
10 subject to review.

11 “(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR  
12 PATTERN OR PRACTICE VIOLATIONS.—

13 “(1) CRIMINAL PENALTY.—An employer that  
14 engages in a pattern or practice of knowing viola-  
15 tions of subsection (a)(1)(A) or (a)(2) shall be fined  
16 not more than \$75,000 for each unauthorized alien  
17 with respect to whom such a violation occurs, im-  
18 prisoned for not more than 3 years for the entire  
19 pattern or practice, or both.

20 “(2) ENJOINING OF PATTERN OR PRACTICE  
21 VIOLATIONS.—If the Secretary or the Attorney Gen-  
22 eral has reasonable cause to believe that an employer  
23 is engaged in a pattern or practice of employment,  
24 recruitment, or referral in violation of paragraph  
25 (1)(A) or (2) of subsection (a), the Attorney General

1       may bring a civil action in the appropriate district  
2       court of the United States requesting a permanent  
3       or temporary injunction, restraining order, or other  
4       order against the employer, as the Secretary deems  
5       necessary.

6       “(g) ADJUSTMENT FOR INFLATION.—All penalties in  
7 this section shall be increased every 4 years beginning  
8 January 2011 to reflect the percentage increase in the  
9 consumer price index for all urban consumers (all items;  
10 U.S. city average) for the 48 month period ending with  
11 September of the year preceding the year such adjustment  
12 is made. Any adjustment under this subparagraph shall  
13 be rounded to the nearest dollar.

14       “(h) PROHIBITION OF INDEMNITY BONDS.—

15               “(1) PROHIBITION.—It is unlawful for an em-  
16       ployer, in the hiring, recruiting, or referral of an in-  
17       dividual, to require the individual to post a bond or  
18       security, to pay or agree to pay an amount, or other-  
19       wise to provide a financial guarantee or indemnity,  
20       against any potential liability arising under this sec-  
21       tion relating to such hiring, recruiting, or referral of  
22       the individual.

23               “(2) CIVIL PENALTY.—Any employer which is  
24       determined, after notice and opportunity for mitiga-  
25       tion of the monetary penalty under subsection (e), to

1       have violated paragraph (1) of this subsection shall  
2       be subject to a civil penalty of \$10,000 for each vio-  
3       lation and to an administrative order requiring the  
4       return of any amounts received in violation of such  
5       paragraph to the employee or, if the employee can-  
6       not be located, to the general fund of the Treasury.

7       “(i) PROHIBITION ON AWARD OF GOVERNMENT CON-  
8 TRACTS, GRANTS, AND AGREEMENTS.—

9               “(1) EMPLOYERS WITH NO CONTRACTS,  
10 GRANTS, OR AGREEMENTS.—

11               “(A) IN GENERAL.—If an employer who  
12       does not hold a Federal contract, grant, or co-  
13       operative agreement is determined by the Sec-  
14       retary to be a repeat violator of this section or  
15       is convicted of a crime under this section, the  
16       employer shall be subject to debarment from  
17       the receipt of a Federal contract, grant, or co-  
18       operative agreement for a period of not more  
19       than 2 years in accordance with the procedures  
20       and standards prescribed by the Federal Acqui-  
21       sition Regulations. The Secretary or the Attor-  
22       ney General shall advise the Administrator of  
23       General Services of such a debarment, and the  
24       Administrator of General Services shall list the  
25       employer on the List of Parties Excluded from

1 Federal Procurement and Nonprocurement Pro-  
2 grams for a period of the debarment.

3 “(B) WAIVER.—The Administrator of Gen-  
4 eral Services, in consultation with the Secretary  
5 and the Attorney General, may waive operation  
6 of this subsection or may limit the duration or  
7 scope of the debarment.

8 “(2) EMPLOYERS WITH CONTRACTS, GRANTS,  
9 OR AGREEMENTS.—

10 “(A) IN GENERAL.—An employer who  
11 holds a Federal contract, grant, or cooperative  
12 agreement and is determined by the Secretary  
13 to be a repeat violator of this section or is con-  
14 victed of a crime under this section, shall be  
15 subject to debarment from the receipt of new  
16 Federal contracts, grants, or cooperative agree-  
17 ments for a period of not more than 2 years in  
18 accordance with the procedures and standards  
19 prescribed by the Federal Acquisition Regula-  
20 tions.

21 “(B) NOTICE TO AGENCIES.—Prior to de-  
22 barring the employer under subparagraph (A),  
23 the Secretary, in cooperation with the Adminis-  
24 trator of General Services, shall advise all agen-  
25 cies or departments holding a contract, grant,

1 or cooperative agreement with the employer of  
2 the Government's intention to debar the em-  
3 ployer from the receipt of new Federal con-  
4 tracts, grants, or cooperative agreements for a  
5 period of not more than 2 years.

6 “(C) WAIVER.—After consideration of the  
7 views of all agencies or departments that hold  
8 a contract, grant, or cooperative agreement  
9 with the employer, the Secretary may, in lieu of  
10 debarring the employer from the receipt of new  
11 Federal contracts, grants, or cooperative agree-  
12 ments for a period of nor more than 2 years,  
13 waive operation of this subsection, limit the du-  
14 ration or scope of the debarment, or may refer  
15 to an appropriate lead agency the decision of  
16 whether to debar the employer, for what dura-  
17 tion, and under what scope in accordance with  
18 the procedures and standards prescribed by the  
19 Federal Acquisition Regulation. However, any  
20 proposed debarment predicated on an adminis-  
21 trative determination of liability for civil penalty  
22 by the Secretary or the Attorney General shall  
23 not be reviewable in any debarment proceeding.

24 “(3) SUSPENSION.—Indictments for violations  
25 of this section or adequate evidence of actions that

1       could form the basis for debarment under this sub-  
2       section shall be considered a cause for suspension  
3       under the procedures and standards for suspension  
4       prescribed by the Federal Acquisition Regulation.

5           “(4) DETERMINATION OF REPEAT VIOLA-  
6       TORS.—Inadvertent violations of recordkeeping or  
7       verification requirements, in the absence of any  
8       other violations of this section, shall not be a basis  
9       for determining that an employer is a repeat violator  
10      for purposes of this subsection.

11      “(j) MISCELLANEOUS PROVISIONS.—

12           “(1) DOCUMENTATION.—In providing docu-  
13      mentation or endorsement of authorization of aliens  
14      eligible to be employed in the United States, the  
15      Secretary shall provide that any limitations with re-  
16      spect to the period or type of employment or em-  
17      ployer shall be conspicuously stated on the docu-  
18      mentation or endorsement (other than aliens law-  
19      fully admitted for permanent residence).

20           “(2) PREEMPTION.—The provisions of this sec-  
21      tion preempt any State or local law—

22           “(A) imposing civil or criminal sanctions  
23      upon those who hire, or recruit or refer for a  
24      fee, unauthorized aliens for employment; or

1           “(B) requiring the use of the System for  
2           any unauthorized purpose, or any authorized  
3           purpose prior to the time such use is required  
4           or permitted by Federal law.

5           “(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as  
6 otherwise specified, civil penalties collected under this sec-  
7 tion shall be deposited by the Secretary into the general  
8 fund of the Treasury.

9           “(l) DEFINITIONS.—In this section:

10           “(1) SECRETARY.—Except as otherwise pro-  
11 vided, the term ‘Secretary’ means the Secretary of  
12 Homeland Security.

13           “(2) UNAUTHORIZED ALIEN.—The term ‘unau-  
14 thorized alien’ means, with respect to the employ-  
15 ment of an alien at a particular time, that the alien  
16 is not at that time either—

17           “(A) an alien lawfully admitted for perma-  
18 nent residence; or

19           “(B) authorized to be so employed by this  
20 Act or by the Secretary under any other provi-  
21 sion of law.”.

22           (b) CONFORMING AMENDMENTS.—

23           (1) AMENDMENTS.—

24           (A) REPEAL OF BASIC PILOT.—Sections  
25 401, 402, 403, 404, and 405 of the Illegal Im-

1 migration Reform and Immigrant Responsibility  
2 Act of 1996 (division C of Public Law 104–  
3 208; 8 U.S.C. 1324a note) are repealed.

4 (B) REPEAL OF REPORTING REQUIRE-  
5 MENTS.—

6 (i) REPORT ON EARNINGS OF ALIENS  
7 NOT AUTHORIZED TO WORK.—Subsection  
8 (c) of section 290 of the Immigration and  
9 Nationality Act (8 U.S.C. 1360) is re-  
10 pealed.

11 (ii) REPORT ON FRAUDULENT USE OF  
12 SOCIAL SECURITY ACCOUNT NUMBERS.—  
13 Subsection (b) of section 414 of the Illegal  
14 Immigration Reform and Immigrant Re-  
15 sponsibility Act of 1996 (division C of  
16 Public Law 104–208; 8 U.S.C. 1360 note)  
17 is repealed.

18 (2) CONSTRUCTION.—Nothing in this sub-  
19 section or in subsection (d) of section 274A, as  
20 amended by subsection (a), may be construed to  
21 limit the authority of the Secretary to allow or con-  
22 tinue to allow the participation of employers who  
23 participated in the basic pilot program under sec-  
24 tions 401, 402, 403, 404, and 405 of the Illegal Im-  
25 migration Reform and Immigrant Responsibility Act

1 of 1996 (division C of Public Law 104–208; 8  
2 U.S.C. 1324a note) in the Electronic Employment  
3 Verification System established pursuant to such  
4 subsection (d).

5 (c) TECHNICAL AMENDMENTS.—

6 (1) DEFINITION OF UNAUTHORIZED ALIEN.—  
7 Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(e)(8)  
8 (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C.  
9 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C.  
10 1324b(a)(1)) are amended by striking “274A(h)(3)”  
11 and inserting “274A”.

12 (2) DOCUMENT REQUIREMENTS.—Section 274B  
13 of the Immigration and Nationality Act (8 U.S.C.  
14 1324b) is amended—

15 (A) in subsections (a)(6) and (g)(2)(B), by  
16 striking “274A(b)” and inserting “274A(c) and  
17 (d)”; and

18 (B) in subsection (g)(2)(B)(ii), by striking  
19 “274A(b)(5)” and inserting “274A(c)”.

20 (d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

21 (1) EEVS DETERMINATIONS.—Section  
22 205(c)(2) of the Social Security Act (42 U.S.C.  
23 405(c)(2)) is amended by adding at the end the fol-  
24 lowing:

1           “(I)(i) The Commissioner of Social Security shall,  
2 subject to the provisions of section \_\_01(f)(2) of the Se-  
3 cure Borders, Economic Opportunity and Immigration Re-  
4 form Act of 2007, establish a reliable, secure method to  
5 provide through the Electronic Employment Verification  
6 System established pursuant to subsection (d) of section  
7 274A of the Immigration and Nationality Act (referred  
8 to in this subparagraph as the ‘System’), within the time  
9 periods required by paragraph (8) of such subsection—

10           “(I) a determination of whether the name, date  
11 of birth, and social security account number of an  
12 individual provided in an inquiry made to the Sys-  
13 tem by an employer is consistent with such informa-  
14 tion maintained by the Commissioner;

15           “(II) a determination of the citizenship status  
16 associated with such name and social security ac-  
17 count number, according to the records maintained  
18 by the Commissioner;

19           “(III) a determination of whether the name and  
20 number belongs to an individual who is deceased, ac-  
21 cording to the records maintained by the Commis-  
22 sioner;

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

1           “(V) a confirmation notice or a nonconfirma-  
2           tion notice described in such paragraph (8), in a  
3           manner that ensures that other information main-  
4           tained by the Commissioner is not disclosed or re-  
5           leased to employers through the System.

6           “(ii) The Commissioner of Social Security shall pre-  
7           vent the fraudulent or other misuse of a social security  
8           account number by establishing procedures under which  
9           an individual who has been assigned a social security ac-  
10          count number may block the use of such number under  
11          the System and remove such block.

12          “(J) In assigning social security account numbers to  
13          aliens who are authorized to work in the United States  
14          under section 218A of the Immigration and Nationality  
15          Act, the Commissioner of Social Security shall—

16                 “(i) to the maximum extent practicable, assign  
17                 such numbers by employing the enumeration proce-  
18                 dure administered jointly by the Commissioner, the  
19                 Secretary of State, and the Secretary of Homeland  
20                 Security;

21                 “(ii) in all cases, record, verify, and maintain  
22                 an electronic record of the alien identification or au-  
23                 thorization number issued by the Secretary and uti-  
24                 lized by the Commissioner in assigning such social  
25                 security account number; and

1           “(iii) upon the issuance of a social security ac-  
2           count number, transmit such number to the Sec-  
3           retary of Homeland Security for inclusion in such  
4           alien’s record maintained by the Secretary.”.

5           (2) AGREEMENT.—Section 205(c)(2)(C)(i) of  
6           the Social Security Act (42 U.S.C. 405(c)(2)(C)(i))  
7           is amended by adding at the end the following: “Any  
8           State that utilizes a social security account number  
9           for such purpose shall enter into an agreement with  
10          the Commissioner to allow the Commissioner to  
11          verify the name, date of birth, and the identity num-  
12          ber issued by the official the State responsible for  
13          issuing drivers’ licenses and identity cards. Such  
14          agreement shall be under the same terms and condi-  
15          tions as agreements entered into by the Commis-  
16          sioner under paragraph 205(r)(8).”.

17          (3) DISCLOSURE OF DEATH INFORMATION.—  
18          Section 205(r) of the Social Security Act (42 U.S.C.  
19          405(r)) is amended by adding at the end the fol-  
20          lowing:

21                 “(9) Notwithstanding this section or any agree-  
22                 ment entered into thereunder, the Commissioner of  
23                 Social Security is authorized to disclose death infor-  
24                 mation to the Secretary of Homeland Security to the  
25                 extent necessary to carry out the responsibilities re-

1       quired under subsection (c)(2) and section  
2       6103(l)(21) of the Internal Revenue Code of 1986.”.

3       (e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY  
4 INFORMATION.—

5           (1) IN GENERAL.—Section 6103(l) of the Inter-  
6       nal Revenue Code of 1986 is amended by adding at  
7       the end the following:

8           “(21) DISCLOSURE OF CERTAIN TAXPAYER  
9       IDENTITY INFORMATION BY THE SOCIAL SECURITY  
10       ADMINISTRATION TO THE DEPARTMENT OF HOME-  
11       LAND SECURITY.—

12           “(A) IN GENERAL.—Upon written request  
13       by the Secretary of Homeland Security, the  
14       Commissioner of Social Security or the Sec-  
15       retary shall disclose directly to officers, employ-  
16       ees, and contractors of the Department of  
17       Homeland Security the following information:

18           “(i) DISCLOSURE OF EMPLOYER NO  
19       MATCH NOTICES.—The taxpayer identity  
20       of each person who has filed an informa-  
21       tion return required by reason of section  
22       6051 or section 6041(a) for tax year 2005  
23       and subsequent tax years that end before  
24       the date that is specified in subparagraph  
25       (F) which contains—

1                   “(I) 1 (or any greater number  
2                   the Secretary shall request) name and  
3                   taxpayer identifying number of any  
4                   employee (within the meaning of sec-  
5                   tion 6051) or any recipient (within  
6                   the meaning of section 6041(a)) that  
7                   could not be matched to the records  
8                   maintained by the Commissioner of  
9                   Social Security, or

10                   “(II) 2 (or any greater number  
11                   the Secretary shall request) names of  
12                   employees (within the meaning of  
13                   such section) or recipients (within the  
14                   meaning of section 6041(a)) with the  
15                   same taxpayer identifying number,  
16                   and the taxpayer identity of each such em-  
17                   ployee or recipient.

18                   “(ii) DISCLOSURE OF INFORMATION  
19                   REGARDING USE OF DUPLICATE TAXPAYER  
20                   IDENTIFYING INFORMATION OF EMPLOY-  
21                   EES.—The taxpayer identity of each per-  
22                   son who has filed an information return re-  
23                   quired by reason of section 6051 or section  
24                   6041(a) for tax year 2005 and subsequent  
25                   tax years that end before the date that is

1 specified in subparagraph (F) which con-  
2 tains the taxpayer identifying number (as-  
3 signed under section 6109) of an employee  
4 (within the meaning of section 6051) or a  
5 recipient (within the meaning of section  
6 6041(a))—

7 “(I) who is under the age of 14  
8 (or any lesser age the Secretary shall  
9 request), according to the records  
10 maintained by the Commissioner of  
11 Social Security,

12 “(II) whose date of death, ac-  
13 cording to the records so maintained,  
14 occurred in a calendar year preceding  
15 the calendar year for which the infor-  
16 mation return was filed,

17 “(III) whose taxpayer identifying  
18 number is contained in more than one  
19 (or any greater number the Secretary  
20 shall request) information return filed  
21 in such calendar year,

22 “(IV) who is not authorized to  
23 work in the United States, according  
24 to the records so maintained, or

1                   “(V) who is not a national of the  
2                   United States, according to the  
3                   records so maintained,  
4                   and the taxpayer identity of each such em-  
5                   ployee or recipient.

6                   “(iii) DISCLOSURE OF INFORMATION  
7                   REGARDING NONPARTICIPATING EMPLOY-  
8                   ERS.—The taxpayer identity of each per-  
9                   son who has filed an information return re-  
10                  quired by reason of section 6051 or section  
11                  6041(a) which the Commissioner of Social  
12                  Security or the Secretary, as the case may  
13                  be, has reason to believe, based on a com-  
14                  parison with information submitted by the  
15                  Secretary of Homeland Security, contains  
16                  evidence of such person’s failure to register  
17                  and participate in the Electronic Employ-  
18                  ment Verification System authorized under  
19                  section 274A(d) of the Immigration and  
20                  Nationality Act (hereafter in this para-  
21                  graph referred to as the ‘System’).

22                  “(iv) DISCLOSURE OF INFORMATION  
23                  REGARDING NEW EMPLOYEES OF NON-  
24                  PARTICIPATING EMPLOYERS.—The tax-  
25                  payer identity of all employees (within the

1 meaning of section 6051) hired and recipi-  
2 ents (within the meaning of section  
3 6041(a)) retained after the date a person  
4 identified in clause (iii) is required to par-  
5 ticipate in the System under section  
6 274A(d)(2) or section 274A(d)(3)(B) of  
7 the Immigration and Nationality Act.

8 “(v) DISCLOSURE OF INFORMATION  
9 REGARDING EMPLOYEES OF CERTAIN DES-  
10 IGNATED EMPLOYERS.—The taxpayer iden-  
11 tity of all employees (within the meaning  
12 of section 6051) and recipients (within the  
13 meaning of section 6041(a)) of each person  
14 who is required to participate in the Sys-  
15 tem under section 274A(d)(3)(B) of the  
16 Immigration and Nationality Act.

17 “(vi) DISCLOSURE OF NEW HIRE TAX-  
18 PAYER IDENTITY INFORMATION.—The tax-  
19 payer identity of each person participating  
20 in the System and the taxpayer identity of  
21 all employees (within the meaning of sec-  
22 tion 6051) of such person hired and all re-  
23 cipients (within the meaning of section  
24 6041(a)) of such person retained during  
25 the period beginning with the later of—

1                   “(I) the date such person begins  
2                   to participate in the System, or

3                   “(II) the date of the request im-  
4                   mediately preceding the most recent  
5                   request under this clause,

6                   ending with the date of the most recent re-  
7                   quest under this clause.

8                   “(B) RESTRICTION ON DISCLOSURE.—The  
9                   taxpayer identities disclosed under subpara-  
10                  graph (A) may be used by officers, employees,  
11                  and contractors of the Department of Home-  
12                  land Security only for purposes of, and to the  
13                  extent necessary in—

14                   “(i) preventing identity fraud;

15                   “(ii) preventing unauthorized aliens  
16                   from obtaining employment in the United  
17                   States;

18                   “(iii) establishing and enforcing em-  
19                   ployer participation in the System;

20                   “(iv) carrying out, including through  
21                   civil administrative and civil judicial pro-  
22                   ceedings, of sections 212, 217, 235, 237,  
23                   238, 274A, 274B, and 274C of the Immi-  
24                   gration and Nationality Act; and

1                   “(v) the civil operation of the Alien  
2                   Terrorist Removal Court.

3                   “(C) REIMBURSEMENT.—The Commis-  
4                   sioner of Social Security and the Secretary shall  
5                   prescribe a reasonable fee schedule based on the  
6                   additional costs directly incurred for furnishing  
7                   taxpayer identities under this paragraph and  
8                   collect such fees in advance from the Secretary  
9                   of Homeland Security.

10                  “(D) INFORMATION RETURNS UNDER SEC-  
11                  TION 6041.—For purposes of this paragraph,  
12                  any reference to information returns required  
13                  by reason of section 6041(a) shall only be a ref-  
14                  erence to such information returns relating to  
15                  payments for labor.

16                  “(E) FORM OF DISCLOSURE.—The tax-  
17                  payer identities to be disclosed under paragraph  
18                  (A) shall be provided in a form agreed upon by  
19                  the Commissioner of Social Security, the Sec-  
20                  retary, and the Secretary of Homeland Secu-  
21                  rity.

22                  “(F) TERMINATION.—This paragraph shall  
23                  not apply to any request made after the date  
24                  which is 5 years after the date of the enactment  
25                  of this paragraph.”.

1           (2) COMPLIANCE BY DHS CONTRACTORS WITH  
2 CONFIDENTIALITY SAFEGUARDS.—Section 6103(p)  
3 of such Code is amended by adding at the end the  
4 following:

5           “(9) DISCLOSURE TO DHS CONTRACTORS.—  
6 Notwithstanding any other provision of this section,  
7 no return or return information shall be disclosed to  
8 any contractor of the Department of Homeland Se-  
9 curity unless such Department, to the satisfaction of  
10 the Secretary—

11           “(A) has requirements in effect which re-  
12 quire each such contractor which would have  
13 access to returns or return information to pro-  
14 vide safeguards (within the meaning of para-  
15 graph (4)) to protect the confidentiality of such  
16 returns or return information,

17           “(B) agrees to conduct an on-site review  
18 every 3 years (midpoint review in the case of  
19 contracts or agreements of less than 3 years in  
20 duration) of each contractor to determine com-  
21 pliance with such requirements,

22           “(C) submits the findings of the most re-  
23 cent review conducted under subparagraph (B)  
24 to the Secretary as part of the report required  
25 by paragraph (4)(E), and

1           “(D) certifies to the Secretary, for the  
2 most recent annual period, that such contractor  
3 is in compliance with all such requirements, by  
4 submitting the name and address of each con-  
5 tractor, a description of the contract or agree-  
6 ment with such contractor, and the duration of  
7 such contract or agreement.”.

8           (3) CONFORMING AMENDMENTS.—

9           (A) Section 6103(a)(3) of such Code is  
10 amended by striking “or (20)” and inserting  
11 “(20), or (21)”.

12           (B) Section 6103(p)(3)(A) of such Code is  
13 amended by adding at the end the following  
14 new sentence: “The Commissioner of Social Se-  
15 curity shall provide to the Secretary such infor-  
16 mation as the Secretary may require in carrying  
17 out this paragraph with respect to return infor-  
18 mation inspected or disclosed under the author-  
19 ity of subsection (l)(21).”.

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

22           (i) by striking “or (17)” both places it  
23 appears and inserting “(17), or (21)”; and

24           (ii) by striking “or (20)” each place it  
25 appears and inserting “(20), or (21)”.

1 (D) Section 6103(p)(8)(B) of such Code is  
2 amended by inserting “or paragraph (9)” after  
3 “subparagraph (A)”.

4 (E) Section 7213(a)(2) of such Code is  
5 amended by striking “or (20)” and inserting  
6 “(20), or (21)”.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There are authorized to be  
9 appropriated to the Secretary such sums as are nec-  
10 essary to carry out the amendments made by this  
11 section.

12 (2) LIMITATION ON VERIFICATION RESPON-  
13 SIBILITIES OF COMMISSIONER OF SOCIAL SECU-  
14 RITY.—The Commissioner of Social Security is au-  
15 thorized to perform activities with respect to car-  
16 rying out the Commissioner’s responsibilities in this  
17 title or the amendments made by this title, but only  
18 to the extent funds are appropriated, in advance, to  
19 cover the Commissioner’s full costs in carrying out  
20 such responsibilities. In no case shall funds from the  
21 Federal Old-Age and Survivors Insurance Trust  
22 Fund or the Federal Disability Insurance Trust  
23 Fund be used to carry out such responsibilities.

24 (g) EFFECTIVE DATES.—

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

4           (2) SUBSECTION (e).—

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

9           (B) CERTIFICATIONS.—The first certifi-  
10          cation under section 6103(p)(9)(D) of the In-  
11          ternal Revenue Code of 1986, as added by sub-  
12          section (e)(2), shall be made with respect to cal-  
13          endar year 2008.

14 **SEC.  03.  ADDITIONAL WORKSITE ENFORCEMENT AND**  
15 **FRAUD DETECTION AGENTS.**

16          (a) INCREASE IN NUMBER OF PERSONNEL.—The  
17          Secretary shall, subject to the availability of appropria-  
18          tions for such purpose, annually increase, by not less than  
19          2,200, the number of United States Immigration and Cus-  
20          toms Enforcement personnel during the 5-year period be-  
21          ginning on the date of the enactment of this Act.

22          (b) USE OF PERSONNEL.—The Secretary shall en-  
23          sure that not less than 25 percent of all the hours ex-  
24          pended by United States Immigration and Customs En-  
25          forcement personnel is used to enforce compliance with

1 sections 274A and 274C of the Immigration and Nation-  
2 ality Act (8 U.S.C. 1324a and 1324c).

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary for  
5 each of the fiscal years 2008 through 2012 such sums as  
6 may be necessary to carry out this section.

7 **SEC. 04. CLARIFICATION OF INELIGIBILITY FOR MIS-**  
8 **REPRESENTATION.**

9 Section 212(a)(6)(C)(ii)(I) of the Immigration and  
10 Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amend-  
11 ed by striking “citizen” and inserting “national”.

12 **SEC. 05. ANTIDISCRIMINATION PROTECTIONS.**

13 (a) APPLICATION OF PROHIBITION OF DISCRIMINA-  
14 TION TO VERIFICATION SYSTEM.—Section 274B(a) of the  
15 Immigration and Nationality Act (8 U.S.C. 1324b(a)) is  
16 amended—

17 (1) in paragraph (1)—

18 (A) in the matter preceding subparagraph  
19 (A), by inserting “, the verification of the indi-  
20 vidual’s work authorization through the Elec-  
21 tronic Employment Verification System de-  
22 scribed in section 274A(d),” after “the indi-  
23 vidual for employment”; and

1 (B) in subparagraph (B), by striking “in  
2 the case of a protected individual (as defined in  
3 paragraph (3)),”; and

4 (2) by striking paragraph (3) and inserting the  
5 following:

6 “(3) ANTIDISCRIMINATION REQUIREMENTS OF  
7 THE ELECTRONIC EMPLOYMENT VERIFICATION SYS-  
8 TEM.—

9 “(A) IN GENERAL.—It is an unfair immi-  
10 gration-related employment practice for a per-  
11 son or other entity, in the course of the elec-  
12 tronic verification process described in section  
13 274A(d)—

14 “(i) to terminate or undertake any ad-  
15 verse employment action due to a tentative  
16 nonconfirmation;

17 “(ii) to use the verification system for  
18 screening of an applicant prior to an offer  
19 of employment;

20 “(iii) except as described in section  
21 274A(d)(3)(B), to use the verification sys-  
22 tem for a current employee after the first  
23 day of employment, unless a waiver is pro-  
24 vided by the Secretary of Homeland Secu-  
25 rity for good cause, or for the

1           reverification of an employee after the em-  
2           ployee has satisfied the process described  
3           in section 274A(d); or

4                   “(iv) to require an individual to make  
5           an inquiry under the self-verification proce-  
6           dures established in section  
7           274A(d)(8)(E)(iii).

8           “(B) PREEMPLOYMENT SCREENING AND  
9           BACKGROUND CHECK.—Nothing in subpara-  
10          graph (A) shall be construed to preclude a pre-  
11          employment screening or background check that  
12          is required or permitted under any other provi-  
13          sion of law.”.

14          (b) INCREASE IN CIVIL MONEY PENALTIES.—Section  
15          274B(g)(2) of the Immigration and Nationality Act (8  
16          U.S.C. 1324b(g)(2)) is amended in subparagraph  
17          (B)(iv)—

18                (1) in subclause (I), by striking “\$250 and not  
19                more than \$2,000” and inserting “\$1,000 and not  
20                more than \$4,000”;

21                (2) in subclause (II), by striking “\$2,000 and  
22                not more than \$5,000” and inserting “\$4,000 and  
23                not more than \$10,000”;

1           (3) in subclause (III), by striking “\$3,000 and  
2           not more than \$10,000” and inserting “\$6,000 and  
3           not more than \$20,000”; and

4           (4) in subclause (IV), by striking “\$100 and  
5           not more than \$1,000” and inserting “\$500 and not  
6           more than \$5,000”.

7           (c) INCREASED FUNDING OF INFORMATION CAM-  
8 PAIGN.—Section 274B(1)(3) of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1324b(1)(3)) is amended by insert-  
10 ing “and an additional \$40,000,000 for each of fiscal  
11 years 2008 through 2010” before the period at the end.

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

1 **SEC. \_\_\_\_ . DISTRICT JUDGES FOR THE DISTRICT COURTS IN**  
2 **BORDER STATES.**

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

5 (1) 4 additional district judges for the district  
6 of Arizona;

7 (2) 4 additional district judges for the central  
8 district of California;

9 (3) 4 additional district judges for the eastern  
10 of California;

11 (4) 2 additional district judges for the northern  
12 district of California;

13 (5) 4 additional district judges for the middle  
14 district of Florida;

15 (6) 2 additional district judges for the southern  
16 district of Florida;

17 (7) 1 additional district judge for the district of  
18 Minnesota;

19 (8) 1 additional district judge for the district of  
20 New Mexico;

21 (9) 3 additional district judges for the eastern  
22 district of New York;

23 (10) 1 additional district judge for the western  
24 district of New York;

25 (11) 1 additional district judge for the eastern  
26 district of Texas;

1           (12) 2 additional district judges for the south-  
2           ern district of Texas;

3           (13) 1 additional district judge for the western  
4           district of Texas; and

5           (14) 1 additional district judge for the western  
6           district of Washington.

7           (b) TEMPORARY JUDGESHIPS.—

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

10           (A) 1 additional district judge for the dis-  
11           trict of Arizona;

12           (B) 1 additional district judge for the cen-  
13           tral district of California;

14           (C) 1 additional district judge for the  
15           northern district of California;

16           (D) 1 additional district judge for the mid-  
17           dle district of Florida;

18           (E) 1 additional district judge for the  
19           southern district of Florida;

20           (F) 1 additional district judge for the dis-  
21           trict of Idaho; and

22           (G) 1 additional district judge for the dis-  
23           trict of New Mexico.

24           (2) VACANCIES.—For each of the judicial dis-  
25           tricts named in this subsection, the first vacancy

1        arising on the district court 10 years or more after  
 2        a judge is first confirmed to fill the temporary dis-  
 3        trict judgeship created in that district by this sub-  
 4        section shall not be filled.

5        (c) EXISTING JUDGESHIPS.—The existing judgeships  
 6 for the district of Arizona and the district of New Mexico  
 7 authorized by section 312(c) of the 21st Century Depart-  
 8 ment of Justice Appropriations Authorization Act (Public  
 9 Law 107–273, 116 Stat. 1758), as of the effective date  
 10 of this Act, shall be authorized under section 133 of title  
 11 28, United States Code, and the incumbents in those of-  
 12 fices shall hold the office under section 133 of title 28,  
 13 United States Code, as amended by this Act.

14        (d) TABLES.—In order that the table contained in  
 15 section 133 of title 28, United States Code, will, with re-  
 16 spect to each judicial district, reflect the changes in the  
 17 total number of permanent district judgeships authorized  
 18 as a result of subsections (a) and (c), such table is amend-  
 19 ed to read as follows:

<b>“Districts</b>	<b>Judges</b>
Alabama: .....	
Northern .....	7
Middle .....	3
Southern .....	3
Alaska .....	3
Arizona .....	17
Arkansas: .....	
Eastern .....	5
Western .....	3
California: .....	
Northern .....	16

<b>“Districts</b>	<b>Judges</b>
Eastern .....	10
Central .....	31
Southern .....	13
Colorado .....	7
Connecticut .....	8
Delaware .....	4
District of Columbia .....	15
Florida: .....	
Northern .....	4
Middle .....	19
Southern .....	19
Georgia: .....	
Northern .....	11
Middle .....	4
Southern .....	3
Hawaii .....	3
Idaho .....	2
Illinois: .....	
Northern .....	22
Central .....	4
Southern .....	4
Indiana: .....	
Northern .....	5
Southern .....	5
Iowa: .....	
Northern .....	2
Southern .....	3
Kansas .....	5
Kentucky: .....	
Eastern .....	5
Western .....	4
Eastern and Western .....	1
Louisiana: .....	
Eastern .....	12
Middle .....	3
Western .....	7
Maine .....	3
Maryland .....	10
Massachusetts .....	13
Michigan: .....	
Eastern .....	15
Western .....	4
Minnesota .....	8
Mississippi: .....	
Northern .....	3
Southern .....	6
Missouri: .....	
Eastern .....	6
Western .....	5
Eastern and Western .....	2
Montana .....	3
Nebraska .....	3
Nevada .....	7
New Hampshire .....	3

<b>“Districts</b>	<b>Judges</b>
New Jersey .....	17
New Mexico .....	8
New York: .....	
Northern .....	5
Southern .....	28
Eastern .....	18
Western .....	5
North Carolina: .....	
Eastern .....	4
Middle .....	4
Western .....	4
North Dakota .....	2
Ohio: .....	
Northern .....	11
Southern .....	8
Oklahoma: .....	
Northern .....	3
Eastern .....	1
Western .....	6
Northern, Eastern, and Western .....	1
Oregon .....	6
Pennsylvania: .....	
Eastern .....	22
Middle .....	6
Western .....	10
Puerto Rico .....	7
Rhode Island .....	3
South Carolina .....	10
South Dakota .....	3
Tennessee: .....	
Eastern .....	5
Middle .....	4
Western .....	5
Texas: .....	
Northern .....	12
Southern .....	21
Eastern .....	8
Western .....	14
Utah .....	5
Vermont .....	2
Virginia: .....	
Eastern .....	11
Western .....	4
Washington: .....	
Eastern .....	4
Western .....	8
West Virginia: .....	
Northern .....	3
Southern .....	5
Wisconsin: .....	
Eastern .....	5
Western .....	2
Wyoming .....	3.”.

1           (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary to provide appropriate space and facilities for  
4 the judicial positions created under this section.

5           (f) FUNDING.—Notwithstanding any other provision  
6 of law, the Attorney General shall transfer, for each of  
7 the fiscal years 2008 through 2017, \$8,000,000 from the  
8 Department of Justice Assets Forfeiture Fund to the gen-  
9 eral fund of the Treasury to carry out this section.

1 **SEC. \_\_\_\_ . TRANSMITTAL AND APPROVAL OF TOTALIZATION**  
2 **AGREEMENTS.**

3 (a) IN GENERAL.—Section 233(e) of the Social Secu-  
4 rity Act (42 U.S.C. 433(e)) is amended to read as follows:

5 “(e)(1) Any agreement to establish a totalization ar-  
6 rangement which is entered into with another country  
7 under this section shall enter into force with respect to  
8 the United States if (and only if)—

9 “(A) the President, at least 90 calendar days  
10 before the date on which the President enters into  
11 the agreement, notifies each House of Congress of  
12 the President’s intention to enter into the agree-  
13 ment, and promptly thereafter publishes notice of  
14 such intention in the Federal Register,

15 “(B) the President transmits the text of such  
16 agreement to each House of Congress as provided in  
17 paragraph (2), and

18 “(C) an approval resolution regarding such  
19 agreement has passed both Houses of Congress and  
20 has been enacted into law.

21 “(2)(A) Whenever an agreement referred to in para-  
22 graph (1) is entered into, the President shall transmit to  
23 each House of Congress a document setting forth the final  
24 legal text of such agreement and including a report by the  
25 President in support of such agreement. The President’s  
26 report shall include the following:

1           “(i) An estimate by the Chief Actuary of the  
2           Social Security Administration of the effect of the  
3           agreement, in the short term and in the long term,  
4           on the receipts and disbursements under the social  
5           security system established by this title.

6           “(ii) A statement of any administrative action  
7           proposed to implement the agreement and how such  
8           action will change or affect existing law.

9           “(iii) A statement describing whether and how  
10          the agreement changes provisions of an agreement  
11          previously negotiated.

12          “(iv) A statement describing how and to what  
13          extent the agreement makes progress in achieving  
14          the purposes, policies, and objectives of this title.

15          “(v) An estimate by the Chief Actuary of the  
16          Social Security Administration, working in consulta-  
17          tion with the Comptroller General of the United  
18          States, of the number of individuals who may be-  
19          come eligible for any benefits under this title or who  
20          may otherwise be affected by the agreement.

21          “(vi) An assessment of the integrity of the re-  
22          tirement data and records (including birth, death,  
23          and marriage records) of the other country that is  
24          the subject of the agreement.

1           “(vii) An assessment of the ability of such  
2           country to track and monitor recipients of benefits  
3           under such agreement.

4           “(B) If any separate agreement or other under-  
5           standing with another country (whether oral or in writing)  
6           relating to an agreement to establish a totalization ar-  
7           rangement under this section is not disclosed to Congress  
8           in the transmittal to Congress under this paragraph of  
9           the agreement to establish a totalization arrangement,  
10          then such separate agreement or understanding shall not  
11          be considered to be part of the agreement approved by  
12          Congress under this section and shall have no force and  
13          effect under United States law.

14          “(3) For purposes of this subsection, the term ‘ap-  
15          proval resolution’ means a joint resolution, the matter  
16          after the resolving clause of which is as follows: ‘That the  
17          proposed agreement entered into pursuant to section 233  
18          of the Social Security Act between the United States and  
19          \_\_\_\_\_ establishing totalization arrangements  
20          between the social security system established by title II  
21          of such Act and the social security system of  
22          \_\_\_\_\_, transmitted to Congress by the Presi-  
23          dent on \_\_\_\_\_, is hereby approved.’, the first two  
24          blanks therein being filled with the name of the country  
25          with which the United States entered into the agreement,

1 and the third blank therein being filled with the date of  
2 the transmittal of the agreement to Congress.

3 “(4) Whenever a document setting forth an agree-  
4 ment entered into under this section and the President’s  
5 report in support of the agreement is transmitted to Con-  
6 gress pursuant to paragraph (2), copies of such document  
7 shall be delivered to both Houses of Congress on the same  
8 day and shall be delivered to the Clerk of the House of  
9 Representatives if the House is not in session and to the  
10 Secretary of the Senate if the Senate is not in session.

11 “(5) On the day on which a document setting forth  
12 the agreement is transmitted to the House of Representa-  
13 tives and the Senate pursuant to paragraph (1), an ap-  
14 proval resolution with respect to such agreement shall be  
15 introduced (by request) in the House by the majority lead-  
16 er of the House, for himself or herself and the minority  
17 leader of the House, or by Members of the House des-  
18 igned by the majority leader and minority leader of the  
19 House; and shall be introduced (by request) in the Senate  
20 by the majority leader of the Senate, for himself or herself  
21 and the minority leader of the Senate, or by Members of  
22 the Senate designated by the majority leader and minority  
23 leader of the Senate. If either House is not in session on  
24 the day on which such an agreement is transmitted, the  
25 approval resolution with respect to such agreement shall

1 be introduced in that House, as provided in the preceding  
2 sentence, on the first day thereafter on which that House  
3 is in session. The resolution introduced in the House of  
4 Representatives shall be referred to the Committee on  
5 Ways and Means and the resolution introduced in the Sen-  
6 ate shall be referred to the Committee on Finance.”.

7 (b) ADDITIONAL REPORTS AND EVALUATIONS.—Sec-  
8 tion 233 of the Social Security Act (42 U.S.C. 433) is  
9 amended by adding at the end the following new sub-  
10 sections:

11 “(f) BIENNIAL SSA REPORT ON IMPACT OF TOTAL-  
12 IZATION AGREEMENTS.—

13 “(1) REPORT.—For any totalization agreement  
14 transmitted to Congress on or after January 1,  
15 2007, the Commissioner of Social Security shall sub-  
16 mit a report to Congress and the Comptroller Gen-  
17 eral that—

18 “(A) compares the estimates contained in  
19 the report submitted to Congress under clauses  
20 (i) and (v) of subsection (e)(2)(A) with respect  
21 to that agreement with the actual number of in-  
22 dividuals affected by the agreement and the ac-  
23 tual effect of the agreement on social security  
24 system receipts and disbursements; and



1           “(2) REPORT.—Not later than 1 year after the  
2           date of submission of an initial report regarding a  
3           totalization agreement under subsection (f), the  
4           Comptroller General shall submit to Congress a re-  
5           port setting forth the results of the evaluation con-  
6           ducted under paragraph (1).

7           “(3) DATA COLLECTION.—The Commissioner of  
8           Social Security shall collect and maintain the data  
9           necessary for the Comptroller General of the United  
10          States to conduct the evaluation required by para-  
11          graph (1).”.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply with respect to agreements estab-  
14          lishing totalization arrangements entered into under sec-  
15          tion 233 of the Social Security Act that are transmitted  
16          to Congress on or after January 1, 2007.

1 **SEC. \_\_\_\_ . IMMIGRATION ENFORCEMENT IMPROVEMENTS.**

2 (a) **VISA EXIT TRACKING SYSTEM.**—In addition to  
3 the border security and other measures described in para-  
4 graphs (1) through (6) of section 1(a), the certification  
5 required under section 1(a) shall include a statement that  
6 the Secretary of Homeland Security has established and  
7 deployed a system capable of recording the departure of  
8 aliens admitted under section 101(a)(15)(Y) of the Immi-  
9 gration and Nationality Act at designated ports of entry  
10 or designated United States consulates abroad.

11 (b) **PROMPT REMOVAL PROCEEDINGS.**—Subject to  
12 the availability of appropriations, the Secretary of Home-  
13 land Security shall promptly identify, investigate, and ini-  
14 tiate removal proceedings against every alien admitted  
15 into the United States under subparagraph (B) (admitted  
16 under the terms and conditions of section 214(s)), (H)(ii)  
17 (as amended by title IV), or (Y) of section 101(a)(15) of  
18 the Immigration and Nationality Act, and who exceeds the  
19 alien’s period of authorized admission or otherwise violates  
20 any terms of the alien’s nonimmigrant status. In con-  
21 ducting such removal proceedings, the Secretary shall give  
22 priority to aliens who may pose a threat to the national  
23 security, and those convicted of criminal offenses.

24 (c) **REPORT TO GOVERNORS.**—

25 (1) **IN GENERAL.**—Not later than 90 days be-  
26 fore the Secretary of Homeland Security submits a

1 written certification under section 1(a), the Sec-  
2 retary shall submit a report to the governors of the  
3 States that share a land border with Mexico that—

4 (A) describes the progress made in estab-  
5 lishing, funding, and implementing the border  
6 security and other measures described in sub-  
7 section (a) and section 1(a); and

8 (B) indicates the date on which the Sec-  
9 retary intends to submit a written certification  
10 under subsection (a) and section 1(a).

11 (2) GOVERNOR'S RESPONSE.—Not later than  
12 60 days after receiving a report from the Secretary  
13 under paragraph (1), a governor may submit a re-  
14 port to Congress that—

15 (A) analyzes the accuracy of the informa-  
16 tion received by the Secretary;

17 (B) indicates whether the governor agrees  
18 with the Secretary that the border security and  
19 other measures described in subsection (a) and  
20 section 1(a) will be established, funded, and  
21 operational before the Secretary's certification  
22 is submitted; and

23 (C) makes recommendations regarding new  
24 border enforcement policies, strategies, and ad-  
25 ditional programs needed to secure the border.

1           (3) CONSULTATION.—The Secretary shall con-  
2           sult with any governor who submits a report under  
3           subsection (2) before submitting written certification  
4           under section 1(a).

5           (d) SMUGGLING INVESTIGATORS AND ICE PER-  
6           SONNEL.—

7           (1) INCREASE IN FULL-TIME UNITED STATES  
8           IMMIGRATION AND CUSTOMS ENFORCEMENT PER-  
9           SONNEL.—In each of the fiscal years 2008 through  
10          2012, the Secretary of Homeland Security shall,  
11          subject to the availability of appropriations, increase  
12          by not less than 1,250 the number of positions for  
13          full-time active duty forensic auditors, intelligence  
14          research specialists, agents, officers, and investiga-  
15          tors in United States Immigration and Customs En-  
16          forcement—

17                   (A) to carry out the removal of aliens who  
18                   are not admissible to, or are subject to removal  
19                   from, the United States;

20                   (B) to investigate immigration fraud; and

21                   (C) to enforce workplace violations.

22          (2) AUTHORIZATION OF APPROPRIATIONS.—  
23          There are authorized to be appropriated such sums  
24          as may be necessary to carry out this subsection.

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

5           (e) COLLECTION OF BIOMETRIC DATA FROM ALIENS  
6           ENTERING AND DEPARTING THE UNITED STATES.—Sec-  
7           tion 215 of the Immigration and Nationality Act, as  
8           amended by section 111(a), is further amended—

9           (1) by redesignating subsections (d), (e), (f),  
10          and (g) as subsections (e), (f), (g), and (h), respec-  
11          tively; and

12          (2) by striking subsection (c), as added by sec-  
13          tion 111(a)(3), and inserting the following:

14          “(c) COLLECTION OF BIOMETRIC DATA FROM  
15          ALIENS ENTERING AND DEPARTING THE UNITED  
16          STATES.—The Secretary of Homeland Security shall re-  
17          quire an alien entering and departing the United States  
18          to provide biometric data and other information relating  
19          to the alien’s immigration status.

20          “(d) COLLECTION OF DEPARTURE DATA FROM CER-  
21          TAIN NONIMMIGRANTS.—

22                 “(1) IN GENERAL.—The Secretary of Homeland  
23                 Security shall require an alien who was admitted to  
24                 the United States under subparagraph (B) (under  
25                 the terms and conditions of section 214(s)), (H)(ii),

1 or (Y) of section 101(a)(15) to record the alien’s de-  
2 parture at a designated port of entry or at a des-  
3 ignated United States consulate abroad.

4 “(2) FAILURE TO RECORD DEPARTURE.—If an  
5 alien does not record the alien’s departure as re-  
6 quired under paragraph (1), the Secretary, not later  
7 than 48 hours after the expiration of the alien’s pe-  
8 riod of authorized admission, shall enter the name of  
9 the alien into a database of the Department of  
10 Homeland Security as having overstayed the alien’s  
11 period of authorized admission.

12 “(3) INFORMATION SHARING WITH LAW EN-  
13 FORCEMENT AGENCIES.—Consistent with the au-  
14 thority of State and local police to assist the Federal  
15 Government in the enforcement of Federal immigra-  
16 tion laws, the information in the database described  
17 in paragraph (2) shall be made available to State  
18 and local law enforcement agencies pursuant to the  
19 provisions of section 240D.”.

20 (f) EFFECTIVE DATE OF AGGRAVATED FELONY SEC-  
21 TION.—

22 (1) IN GENERAL.—Notwithstanding section  
23 203(b), and except as provided under paragraph (2),  
24 the amendments made by section 203(a) shall—

1 (A) take effect on the date of the enact-  
2 ment of this Act; and

3 (B) apply to any conviction that occurred  
4 on or after the date of the enactment of this  
5 Act.

6 (2) APPLICATION WITH RESPECT TO CONVIC-  
7 TIONS FOR SEXUAL ABUSE OF A MINOR.—Notwith-  
8 standing paragraph (1), the amendment made by  
9 section 203(a)(2) related to the sexual abuse of a  
10 minor shall apply to any conviction for sexual abuse  
11 of a minor that occurred before, on, or after the date  
12 of the enactment of this Act.

13 (3) APPLICATION OF IIRAIRA AMENDMENTS.—  
14 In accordance with section 203(b)(2) of this Act, the  
15 amendments to section 101(a)(43) of the Immigra-  
16 tion and Nationality Act made by section 321 of the  
17 Illegal Immigration Reform and Immigrant Respon-  
18 sibility Act of 1996 (division C of Public Law 104-  
19 208; 11 Stat. 3009–627) shall continue to apply,  
20 whether the conviction was entered before, on, or  
21 after September 30, 1996.

22 (g) INCREASED CRIMINAL PENALTIES RELATED TO  
23 DRUNK DRIVING.—

24 (1) INADMISSIBILITY.—Section 212(a)(2)(K) of  
25 the Immigration and Nationality Act, as added by

1 section 205(a)(1), is amended by inserting “or  
2 convictions for driving under the influence under  
3 Federal or State law,” after “imprisonment,”.

4 (2) DEPORTABILITY.—Section 237(a)(2)(F) of  
5 the Immigration and Nationality Act, as added by  
6 section 205(a)(2), is amended by inserting “or  
7 convictions for driving under the influence under  
8 Federal or State law,” after “imprisonment,”.

9 (h) DEFINITION OF CRIMINAL GANG.—Section  
10 101(a)(52)(B)(iv) of the Immigration and Nationality Act,  
11 as added by section 204(a), is amended by striking “which  
12 is punishable by a sentence of imprisonment of 5 years  
13 or more,”.

14 (i) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

15 (1) INADMISSIBILITY.—Section 212(a)(2)(F) of  
16 the Immigration and Nationality Act, as added by  
17 section 204(b), is amended to read as follows:

18 “(F) ALIENS ASSOCIATED WITH CRIMINAL  
19 GANGS.—

20 “(i) IN GENERAL.—An alien is inad-  
21 missible if—

22 “(I) a consular officer, the Sec-  
23 retary of Homeland Security, or the  
24 Attorney General knows, or has rea-

1 son to believe, that the alien is a  
2 member of a criminal gang; or

3 “(II) a consular officer, the Sec-  
4 retary of Homeland Security, or the  
5 Attorney General knows or has reason  
6 to believe that the alien has partici-  
7 pated in the activities of a criminal  
8 gang, knowing or having reason to  
9 know that such activities would pro-  
10 mote, further, aid, or support the ille-  
11 gal activity of the criminal gang.

12 “(ii) WAIVER.—The Secretary of  
13 Homeland Security or the Attorney Gen-  
14 eral may, in the discretion of the Secretary  
15 or the Attorney General, as appropriate,  
16 waive an alien’s inadmissibility under  
17 clause (i).”.

18 (2) DEPORTABILITY.—Section 237(a)(2) of the  
19 Immigration and Nationality Act, as added by sec-  
20 tion 204(c), is amended to read as follows:

21 “(F) ALIENS ASSOCIATED WITH CRIMINAL  
22 GANGS.—

23 “(i) IN GENERAL.—An alien is deport-  
24 able if—



1                   “(iv) the alien is a member of a crimi-  
2                   nal gang.”.

3           (k) EFFECTIVE DATE.—Notwithstanding any other  
4 provision of this Act, the amendments made by sub-  
5 sections (i) and (j) of this section and subsections (b), (c),  
6 and (d) of section 204 shall apply to—

7           (1) all aliens required to establish admissibility  
8           on or after such date of enactment; and

9           (2) all aliens in removal, deportation, or exclu-  
10           sion proceedings that are filed, pending, or reopened,  
11           on or after such date of enactment.

12           (l) DETENTION PENDING DEPORTATION OF ALIENS  
13 WHO OVERSTAY.—Section 236 of the Immigration and  
14 Nationality Act (8 U.S.C. 1226) is amended—

15           (1) by redesignating subsection (e) as sub-  
16           section (f); and

17           (2) by inserting after subsection (d) the fol-  
18           lowing:

19           “(e) DETENTION OF ALIENS WHO EXCEED THE  
20 ALIEN’S PERIOD OF AUTHORIZED ADMISSION.—

21           “(1) CUSTODY.—An alien shall be arrested and  
22           detained by the Secretary of Homeland Security  
23           pending a decision on whether the alien is to be re-  
24           moved from the United States for willfully exceed-

1       ing, by 60 days or more, the period of the alien’s au-  
2       thorized admission or parole into the United States.

3               “(2) WAIVER.—The Secretary of Homeland Se-  
4       curity may waive the application of paragraph (1) if  
5       the Secretary determines that the alien exceeded the  
6       alien’s period of authorized admission or parole as a  
7       result of exceptional circumstances beyond the con-  
8       trol of the alien.”.

9       **SEC. \_\_\_\_ . WORKSITE ENFORCEMENT.**

10       (a) NOTIFICATION OF EXPIRATION OF ADMISSION.—  
11       Notwithstanding any other provision of this Act, an em-  
12       ployer or educational institution shall notify an alien in  
13       writing of the expiration of the alien’s period of authorized  
14       admission not later than 14 days before such eligibility  
15       expires.

16       (b) UNLAWFUL EMPLOYMENT OF ALIENS.—

17               (1) IN GENERAL.—Section 274A(a) of the Im-  
18       migration and Nationality Act, as amended by sec-  
19       tion 302(a), is further amended—

20               (A) in paragraph (3), by striking subpara-  
21       graphs (B) and (C) and inserting the following:

22               “(B) The Secretary may establish proce-  
23       dures by which an employer may obtain con-  
24       firmation from the Secretary that the con-

1 tractor or subcontractor has registered with the  
2 EEVS and is utilizing the EEVS.

3 “(C) The Secretary may establish such  
4 other requirements for employers using contrac-  
5 tors or subcontractors as are necessary to pre-  
6 vent knowing violations of this paragraph after  
7 rulemaking pursuant to section 553 of title 5,  
8 United States Code. The Secretary may issue  
9 widely disseminated guidelines to clarify and  
10 supplement the regulations issued hereunder  
11 and disseminate the guidelines broadly in co-  
12 ordination with the Private Sector Office of the  
13 Department of Homeland Security.”; and

14 (B) by striking paragraph (6) and insert-  
15 ing the following:

16 “(6) A rebuttable presumption is created that  
17 an employer has acted with knowledge or reckless  
18 disregard if the employer is shown by clear and con-  
19 vincing evidence to have materially failed to comply  
20 with written standards, procedures or instructions  
21 issued by the Secretary. Standards, procedures or  
22 instructions issued by the Secretary shall be objec-  
23 tive and verifiable.”.

24 (2) DEFINITIONS.—Section 274A(b) of the Im-  
25 migration and Nationality Act, as amended by sec-

1       tion 302(a), is further amended by striking para-  
2       graph (2) and inserting the following:

3           “(2) DEFINITION OF EMPLOYER.—In this sec-  
4       tion, the term ‘employer’ means any person or entity  
5       hiring, recruiting, or referring an individual for a fee  
6       for employment in the United States. Franchised  
7       businesses that operate independently do not con-  
8       stitute a single employer solely on the basis of shar-  
9       ing a common brand.

10          “(3) DEFINITION OF CRITICAL INFRASTRUC-  
11       TURE.—In this section, the term ‘critical infrastruc-  
12       ture’ means agencies and departments of the United  
13       States, States, their suppliers or contractors, and  
14       any other employer whose employees have access as  
15       part of their jobs to a government building, military  
16       base, nuclear energy site, weapon site, airport, or  
17       seaport.”.

18          (3) MANAGEMENT OF EEVS.—Section  
19       274A(d)(9)(E)(v) of the Immigration and Nation-  
20       ality Act, as amended by section 302(a), is further  
21       amended by adding at the end the following: “The  
22       Secretary shall further study the feasibility of pro-  
23       viding other alternatives for employers that do not  
24       have Internet access.”.

1           (4) REPEAT VIOLATOR.—Section 274A(h)(1) of  
2 the Immigration and Nationality Act, as amended by  
3 section 302(a), is amended by adding at the end the  
4 following: “The Secretary shall define ‘repeat viola-  
5 tor’, as used in this subsection, in a rulemaking that  
6 complies with the requirements of section 553 of  
7 title 5, United States Code.”.

8           (5) PREEMPTION.—Section 274A(i) of the Im-  
9 migration and Nationality Act, as amended by sec-  
10 tion 302(a), is amended by striking paragraph (2)  
11 and inserting the following:

12           “(2) PREEMPTION.—The provisions of this sec-  
13 tion shall preempt any State or local law that re-  
14 quires the use of the EEVS in a fashion that—

15           “(A) conflicts with Federal policies, proce-  
16 dures or timetables;

17           “(B) requires employers to verify whether  
18 or not an individual is authorized to work in the  
19 United States; or

20           “(C) imposes civil or criminal sanctions  
21 (other than through licensing and similar laws)  
22 upon those who employ, or recruit or refer for  
23 a fee for employment, unauthorized aliens.”.

24           (c) AUTHORIZATION OF APPROPRIATIONS.—Notwith-  
25 standing the matter preceding subparagraph (A) of sec-

1 tion 310(a)(1), there are authorized to be appropriated to  
2 the Secretary of Homeland Security, in each of the 2 fiscal  
3 years beginning after the date of the enactment of this  
4 Act, such sums as may be necessary to annually hire not  
5 less than 2,500 personnel of the Department of Homeland  
6 Security, who are to be assigned exclusively or principally  
7 to an office or offices dedicated to monitoring and enforce-  
8 ing compliance with sections 274A and 274C of the Immi-  
9 gration and Nationality Act (8 U.S.C. 1324a and 1324e),  
10 including compliance with the requirements of the EEVS.  
11 These personnel shall perform the compliance and moni-  
12 toring activities described in subparagraphs (A) through  
13 (O) of section 310(a)(1).

14 **SEC. \_\_\_\_ . TEMPORARY WORKER PROGRAM.**

15 (a) H-1B STREAMLINING AND SIMPLIFICATION.—  
16 Section 214(g) of the Immigration and Nationality Act,  
17 as amended by this Act, is further amended—

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

20 “(i) 115,000 in fiscal year 2008;

21 “(ii) in any subsequent fiscal year,  
22 subject to clause (iii), the number for the  
23 previous fiscal year as adjusted in accord-  
24 ance with the method set forth in para-  
25 graph (2); and

1 “(iii) 180,000 for any fiscal year;”;

2 and

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

4 409—

5 (A) in subparagraph (B)—

6 (i) in clause (ii), by striking “The an-  
7 nual numerical limitations described in  
8 clause (i) shall not exceed” and inserting  
9 “Without respect to the annual numerical  
10 limitations described in clause (i), the Sec-  
11 retary may issue a visa or otherwise grant  
12 nonimmigrant status pursuant to section  
13 101(a)(15)(H)(i)(b) in the following quan-  
14 tities:”; and

15 (ii) by striking clause (iv); and

16 (B) by striking subparagraph (D).

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

19 (1) IN GENERAL.—Section 214(g) of the Immi-  
20 gration and Nationality Act (8 U.S.C. 1184(g)), as  
21 amended by title IV, is further amended—

22 (A) by striking paragraph (6), as redesign-  
23 nated by section 409 of this Act, and inserting  
24 the following:

1           “(6) The numerical limitations contained in  
2 paragraph (1)(A) shall not apply to any non-  
3 immigrant alien issued a visa or otherwise provided  
4 status under section 101(a)(15)(H)(i)(b) who—

5           “(A) until the number of aliens who are  
6 exempted from such numerical limitation under  
7 this subparagraph during a fiscal year exceeds  
8 20,000, has earned a master’s or higher degree  
9 in science, technology, engineering, or mathe-  
10 matics from an institution of higher education  
11 outside of the United States;

12           “(B) until the number of aliens who are  
13 exempted from such numerical limitation under  
14 this subparagraph during a fiscal year exceeds  
15 40,000, has earned a master’s or higher degree  
16 from a United States institution of higher edu-  
17 cation (as defined in section 101(a) of the  
18 Higher Education Act of 1965); and

19           “(C) until the number of aliens who are  
20 exempted from such numerical limitation under  
21 this subparagraph during a fiscal year exceeds  
22 50,000—

23           “(i) is employed (or has received an  
24 offer of employment) at an institution of  
25 higher education (as defined in section

1           101(a) of the Higher Education Act of  
2           1965; 20 U.S.C. 1001(a)), or a related or  
3           affiliated nonprofit entity; or

4                   “(ii) is employed (or has received an  
5           offer of employment) at a nonprofit re-  
6           search organization or a governmental re-  
7           search organization.”; and

8           (B) by adding at the end the following:

9                   “(13) An employer that has at least 1,000 full-  
10          time employees who are employed in the United  
11          States, including employment-authorized aliens, and  
12          employs aliens admitted or provided status as a non-  
13          immigrant described in section 101(a)(15)(H)(i)(b)  
14          in a number that is equal to or greater than 15 per-  
15          cent of the number of such full-time employees, may  
16          file not more than 1,000 petitions under subsection  
17          (c) to import aliens under section  
18          101(a)(15)(H)(i)(b) in any fiscal year.”.

19           (2) APPLICABILITY.—

20                   (A) IN GENERAL.—The amendment made  
21          by paragraph (1)(A) shall apply to any petition  
22          or visa application pending on the date of the  
23          enactment of this Act and any petition or visa  
24          application filed on or after such date.

1           (B) EFFECTIVE DATE.—The amendment  
2           made by paragraph (1)(B) shall take effect on  
3           the first day of the fiscal year following the fis-  
4           cal year in which the backlog of employment-  
5           based immigrant visa petitions existing as of  
6           the effective date established under section  
7           502(d).

8           (c) DOCUMENT REQUIREMENT.—Section 212(n)(1)  
9           of the Immigration and Nationality Act, as amended by  
10          section 420, is further amended—

11          (1) in subparagraph (A)—

12                (A) in clause (i)(II), by striking “, and”  
13                and inserting a semicolon;

14                (B) in clause (ii), by striking the period at  
15                the end and inserting “; and”; and

16                (C) by adding at the end the following:

17                        “(iii) will provide to the H-1B non-  
18                        immigrant—

19                                “(I) a copy of each application  
20                                filed on behalf of the nonimmigrant  
21                                under this section; and

22                                “(II) documentation supporting  
23                                each attestation, in accordance with  
24                                regulations promulgated by the Sec-  
25                                retary of Labor.”; and

1 (2) by adding at the end the following:

2 “(L) An H–1B nonimmigrant may not be  
3 stationed at the worksite of an employer other  
4 than the petitioning employer or its affiliate,  
5 subsidiary, or parent if the alien will be con-  
6 trolled and supervised principally by such unaf-  
7 filiated employer or if the placement of the  
8 alien at the worksite of the affiliated employer  
9 is essentially an arrangement to provide labor  
10 for hire for the unaffiliated employer, rather  
11 than a placement in connection with the provi-  
12 sion of a product or service.”.

13 (d) FRAUD ASSESSMENT.—Not later than 30 days  
14 after the date of the enactment of this Act, the Director  
15 of United States Citizenship and Immigration Services  
16 shall, subject to the availability of appropriations, submit  
17 to Congress a fraud risk assessment of the H–1B visa pro-  
18 gram.

19 (e) GROUNDS OF INADMISSIBILITY.—Section 218A(f)  
20 of the Immigration and Nationality Act , as added by sec-  
21 tion 402(a), is amended by striking paragraphs (2) and  
22 (3) and inserting the following:

23 “(2) WAIVER.—For a Y nonimmigrant, the  
24 Secretary of Homeland Security may waive those  
25 provisions of section 212(a) for which the Secretary

1 had discretionary authority to waive before the date  
2 of the enactment of the Secure Borders, Economic  
3 Opportunity and Immigration Enforcement Act of  
4 2007.”.

5 (f) TERMINATION.—Section 218A(j) of the Immigra-  
6 tion and Nationality Act , as added by section 402(a), is  
7 amended by striking paragraphs (2) and (3) and inserting  
8 the following:

9 “(2) EXCEPTION.—The period of authorized  
10 admission of a Y nonimmigrant shall not terminate  
11 for unemployment under paragraph (1)(D) if the  
12 alien attests under the penalty of perjury and sub-  
13 mits documentation to the satisfaction of the Sec-  
14 retary of Homeland Security that establishes that  
15 such unemployment was the result of—

16 “(A) a period of physical or mental dis-  
17 ability of the alien or the spouse, son, daughter,  
18 or parent (as defined in section 101 of the  
19 Family and Medical Leave Act of 1993 (29  
20 U.S.C. 2611)) of the alien;

21 “(B) a period of vacation, medical leave,  
22 maternity leave, or similar leave from employ-  
23 ment authorized by Federal or State law or by  
24 a policy of the alien’s employer; or

1           “(C) any other period of temporary unem-  
2           ployment that is the direct result of a force  
3           majeure event.

4           “(3) RETURN TO FOREIGN RESIDENCE.—An  
5           alien who is a Y nonimmigrant whose period of au-  
6           thorized admission terminates under paragraph (1)  
7           shall immediately depart the United States.”.

8           (g) REGISTRATION OF DEPARTURE.—Section  
9           218A(k) of the Immigration and Nationality Act, as added  
10          by section 402(a), is amended by striking the subsection  
11          heading and inserting the following:

12          “(k) LEAVING THE UNITED STATES.—

13                 “(1) REGISTRATION OF DEPARTURE.—

14                         “(A) IN GENERAL.—An alien who is a Y  
15                         nonimmigrant whose period of authorized ad-  
16                         mission has expired under subsection (i), or  
17                         whose period of authorized admission termi-  
18                         nates under subsection (j), shall register the de-  
19                         parture of such alien at a designated port of de-  
20                         parture or designated United States consulate  
21                         abroad in a manner to be prescribed by the  
22                         Secretary of Homeland Security.

23                         “(B) EFFECT OF FAILURE TO DEPART.—

24                         If an alien described in subparagraph (A) fails  
25                         to depart the United States or to register such

1 departure as required under subsection (j)(3),  
2 the Secretary of Homeland Security shall—

3 “(i) take immediate action to deter-  
4 mine the location of the alien; and

5 “(ii) if the alien is located in the  
6 United States, remove the alien from the  
7 United States.

8 “(C) INVALIDATION OF DOCUMENTA-  
9 TION.—Any documentation issued by the Sec-  
10 retary of Homeland Security under subsection  
11 (m) to an alien described in subparagraph (A)  
12 shall be invalid for any purpose except the de-  
13 parture of the alien on and after the date on  
14 which the period of authorized admission of  
15 such alien terminates. The Secretary shall en-  
16 sure that the invalidation of such documenta-  
17 tion is recorded in the employment eligibility  
18 verification system described in section 274A.

19 “(2) VISITS OUTSIDE THE UNITED STATES.—”.

20 (h) OVERSTAY.—Section 218A(o) of the Immigration  
21 and Nationality Act , as added by section 402(a), is  
22 amended by striking paragraph (2) and inserting the fol-  
23 lowing:

24 “(2) Except as provided in paragraph (3) or  
25 (4), any alien, other than a Y nonimmigrant, who,

1 after the date of the enactment of this section re-  
2 mains unlawfully in the United States beyond the  
3 period of authorized admission, is permanently  
4 barred from any future benefits under Federal immi-  
5 gration law.”.

6 **SEC. \_\_\_\_ . IMMIGRATION BENEFITS.**

7 (a) NUMERICAL LIMITS.—Section 201(d)(1)(A) of  
8 the Immigration and Nationality Act, as amended by sec-  
9 tion 501(b), is further amended—

10 (1) in clause (i), by striking “and” at the end;

11 (2) in clause (ii), by striking “Section 502(d) of  
12 the [Insert title of Act].” and inserting “section  
13 502(d) of the Secure Borders, Economic Oppor-  
14 tunity and Immigration Enforcement Act of 2007;”;  
15 and

16 (3) by adding at the end the following:

17 “(iii) up to 20,000 shall be for aliens  
18 who met the specifications set forth in sec-  
19 tion 203(b)(1) on January 1, 2007; and

20 “(iv) the remaining visas shall be allo-  
21 cated as follows:

22 “(I) In fiscal years 2008 and  
23 2009, 115,401 shall be for aliens who  
24 are the beneficiaries of a petition filed

1 by an employer on their behalf under  
2 this section.

3 “(II) In fiscal year 2010, 86,934  
4 shall be for aliens who are the bene-  
5 ficiaries of a petition filed by an em-  
6 ployer on their behalf under this sec-  
7 tion.

8 “(III) In fiscal year 2011,  
9 58,467 shall be for aliens who are the  
10 beneficiaries of a petition filed by an  
11 employer on their behalf under this  
12 section.

13 “(IV) In fiscal year 2012, 44,234  
14 shall be for aliens who are the bene-  
15 ficiaries of a petition filed by an em-  
16 ployer on their behalf under this sec-  
17 tion.”.

18 (b) MERIT-BASED IMMIGRANTS.—Section 203(b)(1)  
19 of the Immigration and Nationality Act, as amended by  
20 section 502(b)(1) of this Act, is further amended by add-  
21 ing at the end the following:

22 “(G) Any employer desiring and intending  
23 to employ within the United States an alien  
24 qualified under subparagraph (A) may file a pe-

1           tition with the Secretary of Homeland Security  
2           for such classification.

3           “(H) The Secretary shall collect applica-  
4           tions and petitions not later than July 1 of each  
5           fiscal year and shall adjudicate from the pool of  
6           applicants received for that fiscal year, from the  
7           highest to the lowest, the determined number of  
8           points necessary for the fiscal year. If the num-  
9           ber of applications and petitions submitted that  
10          meet the merit-based threshold is insufficient  
11          for the number of visas available that year, the  
12          Secretary may continue accepting applications  
13          and petitions at a date determined by the Sec-  
14          retary to adjudicate the applications and peti-  
15          tions under this section.”.

16          (c) EFFECTIVE DATE FOR PENDING AND APPROVED  
17          PETITIONS AND APPLICATIONS.—Notwithstanding the  
18          provisions under section 502(d)(2)—

19               (1) petitions for an employment-based visa filed  
20               for classification under paragraphs (1), (2), or (3) of  
21               section 203(b) of the Immigration and Nationality  
22               Act (as such paragraphs existed on the date before  
23               the date of the enactment of this Act) that were  
24               filed before the date on which this Act was intro-  
25               duced and were pending or approved on the effective

1 date of this section, shall be treated as if such provi-  
2 sion remained effective and an approved petition  
3 may serve as the basis for issuance of an immigrant  
4 visa;

5 (2) the beneficiary, who has been classified as  
6 a nonimmigrant described in section  
7 101(a)(15)(H)(i)(b) of the Immigration and Nation-  
8 ality Act, of such a pending or approved petition,  
9 and any dependent accompanying or following to  
10 join such beneficiary, may file an application for ad-  
11 justment of status under section 245(a) of the Im-  
12 migration and Nationality Act (8 U.S.C. 1255) re-  
13 gardless of whether an immigrant visa is imme-  
14 diately available at the time the application is filed;

15 (3) the application for adjustment of status  
16 filed under paragraph (2) shall not be approved until  
17 an immigrant visa becomes available; and

18 (4) aliens with applications for a labor certifi-  
19 cation pursuant to section 212(a)(5)(A) of the Im-  
20 migration and Nationality Act (8 U.S.C.  
21 1182(a)(5)(A) shall preserve the immigrant visa pri-  
22 ority date accorded by the date of filing of such  
23 labor certification application.

1 (d) PARENT VISITOR VISAS.—Section 214(s) of the  
2 Immigration and Nationality Act, as added by section  
3 506(b), is amended—

4 (1) in paragraph (2)(B), by striking “\$1,000,  
5 which shall be forfeit” and inserting “\$2,500, which  
6 shall be forfeited”; and

7 (2) in paragraph (3), by amending subpara-  
8 graph (A) to read as follows:

9 “(A) may not stay in the United States,  
10 within any calendar year—

11 “(i) in the case of a spouse or child  
12 sponsored by a nonimmigrant described in  
13 section 101(a)(15)(Y)(i), for an aggregate  
14 period in excess of 30 days; and

15 “(ii) in the case of a parent sponsored  
16 by a United States citizen child, for an ag-  
17 gregate period in excess of 100 days;”.

18 **SEC. \_\_\_\_ . Z NONIMMIGRANT STATUS.**

19 (a) APPLICATION AND BACKGROUND CHECKS.—Not-  
20 withstanding any provision of section 601(g) or section  
21 214A(d) of the Immigration and Nationality Act, as added  
22 by section 622(b)—

23 (1) the application forms created pursuant to  
24 section 601(g)(1) of this Act and section 214A(d) of  
25 the Immigration and Nationality Act shall request

1 such information as the Secretary determines nec-  
2 essary and appropriate, including information con-  
3 cerning the alien's—

4 (A) physical and mental health;

5 (B) complete criminal history, including all  
6 arrests and dispositions;

7 (C) gang membership;

8 (D) immigration history;

9 (E) employment history; and

10 (F) claims to United States citizenship;

11 and

12 (2) the Secretary shall utilize fingerprints and  
13 other biometric data provided by the alien pursuant  
14 to section 601(g)(3)(A) and any other appropriate  
15 information to conduct appropriate background  
16 checks of such alien to search for criminal, national  
17 security, or other law enforcement actions that  
18 would render the alien ineligible for classification  
19 under section 601 of this Act or section 214A of the  
20 Immigration and Nationality Act; and

21 (3) appropriate background checks conducted  
22 pursuant to paragraph (2) for applicants determined  
23 to be from countries designated as state sponsors of  
24 terrorism or for whom there are reasonable grounds

1 for regarding the alien as a danger to the security  
2 of the United States shall include—

3 (A) other appropriate background checks  
4 involving databases operated by the Department  
5 of State and other national security databases;  
6 and

7 (B) other appropriate procedures used to  
8 conduct terrorism and national security back-  
9 ground investigations.

10 (b) PROBATIONARY BENEFITS.—Notwithstanding  
11 any provision of section 601(h) or section 214A(d) of the  
12 Immigration and Nationality Act, as added by section  
13 622(b)—

14 (1) no probationary benefits described in sec-  
15 tion 601(h)(1) of this Act or section 214A(d)(7) of  
16 the Immigration and Nationality Act may be grant-  
17 ed to any alien unless the alien passes all appro-  
18 priate background checks under such section;

19 (2) an alien awaiting adjudication of the alien's  
20 application for probationary status under such sec-  
21 tions shall not be considered unauthorized to work  
22 pending the granting or denial of such status; and

23 (3) the term unauthorized alien, for purposes of  
24 such section, has the meaning set forth in section

1       274A(b) of the Immigration and Nationality Act, as  
2       added by section 302(a) of this Act.

3       (c) RETURN HOME REQUIREMENT.—

4           (1) IN GENERAL.—Notwithstanding any other  
5       provision of title VI, an alien who is applying for a  
6       Z–1 nonimmigrant visa under section 601 shall not  
7       be eligible for such status until the alien, in addition  
8       to the requirements described in such section, has  
9       completed the following requirements:

10           (A) The alien shall demonstrate that the  
11       alien departed from the United States and re-  
12       ceived a home return certification of such de-  
13       parture from a United States consular office in  
14       order to complete the alien’s application for Z  
15       status. The Secretary of State, in consultation  
16       with the Secretary of Homeland Security, shall  
17       develop an appropriate certification for such  
18       purposes.

19           (B) The certification provided under sub-  
20       paragraph (A) shall be obtained not later than  
21       3 years after the date on which the alien was  
22       granted probationary status. Failure to obtain  
23       such certification shall terminate the alien’s eli-  
24       gibility for Z status for a Z–1 applicant and the

1 eligibility of the applicant's derivative Z-2 or  
2 Z-3 applicants pursuant to section 601.

3 (C) Unless otherwise authorized, an appli-  
4 cant for a Z-1 nonimmigrant visa shall file a  
5 home return supplement to the alien's applica-  
6 tion for Z status at a consular office in the  
7 alien's country of origin. The Secretary of State  
8 may direct a consular office in a country that  
9 is not a Z nonimmigrant's country of origin to  
10 accept an application for adjustment of status  
11 from such an alien, if the Z nonimmigrant's  
12 country of origin is not contiguous to the  
13 United States, to the extent made possible by  
14 consular resources.

15 (2) RULEMAKING.—The Secretary of Homeland  
16 Security shall promulgate regulations to ensure a se-  
17 cure means for Z applicants to fulfill the require-  
18 ments under paragraph (1).

19 (3) CLARIFICATION.—Notwithstanding any  
20 other provision of this Act, The return home require-  
21 ment described in paragraph (1) shall be the sole re-  
22 turn home requirement for Z-1 nonimmigrants.

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

1           (1) IN GENERAL.—The Secretary of Homeland  
2           Security may establish an online registration process  
3           allowing applicants for Z and Z–A nonimmigrant  
4           status to provide, in advance of submitting the appli-  
5           cation described in section 601(f), such biographical  
6           information and other information as the Secretary  
7           shall prescribe—

8                   (A) for the purpose of providing applicants  
9                   with an appointment to provide fingerprints  
10                  and other biometric data at a facility of the De-  
11                  partment of Homeland Security;

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

14                  (C) for other purposes consistent with this  
15                  Act.

16           (2) MANDATORY DISCLOSURE OF INFORMA-  
17           TION.—The provisions of section 604 shall apply to  
18           the information provided pursuant to the process es-  
19           tablished under this section.

20           (e) PERJURY AND FALSE STATEMENTS.—Notwith-  
21           standing any other provision of this Act, all application  
22           forms for immigration benefits, relief, or status under this  
23           Act (including application forms for Z non-immigrant sta-  
24           tus) shall bear a warning to the applicant and to any other  
25           person involved in the preparation of the application that

1 the making of any false statement or misrepresentation  
2 on the application form (or any supporting documenta-  
3 tion) will subject the applicant or other person to prosecu-  
4 tion for false statement, fraud, or perjury under the appli-  
5 cable laws of the United States, including sections 1001,  
6 1546, and 1621 of title 18, United States Code.

7 (f) FRAUD PREVENTION PROGRAM.—Notwith-  
8 standing any other provision of this Act, the head of each  
9 department responsible for the administration of a pro-  
10 gram or authority to confer an immigration benefit, relief,  
11 or status under this Act shall, subject to available appro-  
12 priations, develop an administrative program to prevent  
13 fraud within or upon such program or authority. Such  
14 program shall provide for fraud prevention training for the  
15 relevant administrative adjudicators within the depart-  
16 ment and such other measures as the head of the depart-  
17 ment may provide.

18 (g) ELIGIBILITY FOR MILITARY SERVICE.—In addi-  
19 tion to the benefits described in subparagraphs (A)  
20 through (D) of section 601(h)(1), an alien described in  
21 such section shall be eligible to serve as a member of the  
22 Uniformed Services of the United States.

1 **SEC. \_\_\_\_ . GOVERNMENT CONTRACTS.**

2 (a) GOVERNMENT CONTRACTS.—Section 274A(h) of  
3 the Immigration and Nationality Act, as amended by sec-  
4 tion 302 of this Act, is further amended by striking para-  
5 graphs (1) and (2) and inserting the following:

6 “(1) EMPLOYERS.—

7 “(A) IN GENERAL.—If an employer who  
8 does not hold Federal contracts, grants, or co-  
9 operative agreements is determined by the Sec-  
10 retary of Homeland Security to be a repeat vio-  
11 lator of this section or is convicted of a crime  
12 under this section, the employer shall be subject  
13 to debarment from the receipt of Federal con-  
14 tracts, grants, or cooperative agreements for a  
15 period of not less than 5 years in accordance  
16 with the procedures and standards prescribed  
17 by the Federal Acquisition Regulations. The  
18 Secretary or the Attorney General shall advise  
19 the Administrator of General Services of any  
20 such debarment, and the Administrator of Gen-  
21 eral Services shall list the employer on the List  
22 of Parties Excluded from Federal Procurement  
23 and Nonprocurement Programs for the period  
24 of the debarment.

25 “(B) WAIVER AUTHORITY.—After consid-  
26 eration of the views of any agency or depart-

1           ment that holds a contract, grant, or coopera-  
2           tive agreement with an employer described  
3           under subparagraph (A), the Administrator of  
4           General Services, in consultation with the Sec-  
5           retary and the Attorney General, may waive the  
6           debarment or may limit the duration or scope  
7           of the debarment under subparagraph (A) if  
8           such waiver or limitation is necessary to the na-  
9           tional defense or in the interest of national se-  
10          curity.

11                 “(C) NOTIFICATION TO CONGRESS.—If the  
12           Administrator of General Services grants a  
13           waiver or limitation described under subpara-  
14           graph (B), the Administrator shall submit no-  
15           tice of such waiver or limitation to each mem-  
16           ber of the Committee on the Judiciary of the  
17           Senate and of the Committee on the Judiciary  
18           of the House of Representatives.

19                 “(2) CONTRACTORS AND RECIPIENTS.—

20                 “(A) IN GENERAL.—If an employer who  
21           holds Federal contracts, grants, or cooperative  
22           agreements is determined by the Secretary of  
23           Homeland Security to be a repeat violator of  
24           this section or is convicted of a crime under this  
25           section, the employer shall be subject to debar-

1           ment from the receipt of Federal contracts,  
2           grants, or cooperative agreements for a period  
3           of not less than 5 years in accordance with the  
4           procedures and standards prescribed by the  
5           Federal Acquisition Regulations. Prior to de-  
6           barring the employer, the Secretary, in coopera-  
7           tion with the Administrator of General Services,  
8           shall advise all agencies holding contracts,  
9           grants, or cooperative agreements with the em-  
10          ployer of the proceedings to debar the employer  
11          from the receipt of new Federal contracts,  
12          grants, or cooperative agreements for a period  
13          of not less than 5 years.

14                 “(B) WAIVER AUTHORITY.—After consid-  
15          eration of the views of any agency or depart-  
16          ment that holds a contract, grant, or coopera-  
17          tive agreement with an employer described  
18          under subparagraph (A), the Administrator of  
19          General Services, in consultation with the Sec-  
20          retary and the Attorney General, may waive the  
21          debarment or may limit the duration or scope  
22          of the debarment under subparagraph (A) if  
23          such waiver or limitation is necessary to the na-  
24          tional defense or in the interest of national se-  
25          curity.

1                   “(C) NOTIFICATION TO CONGRESS.—If the  
2                   Administrator of General Services grants a  
3                   waiver or limitation described under subpara-  
4                   graph (B), the Administrator shall submit no-  
5                   tice of such waiver or limitation to each mem-  
6                   ber of the Committee on the Judiciary of the  
7                   Senate and of the Committee on the Judiciary  
8                   of the House of Representatives.”.

9                   (b) LIMIT ON PERCENTAGE OF H-1B AND L EM-  
10                  PLOYEES.—Subparagraph (I) of section 212(n)(1) of the  
11                  Immigration and Nationality Act (8 U.S.C. 1182(n)(1)),  
12                  as added by section 420(d), is amended to read as follows:

13                   “(I) If the employer employs not less than  
14                   50 employees in the United States, not more  
15                   than 50 percent of such employees are H-1B  
16                   nonimmigrants and nonimmigrants described in  
17                   section 101(a)(15)(L).”.

18                  (c) WAGE DETERMINATION FOR H-1B NON-  
19                  IMMIGRANTS.—

20                   (1) CHANGE IN MINIMUM WAGES.—Section  
21                   212(p)(3) of the Immigration and Nationality Act (8  
22                   U.S.C. 1182(p)(3)) is amended by adding at the end  
23                   the following sentence: “The wage rate required  
24                   under subsections (n)(1)(A)(i)(II) and  
25                   (t)(1)(A)(i)(II) shall be determined and issued by

1 the Secretary of Labor, pursuant to a request from  
2 an employer filing a labor condition application with  
3 the Secretary for purposes of those subsections and  
4 as part of the adjudication of such application. The  
5 Secretary shall respond to such a request within 14  
6 days.”.

7 (2) LABOR CONDITION APPLICATIONS.—Section  
8 212(n)(1)(A) of the Immigration and Nationality  
9 Act (8 U.S.C. 1182(n)(1)(A)) is amended—

10 (A) in clause (i), by striking “and” at the  
11 end;

12 (B) by redesignating clause (ii) as clause  
13 (iv); and

14 (C) by inserting after clause (i) the fol-  
15 lowing new clauses:

16 “(ii) has filed with the Secretary of  
17 Labor, pursuant to section 212(p)(3), a re-  
18 quest for the Secretary’s determination of  
19 the appropriate wage rate;

20 “(iii) in no instance will pay more  
21 than 30 percent of the H-1B non-  
22 immigrants employed by the employer  
23 wages equivalent to the lowest wage level  
24 under section 212(p)(4); and”.

1           (3) NONIMMIGRANT PROFESSIONALS; LABOR  
2           ATTESTATIONS.—Section 212 of the Immigration  
3           and Nationality Act (8 U.S.C. 1182) is amended in  
4           paragraph (1)(A) of the first subsection (t) (as  
5           added by section 402(b)(2) of Public Law 108–77  
6           (117 Stat. 941))—

7                   (A) in clause (i), by striking “and” at the  
8                   end;

9                   (B) by redesignating clause (ii) as clause  
10                  (iii); and

11                  (C) inserting after clause (i) the following  
12                  new clause:

13                           “(ii) has filed with the Secretary of  
14                           Labor, pursuant to section 212(p)(3), a re-  
15                           quest for the Secretary’s determination of  
16                           the appropriate wage rate; and”.

17           (4) EFFECTIVE DATE.—The amendments made  
18           by this subsection shall apply to applications filed on  
19           or after the date of the enactment of this Act.

20           (d) PROHIBITION ON OUTPLACEMENT OF H–1B  
21           NONIMMIGRANTS.—

22                   (1) IN GENERAL.—Section 212(n) of such Act,  
23                   as amended by this Act, is further amended—

1           (A) in paragraph (1), by amending sub-  
2 paragraph (F), as amended by section 420, to  
3 read as follows:

4           “(F) The employer shall not place,  
5 outsource, lease, or otherwise contract for the  
6 placement of an H–1B nonimmigrant with an-  
7 other employer where there are indicia of an  
8 employment relationship between the non-  
9 immigrant and such other employer unless the  
10 employer of the alien has been granted a waiver  
11 under paragraph (2)(E).”; and

12           (B) in paragraph (2), by amending sub-  
13 paragraph (E), as amended by section 420, to  
14 read as follows:

15           “(E) The Secretary of Labor shall promul-  
16 gate rules, after notice and a period for com-  
17 ment, for an employer of an H–1B non-  
18 immigrant to apply for a waiver of the prohibi-  
19 tion in paragraph (1)(F). The Secretary shall  
20 grant or deny a waiver within 14 days after the  
21 waiver application is filed. In order to receive a  
22 waiver under this subparagraph, the burden  
23 shall be on the employer seeking the waiver to  
24 establish that—

1                   “(i) the employer with whom the non-  
2                   immigrant would be placed has not dis-  
3                   placed and does not intend to displace a  
4                   United States worker employed by the em-  
5                   ployer within the period beginning 180  
6                   days before and ending 180 days after the  
7                   date of the placement of the nonimmigrant  
8                   with the employer;

9                   “(ii) the nonimmigrant will not be  
10                  controlled and supervised principally by the  
11                  employer with whom the nonimmigrant  
12                  would be placed; and

13                  “(iii) the placement of the non-  
14                  immigrant is not essentially an arrange-  
15                  ment to provide labor for hire for the em-  
16                  ployer with whom the nonimmigrant will  
17                  be placed.”.

18                  (2) APPLICATION.—The amendments made by  
19                  paragraph (1) shall apply to an application filed on  
20                  or after the date the rules required by section  
21                  212(n)(2)(E) of such Act, as amended by paragraph  
22                  (1)(B) of this subsection, are issued.

23                  (e) POSTING AVAILABLE POSITIONS.—

24                  (1) POSTING AVAILABLE POSITIONS.—Section  
25                  212(n)(1)(C) of such Act is amended—

1 (A) by redesignating clause (ii) as sub-  
2 clause (II);

3 (B) by striking “(i) has provided” and in-  
4 serting the following:

5 “(ii)(I) has provided”; and

6 (C) by inserting before clause (ii), as re-  
7 designated by subparagraph (B), the following:

8 “(i) has posted a detailed description  
9 of each position for which a nonimmigrant  
10 is sought on the website described in para-  
11 graph (6) of this subsection for at least 30  
12 calendar days, which description shall in-  
13 clude the wages and other terms and con-  
14 ditions of employment, the minimum edu-  
15 cation, training, experience and other re-  
16 quirements for the position, and the proc-  
17 ess for applying for the position; and”.

18 (2) DEPARTMENT OF LABOR WEBSITE.—Sec-  
19 tion 212(n) of such Act, as amended by this section,  
20 is further amended by adding at the end the fol-  
21 lowing:

22 “(6)(A) Not later than 90 days after the date  
23 of the enactment of this paragraph, the Secretary of  
24 Labor shall establish a searchable website for post-

1 ing positions as required by paragraph (1)(C). This  
2 website shall be publicly accessible without charge.

3 “(B) The Secretary may work with private com-  
4 panies and nonprofit organizations in the develop-  
5 ment and operation of the website established under  
6 this paragraph.

7 “(C) The Secretary may promulgate rules, after  
8 notice and a period for comment, to carry out the  
9 requirements of this paragraph.”.

10 (3) APPLICATION.—The amendments made by  
11 paragraph (1) shall apply to an application filed 30  
12 days or more after the date that the website re-  
13 quired by section 212(n)(6) of such Act, as added by  
14 paragraph (2) of this subsection, is created.

15 (f) WAGE DETERMINATION FOR L NON-  
16 IMMIGRANTS.—

17 (1) CHANGE IN MINIMUM WAGES.—Paragraph  
18 (2) of section 214(c) of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1184(c)) is amended by adding  
20 at the end the following:

21 “(K)(i) An employer that employs a non-  
22 immigrant described in section 101(a)(15)(L)  
23 shall—

24 “(I) offer such nonimmigrant, during  
25 the period of authorized employment,

1 wages, based on the best information avail-  
2 able at the time the application is filed,  
3 which are not less than the highest of—

4 “(aa) the prevailing wage level  
5 for the occupational classification in  
6 the area of employment; or

7 “(bb) the actual wage level paid  
8 by the employer to all other individ-  
9 uals with similar experience and quali-  
10 fications for the specific employment  
11 in question; and

12 “(II) provide working conditions for  
13 such nonimmigrant that will not adversely  
14 affect the working conditions of workers  
15 similarly employed.

16 “(ii) If an employer, in such previous pe-  
17 riod specified by the Secretary of Homeland Se-  
18 curity, employed 1 or more L-1 nonimmigrants,  
19 the employer shall provide to the Secretary of  
20 Homeland Security the Internal Revenue Serv-  
21 ice Form W-2 Wage and Tax Statement filed  
22 by the employer with respect to such non-  
23 immigrants for such period.

24 “(iii) It is a failure to meet a condition  
25 under this subparagraph for an employer, who

1           has filed a petition to import 1 or more aliens  
2           as nonimmigrants described in section  
3           101(a)(15)(L), to—

4                   “(I) require such a nonimmigrant to  
5                   pay a penalty for ceasing employment with  
6                   the employer before a date mutually agreed  
7                   to by the nonimmigrant and the employer;  
8                   or

9                   “(II) fail to offer to such a non-  
10                  immigrant, during the nonimmigrant’s pe-  
11                  riod of authorized employment, on the  
12                  same basis, and in accordance with the  
13                  same criteria, as the employer offers to  
14                  United States workers, benefits and eligi-  
15                  bility for benefits, including—

16                   “(aa) the opportunity to partici-  
17                   pate in health, life, disability, and  
18                   other insurance plans;

19                   “(bb) the opportunity to partici-  
20                   pate in retirement and savings plans;  
21                   and

22                   “(cc) cash bonuses and noncash  
23                   compensation, such as stock options  
24                   (whether or not based on perform-  
25                   ance).

1           “(iv) The Secretary of Homeland Security  
2           shall determine whether a required payment  
3           under clause (iii)(I) is a penalty (and not liq-  
4           uidated damages) pursuant to relevant State  
5           law.”.

6           (2) EFFECTIVE DATE.—The amendment made  
7           by this subsection shall apply to applications filed on  
8           or after the date of the enactment of this Act.

9           (g) PROHIBITION ON OUTPLACEMENT OF L NON-  
10 IMMIGRANTS.—

11           (1) IN GENERAL.—Paragraph (2) of section  
12           214(c) of the Immigration and Nationality Act (8  
13           U.S.C. 1184(c)), as amended by this section, is fur-  
14           ther amended by adding at the end the following:

15           “(M)(i) An employer who imports an alien  
16           as a nonimmigrant described in section  
17           101(a)(15)(L) shall not place, outsource, lease,  
18           or otherwise contract for the placement of the  
19           alien with another employer where there are in-  
20           dicia of an employment relationship between the  
21           alien and such other employer unless the em-  
22           ployer of the alien has been granted a waiver  
23           under clause (ii).

24           “(ii) The Secretary of Homeland Security  
25           shall promulgate rules, after notice and a period

1           for comment, for an employer to apply for a  
2           waiver of the prohibition set out in clause (i).  
3           The Secretary shall grant or deny a waiver  
4           within 14 days after the waiver application is  
5           filed. In order to receive such a waiver, the bur-  
6           den shall be on the employer seeking the waiver  
7           to establish that—

8                   “(I) the employer with whom the non-  
9                   immigrant would be placed has not dis-  
10                  placed and does not intend to displace a  
11                  United States worker employed by the em-  
12                  ployer within the period beginning 180  
13                  days before and ending 180 days after the  
14                  date of the placement of the nonimmigrant  
15                  with the employer;

16                   “(II) the nonimmigrant will not be  
17                  controlled and supervised principally by the  
18                  employer with whom the nonimmigrant  
19                  would be placed; and

20                   “(III) the placement of the non-  
21                  immigrant is not essentially an arrange-  
22                  ment to provide labor for hire for the em-  
23                  ployer with whom the nonimmigrant will  
24                  be placed, rather than a placement in con-  
25                  nection with the provision or a product or

1                   service for which specialized knowledge  
2                   specific to the petitioning employer is nec-  
3                   essary.”.

4                   (2) APPLICATION.—The amendment made by  
5                   paragraph (1) shall apply to an application filed on  
6                   or after the date the rules required by section  
7                   212(c)(2)(M)(ii) of such Act, as added by paragraph  
8                   (1) of this subsection, are issued.

1 **SEC. \_\_\_\_ . H-1B PROVISIONS.**

2 (a) REPEAL OF CERTAIN TEMPORARY WORKER PRO-  
3 VISIONS.—The following amendments are null and void  
4 and have no effect:

5 (1) The amendments to subsection (b) of sec-  
6 tion 214 of the Immigration and Nationality Act (8  
7 U.S.C. 1184) made by subsection (c) of section 418  
8 of this Act.

9 (2) The amendments to subsection (h) of such  
10 section 214 made by subsection (d) of such section  
11 418.

12 (3) The amendments to subsection (g) of such  
13 section 214 made by subsection (a) of section 419  
14 of this Act.

15 (4) The amendments to paragraph (2) of sub-  
16 section (i) of such made by subsection (b) such of  
17 section 419.

18 (b) GRANTING DUAL INTENT TO CERTAIN NON-  
19 IMMIGRANT STUDENTS.—Subsection (h) of section 214 of  
20 the Immigration and Nationality Act (8 U.S.C. 1184) is  
21 amended—

22 (1) by striking “(H)(i)(b) or (c),” and inserting  
23 “(F)(iv), (H)(i)(b), (H)(i)(c),”; and

24 (2) by striking “if the alien had obtained a  
25 change of status” and inserting “if the alien had



1                   1101(a)(15)(H)(i)(b) in the following  
2                   quantities:”; and

3                   (ii) by striking clause (iv); and

4                   (B) by striking subparagraph (D).

5           (d) ENSURING ACCESS TO SKILLED WORKERS IN  
6 SPECIALTY OCCUPATIONS.—

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

11           “(6) The numerical limitations contained in  
12           paragraph (1)(A) shall not apply to any non-  
13           immigrant alien issued a visa or otherwise provided  
14           status under section 101(a)(15)(H)(i)(b) who—

15           “(A) until the number of aliens who are  
16           exempted from such numerical limitation under  
17           this subparagraph during a year exceeds 50,000

18           “(i) is employed (or has received an  
19           offer of employment) at an institution of  
20           higher education (as defined in section  
21           101(a) of the Higher Education Act of  
22           1965) (20 U.S.C. 1001(a)), or a related or  
23           affiliated nonprofit entity; or

24           “(ii) is employed (or has received an  
25           offer of employment) at a nonprofit re-

1 search organization or a governmental re-  
2 search organization;

3 “(B) has earned a master’s or higher de-  
4 gree from a United States institution of higher  
5 education (as defined in section 101(a) of the  
6 Higher Education Act of 1965 (20 U.S.C.  
7 1001(a)), until the number of aliens who are  
8 exempted from such numerical limitation under  
9 this subparagraph during a year exceeds  
10 40,000; or

11 “(C) has earned a master’s or higher de-  
12 gree in science, technology, engineering, or  
13 mathematics from an institution of higher edu-  
14 cation outside of the United States, until the  
15 number of aliens who are exempted from such  
16 numerical limitation under this subparagraph  
17 during a year exceeds 20,000.”.

18 (e) EMPLOYER REQUIREMENT.—Section 214(g) of  
19 the Immigration and Nationality Act (8 U.S.C. 1184(g)),  
20 as redesignated by section 409, is further amended to add  
21 the following:

22 “(13) An employer that has at least 1,000 full-  
23 time employees who are employed in the United  
24 States, including employment authorized aliens, and  
25 employs aliens admitted or provided status as a non-

1 immigrant described in section 101(a)(15)(H)(i)(b)  
2 in a number that is equal to or at least 15 percent  
3 of the number of such full-time employees, may file  
4 no more than 1,000 petitions under subsection (c) to  
5 import aliens under section 101(a)(15)(H)(i)(b) in  
6 any fiscal year.”.

7 (f) APPLICABILITY.—The amendment made by sub-  
8 section (d) shall apply to any petition or visa application  
9 pending on the date of enactment of this Act and any peti-  
10 tion or visa application filed on or after such date. The  
11 amendment made by subsection (e) shall take effect on  
12 the first day of the fiscal year following the fiscal year  
13 in which the backlog of employment-based immigrant visa  
14 petitions existing as of the effective date established in  
15 section 502(d) of this Act

16 (g) DOCUMENT REQUIREMENT.—Paragraph (1) of  
17 section 212(n) of the Immigration and Nationality Act (8  
18 U.S.C. 1182(n)), as amended by this Act, is further  
19 amended—

20 (1) in subparagraph (A)—

21 (A) in clause (i), by striking “and” at the  
22 end;

23 (B) in clause (ii), by striking the period at  
24 the end and inserting a semicolon and “and”;  
25 and

1 (C) by adding at the end the following:

2 “(iii) will provide to the H-1B non-im-  
3 migrant—

4 “(I) a copy of each application  
5 filed on behalf of the n nonimmigrant  
6 under this section; and

7 “(II) documentation supporting  
8 each attestation, in accordance with  
9 regulations promulgated by the Sec-  
10 retary of Labor.”;

11 (2) by adding at the end the following:

12 “(L) An H-1B nonimmigrant may not be  
13 stationed at the worksite of an employer other  
14 than the petitioning employer or its affiliate,  
15 subsidiary, or parent if the alien will be con-  
16 trolled and supervised principally by such unaf-  
17 filiated employer or if the placement of the  
18 alien at the worksite of the affiliated employer  
19 is essentially an arrangement to provide labor  
20 for hire for the unaffiliated employer, rather  
21 than a placement in connection with the provi-  
22 sion of a product or service.”.

23 (h) FRAUD ASSESSMENT.—Not later than 30 days  
24 after the date of the enactment of this Act, the Director  
25 of United States Citizenship and Immigration Services

1 shall submit to Congress a fraud risk assessment of the  
2 H-1B visa program.

3 (i) MERIT-BASED IMMIGRANTS.—Section 201(d) of  
4 the Immigration and Nationality Act (8 U.S.C. 11519(d)),  
5 as amended by section 501(b) to is amended to read as  
6 follows:

7 “(d) WORLDWIDE LEVEL OF MERIT-BASED, SPE-  
8 CIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—

9 “(1) IN GENERAL.—The worldwide level of  
10 merit-based, special, and employment creation immi-  
11 grants under this subsection for a fiscal year—

12 “(A) for the first five fiscal years shall be  
13 equal to the number of immigrant visas made  
14 available to aliens seeking immigrant visas  
15 under section 203(b) of this Act for fiscal year  
16 2005, plus any immigrant visas not required for  
17 the class specified in (c), of which—

18 “(i) at least 10,000 will be for excep-  
19 tional aliens in nonimmigrant status under  
20 section 101(a)(15)(Y);

21 “(ii) 90,000 will be for aliens who  
22 were the beneficiaries of an application  
23 that was pending or approved at the time  
24 of the effective date of section 502(d) of

1 the Secure Borders, Economic Opportunity  
2 and Immigration Reform Act of 2007;

3 “(iii) up to 20,000 shall be for aliens  
4 who met the specifications set forth in sec-  
5 tion 203(b)(1)(as of January 1, 2007); and

6 “(iv) the remaining visas be allocated  
7 as follows:

8 “(I) In fiscal year 2008 and  
9 2009, 115,401 shall be for aliens who  
10 are the beneficiaries of a petition filed  
11 by an employer on their behalf under  
12 this section.

13 “(II) In fiscal year 2010, 86,934  
14 shall be for aliens who are the bene-  
15 ficiaries of a petition filed by an em-  
16 ployer on their behalf under this sec-  
17 tion.

18 “(III) In fiscal year 2011,  
19 58,467 shall be for aliens who are the  
20 beneficiaries of a petition filed by an  
21 employer on their behalf under this  
22 section.

23 “(IV) In fiscal year 2012, 44,234  
24 shall be for aliens who are the bene-  
25 ficiaries of a petition filed by an em-

1                   ployer on their behalf under this sec-  
2                   tion.”.

3           (j) AMENDMENTS TO MERIT-BASED IMMIGRANT  
4 PROVISIONS.—Section 203(b) of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1153(b)), as amended by section  
6 502(b), is further amended in paragraph (1) by adding  
7 at the end the following new subparagraphs:

8                   “(G) Any employer desiring and intending  
9                   to employ within the United States an alien  
10                  qualified under (A) may file a petition with the  
11                  Secretary of Homeland Security for such classi-  
12                  fication.

13                  “(H) The Secretary of Homeland Security  
14                  shall collect applications and petitions by July  
15                  1 of each fiscal year and will adjudicate from  
16                  the pool of applicants received for that fiscal  
17                  year, from the highest to the lowest, the deter-  
18                  mined number of points necessary for the fiscal  
19                  year. If the number of applications and peti-  
20                  tions submitted that meet the merit based  
21                  threshold is insufficient for the number of visas  
22                  available that year, the Secretary is authorized  
23                  to continue accepting applications and petitions  
24                  at a date determined by the Secretary to adju-

1           dicate the applications and petitions under this  
2           section.”.

3           (k) EFFECTIVE DATE.—

4           (1) REPEAL.—Paragraph (2) of section 502(d)  
5           is null and void and shall have no effect.

6           (2) PENDING AND APPROVED PETITIONS AND  
7           APPLICATIONS.—Petitions for an employment-based  
8           visa filed for classification under section 203(b)(1),  
9           (2), or (3) of the Immigration and Nationality Act  
10          (as such provisions existed prior to the enactment of  
11          section 502) that were pending or approved at the  
12          time of the effective date of section 502, shall be  
13          treated as if such provision remained effective and  
14          an approved petition may serve as the basis for  
15          issuance of an immigrant visa. The beneficiary (as  
16          classified for this subparagraph as a nonimmigrant  
17          described in section 101(a)(15)(H)(i)(b) of the Im-  
18          migration and Nationality Act (8 U.S.C.  
19          1101(a)(15)(H)(i)(b)) of such a pending or approved  
20          petition, and any dependent accompanying or fol-  
21          lowing to join such beneficiary, may file an applica-  
22          tion for adjustment of status under section 245(a)  
23          of the Immigration and Nationality Act (8 U.S.C.  
24          1255(a)) regardless of whether an immigrant visa is  
25          immediately available at the time the application is

1 filed. Such application for adjustment of status shall  
2 not be approved until an immigrant visa becomes  
3 available. Aliens with applications for a labor certifi-  
4 cation pursuant to section 212(a)(5)(A) of the Im-  
5 migration and Nationality Act (8 U.S.C.  
6 1182(a)(5)(A)) shall preserve the immigrant visa  
7 priority date accorded by the date of filing of such  
8 labor certification application.

9 **SEC. \_\_\_\_ . INFORMATION SHARING BETWEEN FEDERAL AND**  
10 **LOCAL LAW ENFORCEMENT OFFICERS**  
11 **[COLEMAN].**

12 (a) IN GENERAL.—The certification submitted under  
13 section 1(a) shall include a statement that the Secretary  
14 of Homeland Security has promulgated a regulation stat-  
15 ing that no person, agency, or Federal, State, or local gov-  
16 ernment entity may prohibit a law enforcement officer  
17 from acquiring information regarding the immigration sta-  
18 tus of any individual if the officer seeking such informa-  
19 tion has probable cause to believe that the individual is  
20 not lawfully present in the United States.

21 (b) RULE OF CONSTRUCTION.—Nothing in sub-  
22 section (a) may be construed—

23 (1) to limit the acquisition of information as  
24 otherwise provided by law; or

1           (2) to require a person to disclose information  
2           regarding an individual's immigration status prior to  
3           the provision of medical or education services.

1 **SEC. \_\_\_\_ . SUPPLEMENTAL IMMIGRATION FEE.**

2 (a) **AUTHORIZATION OF FEE.—**

3 (1) **IN GENERAL.—**Subject to paragraph (2),  
4 any alien who receives any immigration benefit  
5 under this title, or the amendments made by this  
6 title, shall, before receiving such benefit, pay a fee  
7 to the Secretary in an amount equal to \$500, in ad-  
8 dition to other applicable fees and penalties imposed  
9 under this title, or the amendments made by this  
10 title.

11 (2) **FEEES CONTINGENT ON APPROPRIATIONS.—**

12 No fee may be collected under this section except to  
13 the extent that the expenditure of the fee to pay the  
14 costs of activities and services for which the fee is  
15 imposed, as described in subsection (b), is provided  
16 for in advance in an appropriations Act.

17 (b) **DEPOSIT AND EXPENDITURE OF FEES.—**

18 (1) **DEPOSIT.—**Amounts collected under sub-  
19 section (a) shall be deposited as an offsetting collec-  
20 tion in, and credited to, the accounts providing ap-  
21 propriations—

22 (A) to carry out the apprehension and de-  
23 tention of any alien who is inadmissible by rea-  
24 son of any offense described in section 212(a)  
25 of the Immigration and Nationality Act;

1 (B) to carry out the apprehension and de-  
2 tention of any alien who is deportable for any  
3 offense under section 237(a) of such Act;

4 (C) to acquire border sensor and surveil-  
5 lance technology;

6 (D) for air and marine interdiction, oper-  
7 ations, maintenance, and procurement;

8 (E) for construction projects in support of  
9 the United States Customs and Border Protec-  
10 tion;

11 (F) to train Federal law enforcement per-  
12 sonnel; and

13 (G) for employment eligibility verification.

14 (2) AVAILABILITY OF FEES.—Amounts depos-  
15 ited under paragraph (1) shall remain available until  
16 expended for the activities and services described in  
17 paragraph (1).

1 **SEC. \_\_\_\_ . INCLUSION OF PROBATIONARY BENEFITS IN**  
2 **TRIGGER PROVISION.**

3       Notwithstanding section 1(a), no probationary ben-  
4 efit authorized under section 601(h) may be issued to an  
5 alien until after section 1 has been implemented.

1 **SEC. \_\_\_\_ . CERTIFICATION REQUIREMENT.**

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

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

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

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

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

1       **TITLE \_\_\_ —STRENGTHENING**  
2               **AMERICAN CITIZENSHIP**

3 **SEC. \_\_01. SHORT TITLE.**

4       This title may be cited as the “Secure Borders, Eco-  
5 nomic Opportunity and Immigration Reform Act of  
6 2007”.

7 **SEC. \_\_02. DEFINITION.**

8       In this title, the term “Oath of Allegiance” means  
9 the binding oath (or affirmation) of allegiance required to  
10 be naturalized as a citizen of the United States, as pre-  
11 scribed in subsection (e) of section 337 of the Immigration  
12 and Nationality Act (8 U.S.C. 1448(e)), as added by sec-  
13 tion \_\_31(a)(2).

14       **Subtitle A—Learning English**

15 **SEC. \_\_11. ENGLISH FLUENCY.**

16       (a) EDUCATION GRANTS.—

17               (1) ESTABLISHMENT.—The Chief of the Office  
18 of Citizenship of the Department (referred to in this  
19 subsection as the “Chief”) shall establish a grant  
20 program to provide grants in an amount not to ex-  
21 ceed \$500 to assist lawful permanent residents of  
22 the United States who declare an intent to apply for  
23 citizenship in the United States to meet the require-  
24 ments under section 312 of the Immigration and  
25 Nationality Act (8 U.S.C. 1423).

1           (2) USE OF FUNDS.—Grant funds awarded  
2 under this subsection shall be paid directly to an ac-  
3 credited institution of higher education or other  
4 qualified educational institution (as determined by  
5 the Chief) for tuition, fees, books, and other edu-  
6 cational resources required by a course on the  
7 English language in which the lawful permanent  
8 resident is enrolled.

9           (3) APPLICATION.—A lawful permanent resi-  
10 dent desiring a grant under this subsection shall  
11 submit an application to the Chief at such time, in  
12 such manner, and accompanied by such information  
13 as the Chief may reasonably require.

14           (4) PRIORITY.—If insufficient funds are avail-  
15 able to award grants to all qualified applicants, the  
16 Chief shall give priority based on the financial need  
17 of the applicants.

18           (5) NOTICE.—The Secretary, upon relevant reg-  
19 istration of a lawful permanent resident with the  
20 Department of Homeland Security, shall notify such  
21 lawful permanent resident of the availability of  
22 grants under this subsection for lawful permanent  
23 residents who declare an intent to apply for United  
24 States citizenship.

1 (b) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—  
2 Section 316 of the Immigration and Nationality Act (8  
3 U.S.C. 1427) is amended by adding at the end the fol-  
4 lowing:

5 “(g) A lawful permanent resident of the United  
6 States who demonstrates English fluency, in accordance  
7 with regulations prescribed by the Secretary of Homeland  
8 Security, in consultation with the Secretary of State, will  
9 satisfy the residency requirement under subsection (a)  
10 upon the completion of 4 years of continuous legal resi-  
11 dency in the United States.”.

12 **SEC. 12. SAVINGS PROVISION.**

13 Nothing in this subtitle shall be construed to—

14 (1) modify the English language requirements  
15 for naturalization under section 312(a)(1) of the Im-  
16 migration and Nationality Act (8 U.S.C.  
17 1423(a)(1)); or

18 (2) influence the naturalization test redesign  
19 process of the Office of Citizenship of the United  
20 States Citizenship and Immigration Services (except  
21 for the requirement under section 31(b)).

1       **Subtitle B—Education About the**  
2                   **American Way of Life**

3       **SEC. 21. AMERICAN CITIZENSHIP GRANT PROGRAM.**

4           (a) IN GENERAL.—The Secretary shall establish a  
5 competitive grant program to provide financial assistance  
6 for—

7                   (1) efforts by entities (including veterans and  
8 patriotic organizations) certified by the Office of  
9 Citizenship of the Department to promote the patri-  
10 otic integration of prospective citizens into the  
11 American way of life by providing civics, history, and  
12 English as a second language courses, with a specific  
13 emphasis on attachment to principles of the Con-  
14 stitution of the United States, the heroes of Amer-  
15 ican history (including military heroes), and the  
16 meaning of the Oath of Allegiance; and

17                   (2) other activities approved by the Secretary to  
18 promote the patriotic integration of prospective citi-  
19 zens and the implementation of the Immigration and  
20 Nationality Act (8 U.S.C. 1101 et seq.), including  
21 grants—

22                                   (A) to promote an understanding of the  
23 form of government and history of the United  
24 States; and

1 (B) to promote an attachment to the prin-  
2 ciples of the Constitution of the United States  
3 and the well being and happiness of the people  
4 of the United States.

5 (b) ACCEPTANCE OF GIFTS.—The Secretary may ac-  
6 cept and use gifts from the United States Citizenship  
7 Foundation, established under section \_\_22(a), for grants  
8 under this section.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated such sums as may be  
11 necessary to carry out this section.

12 **SEC. \_\_22. FUNDING FOR THE OFFICE OF CITIZENSHIP.**

13 (a) AUTHORIZATION.—The Secretary, acting through  
14 the Director of United States Citizenship and Immigration  
15 Services, is authorized to establish the United States Citi-  
16 zenship Foundation (referred to in this section as the  
17 “Foundation”), an organization duly incorporated in the  
18 District of Columbia, exclusively for charitable and edu-  
19 cational purposes to support the functions of the Office  
20 of Citizenship, which shall include the patriotic integration  
21 of prospective citizens into—

22 (1) American common values and traditions, in-  
23 cluding an understanding of the history of the  
24 United States and the principles of the Constitution  
25 of the United States; and

1           (2) civic traditions of the United States, includ-  
2           ing the Pledge of Allegiance, respect for the flag of  
3           the United States, and voting in public elections.

4           (b) DEDICATED FUNDING.—

5           (1) IN GENERAL.—Not less than 1.5 percent of  
6           the funds made available to United States Citizen-  
7           ship and Immigration Services (including fees and  
8           appropriated funds) shall be dedicated to the func-  
9           tions of the Office of Citizenship, which shall include  
10          the patriotic integration of prospective citizens  
11          into—

12                   (A) American common values and tradi-  
13                   tions, including an understanding of American  
14                   history and the principles of the Constitution of  
15                   the United States; and

16                   (B) civic traditions of the United States,  
17                   including the Pledge of Allegiance, respect for  
18                   the flag of the United States, and voting in  
19                   public elections.

20          (2) SENSE OF CONGRESS.—It is the sense of  
21          Congress that dedicating increased funds to the Of-  
22          fice of Citizenship should not result in an increase  
23          in fees charged by United States Citizenship and  
24          Immigration Services.

25          (c) GIFTS.—

1           (1) TO FOUNDATION.—The Foundation may so-  
2       licit, accept, and make gifts of money and other  
3       property in accordance with section 501(c)(3) of the  
4       Internal Revenue Code of 1986.

5           (2) FROM FOUNDATION.—The Office of Citizen-  
6       ship may accept gifts from the Foundation to sup-  
7       port the functions of the Office.

8       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
9       are authorized to be appropriated such sums as may be  
10      necessary to carry out the mission of the Office of Citizen-  
11      ship, including the patriotic integration of prospective citi-  
12      zens into—

13           (1) American common values and traditions, in-  
14      cluding an understanding of American history and  
15      the principles of the Constitution of the United  
16      States; and

17           (2) civic traditions of the United States, includ-  
18      ing the Pledge of Allegiance, respect for the flag of  
19      the United States, and voting in public elections.

20 **SEC. 23. RESTRICTION ON USE OF FUNDS.**

21       Amounts appropriated to carry out a program under  
22       this subtitle may not be used to organize individuals for  
23       the purpose of political activism or advocacy.

1 **SEC. 24. REPORTING REQUIREMENT.**

2 The Chief of the Office of Citizenship shall submit  
3 to the Committee on Health, Education, Labor, and Pen-  
4 sions of the Senate, the Committee on the Judiciary of  
5 the Senate, the Committee on Education and Labor of the  
6 House of Representatives, and the Committee on the Judi-  
7 ciary of the House of Representatives, an annual report  
8 that contains—

9 (1) a list of the entities that have received  
10 funds from the Office of Citizenship during the re-  
11 porting period under this subtitle and the amount of  
12 funding received by each such entity;

13 (2) an evaluation of the extent to which grants  
14 received under this subtitle and subtitle A success-  
15 fully promoted an understanding of—

16 (A) the English language; and

17 (B) American history and government, in-  
18 cluding the heroes of American history, the  
19 meaning of the Oath of Allegiance, and an at-  
20 tachment to the principles of the Constitution  
21 of the United States; and

22 (3) information about the number of lawful per-  
23 manent residents who were able to achieve the  
24 knowledge described under paragraph (2) as a result  
25 of the grants provided under this subtitle and sub-  
26 title A.

1     **Subtitle C—Codifying the Oath of**  
2                     **Allegiance**

3     **SEC. 31. OATH OR AFFIRMATION OF RENUNCIATION AND**  
4                     **ALLEGIANCE.**

5             (a) REVISION OF OATH.—Section 337 of the Immi-  
6     gration and Nationality Act (8 U.S.C. 1448) is amend-  
7     ed—

8             (1) in subsection (a), by striking “under section  
9             310(b) an oath” and all that follows through “per-  
10            sonal moral code.” and inserting “under section  
11            310(b), the oath (or affirmation) of allegiance pre-  
12            scribed in subsection (e).”; and

13            (2) by adding at the end the following:

14            “(e)(1) Subject to paragraphs (2) and (3), the oath  
15     (or affirmation) of allegiance prescribed in this subsection  
16     is as follows: ‘I take this oath solemnly, freely, and without  
17     any mental reservation. I absolutely and entirely renounce  
18     all allegiance to any foreign state or power of which I have  
19     been a subject or citizen. My fidelity and allegiance from  
20     this day forward are to the United States of America. I  
21     will bear true faith and allegiance to the Constitution and  
22     laws of the United States, and will support and defend  
23     them against all enemies, foreign and domestic. I will bear  
24     arms, or perform noncombatant military or civilian serv-

1 ice, on behalf of the United States when required by law.

2 This I do solemnly swear, so help me God.’.

3 “(2) If a person, by reason of religious training and  
4 belief (or individual interpretation thereof) or for other  
5 reasons of good conscience, cannot take the oath pre-  
6 scribed in paragraph (1)—

7 “(A) with the term ‘oath’ included, the term  
8 ‘affirmation’ shall be substituted for the term ‘oath’;  
9 and

10 “(B) with the phrase ‘so help me God’ included,  
11 the phrase ‘so help me God’ shall be omitted.

12 “(3) If a person shows by clear and convincing evi-  
13 dence to the satisfaction of the Attorney General that such  
14 person, by reason of religious training and belief, cannot  
15 take the oath prescribed in paragraph (1)—

16 “(A) because such person is opposed to the  
17 bearing of arms in the Armed Forces of the United  
18 States, the words ‘bear arms, or’ shall be omitted;  
19 and

20 “(B) because such person is opposed to any  
21 type of service in the Armed Forces of the United  
22 States, the words ‘bear arms, or’ and ‘noncombatant  
23 military or’ shall be omitted.

24 “(4) As used in this subsection, the term ‘religious  
25 training and belief’—

1           “(A) means a belief of an individual in relation  
2           to a Supreme Being involving duties superior to  
3           those arising from any human relation; and

4           “(B) does not include essentially political, socio-  
5           logical, or philosophical views or a merely personal  
6           moral code.

7           “(5) Any reference in this title to ‘oath’ or ‘oath of  
8           allegiance’ under this section shall be deemed to refer to  
9           the oath (or affirmation) of allegiance prescribed under  
10          this subsection.”.

11          (b) HISTORY AND GOVERNMENT TEST.—The Sec-  
12          retary shall incorporate a knowledge and understanding  
13          of the meaning of the Oath of Allegiance into the history  
14          and government test given to applicants for citizenship.

15          (c) NOTICE TO FOREIGN EMBASSIES.—Upon the  
16          naturalization of a new citizen, the Secretary, in coopera-  
17          tion with the Secretary of State, shall notify the embassy  
18          of the country of which the new citizen was a citizen or  
19          subject that such citizen has—

20                  (1) renounced allegiance to that foreign coun-  
21                  try; and

22                  (2) sworn allegiance to the United States.

23          (d) EFFECTIVE DATE.—The amendments made by  
24          subsection (a) shall take effect on the date that is 6  
25          months after the date of the enactment of this Act.

1           **Subtitle D—Celebrating New**  
2                           **Citizens**

3   **SEC. 41. ESTABLISHMENT OF NEW CITIZENS AWARD PRO-**  
4                           **GRAM.**

5           (a) **ESTABLISHMENT.**—There is established a new  
6 citizens award program to recognize citizens who—

7                 (1) have made an outstanding contribution to  
8 the United States; and

9                 (2) are naturalized during the 10-year period  
10 ending on the date of such recognition.

11           (b) **PRESENTATION AUTHORIZED.**—

12                 (1) **IN GENERAL.**—The President is authorized  
13 to present a medal, in recognition of outstanding  
14 contributions to the United States, to citizens de-  
15 scribed in subsection (a).

16                 (2) **MAXIMUM NUMBER OF AWARDS.**—Not more  
17 than 10 citizens may receive a medal under this sec-  
18 tion in any calendar year.

19           (c) **DESIGN AND STRIKING.**—The Secretary of the  
20 Treasury shall strike a medal with suitable emblems, de-  
21 vices, and inscriptions, to be determined by the President.

22           (d) **NATIONAL MEDALS.**—The medals struck pursu-  
23 ant to this section are national medals for purposes of  
24 chapter 51 of title 31, United States Code.

1 **SEC. 42. NATURALIZATION CEREMONIES.**

2 (a) IN GENERAL.—The Secretary, in consultation  
3 with the Director of the National Park Service, the Archi-  
4 vist of the United States, and other appropriate Federal  
5 officials, shall develop and implement a strategy to en-  
6 hance the public awareness of naturalization ceremonies.

7 (b) VENUES.—In developing the strategy under this  
8 section, the Secretary shall consider the use of outstanding  
9 and historic locations as venues for select naturalization  
10 ceremonies.

11 (c) REPORTING REQUIREMENT.—The Secretary shall  
12 annually submit a report to Congress that contains—

13 (1) the content of the strategy developed under  
14 this section; and

15 (2) the progress made towards the implementa-  
16 tion of such strategy.

1 **SEC. \_\_\_\_ . EMPLOYER OBLIGATION TO DOCUMENT COM-**  
2 **PARABLE JOB OPPORTUNITIES.**

3 (a) IN GENERAL.—Section 218B(b) of the Immigra-  
4 tion and Nationality Act, as added by section 403 of this  
5 Act, is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (C), by striking  
8 “and” at the end;

9 (B) in subparagraph (D), by striking the  
10 period at the end and insert “; and”; and

11 (C) by adding at the end the following:

12 “(E) documenting that for a period of not  
13 less than 90 days before the date an application  
14 is filed under subsection (a)(1), and for a pe-  
15 riod of 1 year after the date that such applica-  
16 tion is filed, every comparable job opportunity  
17 (including those in the same occupation for  
18 which an application for a Y–1 worker is made,  
19 and all other job opportunities for which com-  
20 parable education, training, or experience are  
21 required), that becomes available at the em-  
22 ployer is posted to the designated State employ-  
23 ment service agency, including a description of  
24 the wages and other terms and conditions of  
25 employment and the minimum education, train-  
26 ing, experience and other requirements of the

1           job, and the designated State agency has been  
2           authorized—

3                   “(i) to post all such job opportunities  
4                   on the Internet website established under  
5                   section 414 of the Secure Borders, Eco-  
6                   nomic Opportunity and Immigration Re-  
7                   form Act of 2007, with local job banks,  
8                   and with unemployment agencies and other  
9                   referral and recruitment sources pertinent  
10                  to the job involved; and

11                   “(ii) to notify labor organizations in  
12                   the State in which the job is located and,  
13                   if applicable, the office of the local union  
14                   which represents the employees in the  
15                   same or substantially equivalent job classi-  
16                   fication of the job opportunity.”;

17                  (2) by redesignating paragraphs (2) and (3) as  
18                  paragraphs (3) and (4), respectively; and

19                  (3) by inserting after paragraph (1), the fol-  
20                  lowing:

21                   “(2) PENALTY FOR FAILURE TO DOCUMENT  
22                   COMPLIANCE.—The failure of an employer to docu-  
23                   ment compliance with paragraph (1)(E) shall result  
24                   in the employer’s ineligibility to make a subsequent  
25                   application under subsection (a)(1) during the 1-

1       year period following the initial application. The Sec-  
2       retary of Labor shall routinely publicize the require-  
3       ment under paragraph (1)(E) in communications  
4       with employers, and encourage State agencies to also  
5       publicize such requirement, to help employers be-  
6       come aware of and comply with such requirement in  
7       a timely manner.”.

8       (b) DEFINITION OF EMPLOYER.—Section 274A(b) of  
9       the Immigration and Nationality Act (8 U.S.C. 1324a(b)),  
10      as amended by subsection (a) of the first section 302 (re-  
11      lating to unlawful employment of aliens), is further  
12      amended by striking paragraph (2).

1 **SEC. \_\_\_\_ . TREATMENT OF CERTAIN NATIONALS OF IRAQ.**

2 (a) **REQUIREMENT FOR REHEARING OF CERTAIN**  
3 **CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CON-**  
4 **DITIONS.**—Section 208(b) of the Immigration and Nation-  
5 ality Act (8 U.S.C. 1158(b)) is amended by adding at the  
6 end the following:

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

13 “(A) is a religious minority from Iraq  
14 whose claim was denied by an immigration  
15 judge in whole or in part on the basis of  
16 changed country conditions on or after March  
17 1, 2003; and

18 “(B) has remained in the United States as  
19 of the date of the enactment of this para-  
20 graph.”.

21 (b) **CONSIDERATION OF CERTAIN NATIONALS FROM**  
22 **IRAQ AS PRIORITY 2 REFUGEES.**—Subject to the numer-  
23 ical limitations established pursuant to section 207 of the  
24 Immigration and Nationality Act (8 U.S.C. 1157), the  
25 Secretary of State or a designee of the Secretary shall  
26 present to the Secretary of Homeland Security, and the

1 Secretary of Homeland Security or a designee of the Sec-  
2 retary shall adjudicate, any application for refugee status  
3 under section 207 of the Immigration and Nationality Act  
4 (8 U.S.C. 1157) submitted by an applicant who—

5 (1) is a national of Iraq;

6 (2) is able to demonstrate that he or she is a  
7 member of a religious minority group in Iraq; and

8 (3) is able to demonstrate that he or she left  
9 Iraq before January 1, 2007, and has resided out-  
10 side Iraq since that time.

1 **SEC. \_\_\_\_ . PREEMPTION.**

2 In section 274A(i) of the Immigration and Nation-  
3 ality Act, as amended by section 302(a) of this Act, strike  
4 paragraph (2) and insert the following:

5 “(2) PREEMPTION.—This section preempts any  
6 State or local law that—

7 “(A) requires the use of the EEVS in a  
8 manner that—

9 “(i) conflicts with any Federal policy,  
10 procedure, or timetable; or

11 “(ii) imposes a civil or criminal sanc-  
12 tion (other than through licensing or other  
13 similar laws) on a person that employs, or  
14 recruits or refers for a fee for employment,  
15 any unauthorized alien; and

16 “(B) requires, as a condition of con-  
17 ducting, continuing, or expanding a business,  
18 that, to achieve compliance with subsection (a)  
19 or (b), a business entity—

20 “(i) shall provide, build, fund, or  
21 maintain a shelter, structure, or designated  
22 area at or near the place of business of the  
23 entity for use by—

24 “(I) any individual who is not an  
25 employee of the business entity who  
26 enters or seeks to enter the property

1 of the entity for the purpose of seek-  
2 ing employment by the entity; or

3 “(II) any contractor, customer,  
4 or other person over which the busi-  
5 ness entity has no authority; or

6 “(ii) shall carry out any other activity  
7 to facilitate the employment by others of—

8 “(I) any individual who is not an  
9 employee of the business entity who  
10 enters or seeks to enter the property  
11 of the entity for the purpose of seek-  
12 ing employment by the entity; or

13 “(II) any contractor, customer,  
14 or other person over which the busi-  
15 ness entity has no authority.”.

16

1 **SEC. \_\_\_\_ . CLARIFYING AMENDMENTS REGARDING THE USE**  
2 **OF SOCIAL SECURITY CARDS.**

3 (a) USE OF SOCIAL SECURITY CARDS TO ESTABLISH  
4 IDENTITY AND EMPLOYMENT AUTHORIZATION.—Section  
5 274A of the Immigration and Nationality Act, as amended  
6 by section 302, is further amended—

7 (1) in subsection (c)(1)—

8 (A) in subparagraph (B)—

9 (i) in clause (ii)(III), by striking “;  
10 or” and inserting a semicolon;

11 (ii) in clause (iii), by striking the end  
12 period and inserting “; or”; and

13 (iii) by adding at the end the fol-  
14 lowing:

15 “(iv) social security card (other than  
16 a card that specifies on its face that the  
17 card is not valid for establishing employ-  
18 ment authorization in the United States)  
19 that bears a photograph and meets the  
20 standards established under section 716(d)  
21 of the Secure Borders, Economic Oppor-  
22 tunity, and Immigration Reform Act of  
23 2007, upon the recommendation of the  
24 Secretary of Homeland Security, in con-  
25 sultation with the Commissioner of Social

1 Security, pursuant to section 716(f)(1) of  
2 such Act.”; and

3 (B) in subparagraph (D)(i), by striking  
4 “may” and inserting “shall, not later than the  
5 date on which the report described in section  
6 716(f)(1) of the Secure Borders, Economic Op-  
7 portunity, and Immigration Reform Act of  
8 2007, is submitted,”; and

9 (2) in subsection (d)(9)(B)(v)(I), by striking  
10 “as specified in (D)” and inserting “as specified in  
11 subparagraph (D), including photographs and any  
12 other biometric information as may be required”.

13 (b) ACCESS TO SOCIAL SECURITY CARD INFORMA-  
14 TION.—Section 205(c)(2)(I)(i) of the Social Security Act,  
15 as added by section 308, is further amended by inserting  
16 at the end of the flush text at the end the following new  
17 sentence: “As part of the employment eligibility  
18 verification system established under section 274A of the  
19 Immigration and Nationality Act, the Commissioner of  
20 Social Security shall provide to the Secretary of Homeland  
21 Security access to any photograph, other feature, or infor-  
22 mation included in the social security card.”

23 (c) INCREASING SECURITY AND INTEGRITY OF SO-  
24 CIAL SECURITY CARDS.—Notwithstanding any other pro-  
25 vision of this Act, section 305 of this Act is repealed.

1 (d) FRAUD-RESISTANT, TAMPER-RESISTANT, AND  
2 WEAR-RESISTANT SOCIAL SECURITY CARDS.—

3 (1) ISSUANCE.—Not later than first day of the  
4 second fiscal year in which amounts are appro-  
5 priated pursuant to the authorization of appropria-  
6 tions in subsection (g), the Commissioner of Social  
7 Security shall begin to administer and issue fraud-  
8 resistant, tamper-resistant, and wear-resistant social  
9 security cards displaying a photograph.

10 (2) INTERIM.—Not later than the first day of  
11 the seventh fiscal year in which amounts are appro-  
12 priated pursuant to the authorization of appropria-  
13 tions in subsection (g), the Commissioner of Social  
14 Security shall issue only fraud-resistant, tamper-re-  
15 sistant, and wear-resistant social security cards dis-  
16 playing a photograph.

17 (3) COMPLETION.—Not later than the first day  
18 of the tenth fiscal year in which amounts are appro-  
19 priated pursuant to the authorization of appropria-  
20 tions in subsection (g), all social security cards that  
21 are not fraud-resistant, tamper-resistant, and wear-  
22 resistant shall be invalid for establishing employment  
23 authorization for any individual 16 years of age or  
24 older.

1           (4) EXEMPTION.—Nothing in this section shall  
2           require an individual under the age of 16 years to  
3           be issued or to present for any purpose a social se-  
4           curity card described in this subsection. Nothing in  
5           this section shall prohibit the Commissioner of So-  
6           cial Security from issuing a social security card not  
7           meeting the requirements of this subsection to an in-  
8           dividual under the age of 16 years who otherwise  
9           meets the eligibility requirements for a social secu-  
10          rity card.

11          (e) ADDITIONAL DUTIES OF THE SOCIAL SECURITY  
12          ADMINISTRATION.—In accordance with the responsibil-  
13          ities of the Commissioner of Social Security under section  
14          205(c)(2)(I) of the Social Security Act, as added by sec-  
15          tion 308, the Commissioner—

16                (1) shall issue a social security card to an indi-  
17                vidual at the time of the issuance of a social security  
18                account number to such individual, which card  
19                shall—

20                        (A) contain such security and identification  
21                        features as determined by the Secretary of  
22                        Homeland Security, in consultation with the  
23                        Commissioner; and

24                        (B) be fraud-resistant, tamper-resistant,  
25                        and wear-resistant;

1           (2) in consultation with the Secretary of Home-  
2           land Security, shall issue regulations specifying such  
3           particular security and identification features, re-  
4           newal requirements (including updated photo-  
5           graphs), and standards for the social security card  
6           as necessary to be acceptable for purposes of estab-  
7           lishing identity and employment authorization under  
8           the immigration laws of the United States; and

9           (3) may not issue a replacement social security  
10          card to any individual unless the Commissioner de-  
11          termines that the purpose for requiring the issuance  
12          of the replacement document is legitimate.

13          (f) REPORTING REQUIREMENTS.—

14               (1) REPORT ON THE USE OF IDENTIFICATION  
15          DOCUMENTS.—Not later than the first day of the  
16          tenth fiscal year in which amounts are appropriated  
17          pursuant to the authorization of appropriations in  
18          subsection (g), the Secretary of Homeland Security  
19          shall submit to Congress a report recommending  
20          which documents, if any, among those described in  
21          section 274A(c)(1) of the Immigration and Nation-  
22          ality Act, should continue to be used to establish  
23          identity and employment authorization in the United  
24          States.

1           (2) REPORT ON IMPLEMENTATION.—Not later  
2           than 12 months after the date on which the Com-  
3           missioner begins to administer and issue fraud-re-  
4           sistant, tamper-resistant, and wear-resistant cards  
5           under subsection (d)(1), and annually thereafter, the  
6           Commissioner shall submit to Congress a report on  
7           the implementation of this section. The report shall  
8           include analyses of the amounts needed to be appro-  
9           priated to implement this section, and of any meas-  
10          ures taken to protect the privacy of individuals who  
11          hold social security cards described in this section.

12          (g) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated such sums as may be  
14          necessary to carry out this section and the amendments  
15          made by this section.

1 **SEC. \_\_\_\_ . PRECLUSION OF SOCIAL SECURITY CREDITS**  
2 **PRIOR TO ENUMERATION OR FOR ANY PE-**  
3 **RIOD WITHOUT WORK AUTHORIZATION.**

4 (a) **INSURED STATUS.**—Section 214 of the Social Se-  
5 curity Act (42 U.S.C. 414) is amended—

6 (1) by striking subsections (c) and (d), as  
7 added by section 607, and inserting the following:

8 “(c) The criterion specified in this subsection is that  
9 the individual, if not a citizen or national of the United  
10 States—

11 “(1) has been assigned a social security account  
12 number that was, at the time of assignment, or at  
13 any later time, consistent with the requirements  
14 under subelause (I) or (III) of section  
15 205(c)(2)(B)(i); or

16 “(2) at the time any such quarters of coverage  
17 are earned—

18 “(A) is described in subparagraph (B) or  
19 (D) of section 101(a)(15) of the Immigration  
20 and Nationality Act (8 U.S.C. 1101(a)(15));

21 “(B) is lawfully admitted temporarily to  
22 the United States for business (in the case of  
23 an individual described in such subparagraph  
24 (B)) or the performance as a crewman (in the  
25 case of an individual described in such subpara-  
26 graph (D)); and

1           “(C) the business engaged in, or service as  
2           a crewman performed, is within the scope of the  
3           terms of such individual’s admission to the  
4           United States.

5           “(d)(1) Except as provided in paragraph (2), no  
6           quarter of coverage shall be credited for purposes of this  
7           section if, with respect to any individual who is assigned  
8           a social security account number on or after the date of  
9           the enactment of the Secure Borders, Economic Oppor-  
10          tunity and Immigration Reform Act of 2007, such quarter  
11          of coverage is earned prior to the year in which such social  
12          security account number is assigned.

13          “(2) Paragraph (1) shall not apply with respect to  
14          any quarter of coverage earned by an individual who, at  
15          such time such quarter of coverage is earned, satisfies the  
16          criterion specified in subsection (e)(2).”.

17          (b) BENEFIT COMPUTATION.—Section 215(e)(3) of  
18          such Act, as added by section 607(b)(3), is amended—

19                 (1) by inserting “who is assigned a social secu-  
20                 rity account number on or after the date of enact-  
21                 ment of the Secure Borders, Economic Opportunity  
22                 and Immigration Reform Act of 2007” after “earn-  
23                 ings of an individual”;

24                 (2) by striking “for any year”; and

1           (3) by striking “section 214(c)” and inserting  
2           “section 214(d)”.

3           (c) EFFECTIVE DATE.—Notwithstanding section  
4 607(c), the amendments made by this section and by sec-  
5 tion 607 shall take effect on the date of the enactment  
6 of this Act.

1 **SEC. \_\_\_\_ . PROTECTION FOR SCHOLARS.**

2 (a) NONIMMIGRANT CATEGORY.—Section 101(a)(15)  
3 (8 U.S.C. 1101(a)(15)) of the Immigration and Nation-  
4 ality Act is amended by striking subparagraph (W), as  
5 added by section 401(a)(4), and inserting the following:

6 “(W) subject to section 214(s), an alien—

7 “(i) who the Secretary of Homeland  
8 Security determines—

9 “(I) is a scholar; and

10 “(II) is subject to a risk of grave  
11 danger or persecution in the alien’s  
12 country of nationality on account of  
13 the alien’s belief, scholarship, or iden-  
14 tity; or

15 “(ii) who is the spouse or child of an  
16 alien described in clause (i) who is accom-  
17 panying or following to join such alien;”.

18 (b) CONDITIONS.—Section 214 of the Immigration  
19 and Nationality Act (8 U.S.C. 1184), as amended by this  
20 Act, is further amended by adding at the end the fol-  
21 lowing:

22 “(s) REQUIREMENTS APPLICABLE TO PERSECUTED  
23 SCHOLARS.—

24 “(1) ELIGIBILITY.—

25 “(A) IN GENERAL.—An alien is eligible for  
26 nonimmigrant status under section

1           101(a)(15)(W)(i) if the alien demonstrates that  
2           the alien is a scholar in any field who is subject  
3           to a risk of grave danger or persecution in the  
4           alien’s country of nationality on account of the  
5           alien’s belief, scholarship, or identity.

6           “(B) CONSULTATION.—In determining eli-  
7           gibility of aliens under subparagraph (A), the  
8           Secretary of Homeland Security shall consult  
9           with nationally recognized organizations that  
10          have not less than 5 years of experience in as-  
11          sisting and funding scholars needing to escape  
12          dangerous conditions.

13          “(2) NUMERICAL MINIMUMS.—The number of  
14          aliens who may be issued visas or otherwise provided  
15          status as nonimmigrants under section  
16          1101(a)(15)(W) in any fiscal year may not be less  
17          than 2,000, unless the Secretary determines that  
18          less than 2,000 aliens who are qualified for such sta-  
19          tus are seeking such status during the fiscal year.

20          “(3) CREDIBLE EVIDENCE CONSIDERED.—In  
21          acting on any application filed under this subsection,  
22          the consular officer or the Secretary of Homeland  
23          Security, as appropriate, shall consider any credible  
24          evidence relevant to the application, including infor-

1           mation received in connection with the consultation  
2           required under paragraph (1)(B).

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

8           “(5) DURATION OF STATUS.—

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

13          “(B) EXTENSION OF PERIOD.—The period  
14          of admission described in subparagraph (A)  
15          may be extended for 1 additional 2-year pe-  
16          riod.”.

17          (c) EMPLOYMENT CREATION VISAS.—Section  
18          203(b)(3) of the Immigration and Nationality Act, as re-  
19          designated and amended by section 502(b)(3), is further  
20          amended—

21                 (1) in subparagraph (A), by striking “2,800”  
22                 and inserting “10,000”; and

23                 (2) in subparagraph (B), by striking “1,500”  
24                 and inserting “7,500”.

1 **SEC. \_\_\_\_ . REPORT ON Y NONIMMIGRANT VISAS.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-  
3 rity shall annually report to Congress on the number of  
4 Y nonimmigrant visa holders that do not report at a port  
5 of departure and return to their foreign residence, as re-  
6 quired under section 218A(j)(3) of the Immigration and  
7 Nationality Act, as added by section 402 of this Act.

8 (b) TIMING OF REPORTS.—

9 (1) INITIAL REPORT.—The initial report re-  
10 quired under subsection (a) shall be submitted to  
11 Congress not later than 2 years and 2 months after  
12 the date on which the Secretary of Homeland Secu-  
13 rity makes the certification described in section 1(a)  
14 of this Act.

15 (2) SUBSEQUENT REPORTS.—Following the  
16 submission of the initial report under paragraph (1),  
17 each subsequent report required under subsection  
18 (a) shall be submitted to Congress not later than 60  
19 days after the end of each calendar year.

20 (c) REQUIRED ACTION.—Based upon the findings in  
21 the reports required under subsection (a), the Secretary,  
22 for the following calendar year, shall reduce the number  
23 of available Y nonimmigrant visas by a number which is  
24 equal to the number of Y nonimmigrant visa holders who  
25 do not return to their foreign residence, as required under

1 section 218A(j)(3) of the Immigration and Nationality  
2 Act, as added by section 402 of this Act.

3 (d) INFORMATION SHARING.—Title II of the Immi-  
4 gration and Nationality Act (8 U.S.C. 1151 et. seq.) is  
5 amended by adding after section 240D, as added by sec-  
6 tion 223(a) of this Act, the following:

7 **“SEC. 240E. INFORMATION SHARING WITH STATE AND**  
8 **LOCAL LAW ENFORCEMENT AGENCIES AND**  
9 **POLITICAL SUBDIVISIONS AND TRANSFER OF**  
10 **ALIENS TO FEDERAL CUSTODY.**

11 “(a) AUTHORITY.—Consistent with the authority of  
12 State and local law enforcement agencies and political sub-  
13 divisions to assist the Federal Government in the enforce-  
14 ment of Federal immigration laws, the Secretary of Home-  
15 land Security or the Attorney General may make available  
16 information collected and maintained pursuant to any pro-  
17 vision of this Act. Nothing in this section may be con-  
18 strued to require law enforcement personnel of a State or  
19 a political subdivision to assist in the enforcement of the  
20 immigration laws of the United States.

21 “(b) TRANSFER.—If the head of a law enforcement  
22 entity of a State (or, if appropriate, a political subdivision  
23 of the State) exercising authority with respect to the ap-  
24 prehension or arrest of an alien submits a request to the  
25 Secretary of Homeland Security that the alien be taken

1 into Federal custody, the Secretary of Homeland Secu-  
2 rity—

3 “(1) shall—

4 “(A) deem the request to include the in-  
5 quiry to verify immigration status described in  
6 section 642(c) of the Illegal Immigration Re-  
7 form and Immigrant Responsibility Act of 1996  
8 (8 U.S.C. 1373(c)), and expeditiously inform  
9 the requesting entity whether such individual is  
10 an alien lawfully admitted to the United States  
11 or is otherwise lawfully present in the United  
12 States; and

13 “(B) if the individual is an alien who is not  
14 lawfully admitted to the United States or other-  
15 wise is not lawfully present in the United  
16 States—

17 “(i) take the illegal alien into the cus-  
18 tody of the Federal Government not later  
19 than 72 hours after—

20 “(I) the conclusion of the State  
21 charging process or dismissal process;  
22 or

23 “(II) the illegal alien is appre-  
24 hended, if no State charging or dis-  
25 missal process is required; or

1                   “(ii) request that the relevant State or  
2                   local law enforcement agency temporarily  
3                   detain or transport the alien to a location  
4                   for transfer to Federal custody; and

5                   “(2) shall designate at least 1 Federal, State,  
6                   or local prison or jail or a private contracted prison  
7                   or detention facility within each State as the central  
8                   facility for that State to transfer custody of aliens  
9                   to the Department of Homeland Security.

10                  “(c) REIMBURSEMENT.—

11                  “(1) IN GENERAL.—The Secretary of Homeland  
12                  Security shall reimburse a State, or a political sub-  
13                  division of a State, for expenses, as verified by the  
14                  Secretary, incurred by the State or political subdivi-  
15                  sion in the detention and transportation of an alien  
16                  as described in subparagraphs (A) and (B) of sub-  
17                  section (a)(1).

18                  “(2) COST COMPUTATION.—Compensation pro-  
19                  vided for costs incurred under subparagraphs (A)  
20                  and (B) of subsection (a)(1) shall be equal to—

21                         “(A) the product of—

22                                 “(i) the average daily cost of incarcer-  
23                                 ation of a prisoner in the relevant State, as  
24                                 determined by the chief executive officer of

1 a State (or, as appropriate, a political sub-  
2 division of the State); multiplied by

3 “(ii) the number of days that the alien  
4 was in the custody of the State or political  
5 subdivision; plus

6 “(B) the cost of transporting the alien  
7 from the point of apprehension or arrest to the  
8 location of detention, and if the location of de-  
9 tention and of custody transfer are different, to  
10 the custody transfer point; plus

11 “(C) the cost of uncompensated emergency  
12 medical care provided to a detained alien during  
13 the period between the time of transmittal of  
14 the request described in subsection (b) and the  
15 time of transfer into Federal custody.

16 “(d) REQUIREMENT FOR APPROPRIATE SECURITY.—  
17 The Secretary of Homeland Security shall ensure that—

18 “(1) aliens incarcerated in a Federal facility  
19 pursuant to this section are held in facilities which  
20 provide an appropriate level of security; and

21 “(2) if practicable, aliens detained solely for  
22 civil violations of Federal immigration law are sepa-  
23 rated within a facility or facilities.

24 “(e) REQUIREMENT FOR SCHEDULE.—In carrying  
25 out this section, the Secretary of Homeland Security shall

1 establish a regular circuit and schedule for the prompt  
2 transportation of apprehended aliens from the custody of  
3 those States, and political subdivisions of States, which  
4 routinely submit requests described in subsection (b), into  
5 Federal custody.

6 “(f) CONTRACT AUTHORITY.—

7 “(1) IN GENERAL.—The Secretary of Homeland  
8 Security may enter into contracts or cooperative  
9 agreements with appropriate State and local law en-  
10 forcement and detention agencies to implement this  
11 section.

12 “(2) DETERMINATION BY SECRETARY.—Prior  
13 to entering into a contract or cooperative agreement  
14 with a State or political subdivision of a State under  
15 paragraph (1), the Secretary shall determine wheth-  
16 er the State, or if appropriate, the political subdivi-  
17 sion in which the agencies are located, has in place  
18 any formal or informal policy that violates section  
19 642 of the Illegal Immigration Reform and Immig-  
20 rant Responsibility Act of 1996 (8 U.S.C. 1373).  
21 The Secretary may not allocate any of the funds  
22 made available under this section to any State or po-  
23 litical subdivision that has in place a policy that vio-  
24 lates such section.

1       “(g) PROVISION OF INFORMATION TO NATIONAL  
2 CRIME INFORMATION CENTER.—

3           “(1) IN GENERAL.—Except as provided in para-  
4 graph (3), not later than 180 days after the date of  
5 the enactment of this Act, the Secretary shall pro-  
6 vide to the head of the National Crime Information  
7 Center of the Department of Justice the information  
8 that the Secretary has or maintains related to any  
9 alien—

10           “(A) against whom a final order of re-  
11 moval has been issued;

12           “(B) who enters into a voluntary departure  
13 agreement, or is granted voluntary departure by  
14 an immigration judge, whose period for depart-  
15 ure has expired under subsection (a)(3) or  
16 (b)(2) of section 240B or who has violated a  
17 condition of a voluntary departure agreement  
18 under section 240B;

19           “(C) whom a Federal immigration officer  
20 has confirmed to be unlawfully present in the  
21 United States; and

22           “(D) whose visa has been revoked.

23           “(2) REMOVAL OF INFORMATION.—The head of  
24 the National Crime Information Center shall  
25 promptly remove any information provided by the

1 Secretary under paragraph (1) related to an alien  
2 who is granted lawful authority to enter or remain  
3 legally in the United States.

4 “(3) PROCEDURE FOR REMOVAL OF ERRO-  
5 NEOUS INFORMATION.—The Secretary, in consulta-  
6 tion with the head of the National Crime Informa-  
7 tion Center of the Department of Justice, shall de-  
8 velop and implement a procedure by which an alien  
9 may petition the Secretary or head of the National  
10 Crime Information Center, as appropriate, to remove  
11 any erroneous information provided by the Secretary  
12 under paragraph (1) related to such alien. Under  
13 such procedures, failure by the alien to receive notice  
14 of a violation of the immigration laws shall not con-  
15 stitute cause for removing information provided by  
16 the Secretary under paragraph (1) related to such  
17 alien, unless such information is erroneous. Notwith-  
18 standing the 180-day time period set forth in para-  
19 graph (1), the Secretary shall not provide the infor-  
20 mation required under paragraph (1) until the pro-  
21 cedures required by this paragraph are developed  
22 and implemented.”.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated \$850,000,000 for fiscal  
25 year 2008 and for each subsequent fiscal year for the de-

1 tention and removal of aliens who are not lawfully present  
2 in the United States under the Immigration and Nation-  
3 ality Act (8 U.S.C. 1101 et. seq.).

4 (f) DEFINITION OF GOOD MORAL CHARACTER.—Sec-  
5 tion 101(f) of the Immigration and Nationality Act (8  
6 U.S.C. 1101(f)) is amended—

7 (1) by inserting after paragraph (1) the fol-  
8 lowing:

9 “(2) an alien described in section 212(a)(3) or  
10 237(a)(4), as determined by the Secretary of Home-  
11 land Security or Attorney General, based upon any  
12 relevant information or evidence, including classified,  
13 sensitive, or national security information;”;

14 (2) in paragraph (8), by striking “(as defined  
15 in subsection (a)(43))” and inserting the following:  
16 “regardless of whether the crime was defined as an  
17 aggravated felony under subsection (a)(43) at the  
18 time of the conviction, unless—

19 “(A) the person completed the term of im-  
20 prisonment and sentence not later than 10  
21 years before the date of application; and

22 “(B) the Secretary of Homeland Security  
23 or the Attorney General waives the application  
24 of this paragraph; or”.

1           (3) in the undesignated matter following para-  
2           graph (9), by striking “a finding that for other rea-  
3           sons such person is or was not of good moral char-  
4           acter.” and inserting “a discretionary finding for  
5           other reasons that such a person is or was not of  
6           good moral character. In determining an applicant’s  
7           moral character, the Secretary of Homeland Security  
8           and the Attorney General may take into consider-  
9           ation the applicant’s conduct and acts at any time  
10          and are not limited to the period during which good  
11          moral character is required.”.

12          (g) PENDING PROCEEDINGS.—Section 204(b) of the  
13          Immigration and Nationality Act (8 U.S.C. 1154(b)) is  
14          amended by adding at the end the following: “A petition  
15          may not be approved under this section if there is any  
16          administrative or judicial proceeding (whether civil or  
17          criminal) pending against the petitioner that could directly  
18          or indirectly result in the petitioner’s denaturalization or  
19          the loss of the petitioner’s lawful permanent resident sta-  
20          tus.”.

21          (h) CONDITIONAL PERMANENT RESIDENT STA-  
22          TUS.—

23                (1) IN GENERAL.—Section 216(e) of the Immi-  
24                gration and Nationality Act (8 U.S.C. 1186a(e)) is  
25                amended by inserting “if the alien has had the con-

1 conditional basis removed pursuant to this section” be-  
2 fore the period at the end.

3 (2) CERTAIN ALIEN ENTREPRENEURS.—Section  
4 216A(e) of such Act (8 U.S.C. 1186b(e)) is amended  
5 by inserting “if the alien has had the conditional  
6 basis removed pursuant to this section” before the  
7 period at the end.

8 (i) JUDICIAL REVIEW OF NATURALIZATION APPLICA-  
9 TIONS.—Section 310(c) of the Immigration and Nation-  
10 ality Act (8 U.S.C. 1421(c)) is amended—

11 (1) by inserting “, not later than 120 days after  
12 the Secretary of Homeland Security’s final deter-  
13 mination,” after “may”; and

14 (2) by adding at the end the following: “In any  
15 proceeding, other than a proceeding under section  
16 340, the court shall review for substantial evidence  
17 the administrative record and findings of the Sec-  
18 retary of Homeland Security regarding whether an  
19 alien is a person of good moral character, under-  
20 stands and is attached to the principles of the Con-  
21 stitution of the United States, or is well disposed to  
22 the good order and happiness of the United States.  
23 The petitioner shall have the burden of showing that  
24 the Secretary’s denial of the application was con-  
25 trary to law.”.

1           (j) PERSONS ENDANGERING NATIONAL SECURITY.—  
2 Section 316 of the Immigration and Nationality Act (8  
3 U.S.C. 1427) is amended by adding at the end the fol-  
4 lowing:

5           “(g) PERSONS ENDANGERING THE NATIONAL SECU-  
6 RITY.—A person may not be naturalized if the Secretary  
7 of Homeland Security determines, based upon any rel-  
8 evant information or evidence, including classified, sen-  
9 sitive, or national security information, that the person  
10 was once an alien described in section 212(a)(3) or  
11 237(a)(4).”.

12           (k) CONCURRENT NATURALIZATION AND REMOVAL  
13 PROCEEDINGS.—Section 318 of the Immigration and Na-  
14 tionality Act (8 U.S.C. 1429) is amended by striking “the  
15 Attorney General if” and all that follows and inserting  
16 “the Secretary of Homeland Security or any court if there  
17 is pending against the applicant any removal proceeding  
18 or other proceeding to determine the applicant’s inadmis-  
19 sibility or deportability, or to determine whether the appli-  
20 cant’s lawful permanent resident status should be re-  
21 scinded, regardless of when such proceeding was com-  
22 menced. The findings of the Attorney General in termi-  
23 nating removal proceedings or canceling the removal of an  
24 alien under this Act shall not be deemed binding in any  
25 way upon the Secretary of Homeland Security with respect

1 to the question of whether such person has established eli-  
2 gibility for naturalization in accordance with this title.”.

3 (l) DISTRICT COURT JURISDICTION.—Section 336(b)  
4 of the Immigration and Nationality Act (8 U.S.C.  
5 1447(b)) is amended to read as follows:

6 “(b) REQUEST FOR HEARING BEFORE DISTRICT  
7 COURT.—If there is a failure to render a final administra-  
8 tive decision under section 335 before the end of the 180-  
9 day period beginning on the date on which the Secretary  
10 of Homeland Security completes all examinations and  
11 interviews required under such section, the applicant may  
12 apply to the district court for the district in which the  
13 applicant resides for a hearing on the matter. The Sec-  
14 retary shall notify the applicant when such examinations  
15 and interviews have been completed. Such district court  
16 shall only have jurisdiction to review the basis for delay  
17 and remand the matter, with appropriate instructions, to  
18 the Secretary for the Secretary’s determination on the ap-  
19 plication.”.

20

1 **SEC. \_\_\_\_ . REPORT ON Y NONIMMIGRANT VISAS.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-  
3 rity shall constantly report to Congress on the number of  
4 Y nonimmigrant visa holders that do not report at a port  
5 of departure and return to their foreign residence, as re-  
6 quired under section 218A(j)(3) of the Immigration and  
7 Nationality Act, as added by section 402 of this Act.

8 (b) TIMING OF REPORTS.—

9 (1) INITIAL REPORT.—The initial report re-  
10 quired under subsection (a) shall be submitted to  
11 Congress not later than 26 months after the date on  
12 which the Secretary of Homeland Security makes  
13 the certification described in section 1(a).

14 (2) SUBSEQUENT REPORTS.—Following the  
15 submission of the initial report under paragraph (1),  
16 each subsequent report required under subsection  
17 (a) shall be submitted to Congress not later than 60  
18 days after the end of each calendar year.

19 (c) REQUIRED ACTION.—Based upon the findings in  
20 the reports required under subsection (a), the Secretary,  
21 for the following calendar year, shall reduce the number  
22 of available Y nonimmigrant visas by a number which is  
23 equal to the number of Y nonimmigrant visa holders who  
24 do not return to their foreign residence, as required under  
25 section 218A(j)(3) of the Immigration and Nationality  
26 Act, as added by section 402 of this Act.



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

4           “(v) a Physician Scarcity Areas (as identi-  
5           fied under section 1833(u)(4) of the Social Se-  
6           curity Act (42 U.S.C. 13951(u)(4))).

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

11          (b) **RETAINING AMERICAN-TRAINED PHYSICIANS IN**  
12          **PHYSICIAN SHORTAGE COMMUNITIES.**—Section 201(b)(1)  
13          of the Immigration and Nationality Act (8 U.S.C.  
14          1151(b)(1)) is amended by adding at the end the fol-  
15          lowing:

16                 “(F) Alien physicians who have completed serv-  
17                 ice requirements under section 214(l).”.

18          **SEC. \_\_\_\_ . REPORT ON PROCESSING OF VISA APPLICA-**  
19                 **TIONS.**

20          Not later than February 1, 2008, and each year  
21          thereafter through 2011, the Secretary of State shall sub-  
22          mit a report to the Committee on Foreign Relations and  
23          the Committee on the Judiciary of the Senate and the  
24          Committee on Foreign Affairs and the Committee on the  
25          Judiciary of the House of Representatives that includes

1 the following information with respect to each visa-issuing  
2 post operated by the Department of State where, during  
3 the fiscal year preceding the report, the length of time be-  
4 tween the submission of a request for a personal interview  
5 for a nonimmigrant visa and the date of the personal  
6 interview of the applicant exceeded, on average, 30 days:

7 (1) The number of visa applications submitted  
8 in each of the 3 preceding fiscal years, including in-  
9 formation regarding each type of visa applied for.

10 (2) The number of visa applications that were  
11 approved in each of the 3 preceding fiscal years, in-  
12 cluding information regarding the number of each  
13 type of visa approved.

14 (3) The number of visa applications in each of  
15 the 3 preceding fiscal years that were subject to a  
16 Security Advisory Opinion or similar specialized re-  
17 view.

18 (4) The average length of time between the sub-  
19 mission of a visa application and the personal inter-  
20 view of the applicant in each of the 3 preceding fis-  
21 cal years, including information regarding the type  
22 of visa applied for.

23 (5) The percentage of visa applicants who were  
24 refused a visa in each of the 3 preceding fiscal years,

1 including information regarding the type of visa ap-  
2 plied for.

3 (6) The number of consular officers processing  
4 visa applications in each of the 3 preceding fiscal  
5 years.

6 (7) A description of each new procedure or pro-  
7 gram designed to improve the processing of visa ap-  
8 plications that was implemented in each of the 3  
9 preceding fiscal years.

10 (8) A description of construction or improve-  
11 ment of facilities for processing visa applications in  
12 each of the 3 preceding fiscal years.

13 (9) A description of particular communications  
14 initiatives or outreach undertaken to communicate  
15 the visa application process to potential or actual  
16 visa applicants.

17 (10) An analysis of the facilities, personnel, in-  
18 formation systems, and other factors affecting the  
19 duration of time between the submission of a visa  
20 application and the personal interview of the appli-  
21 cant, and the impact of those factors on the quality  
22 of the review of the application.

23 (11) Specific recommendations as to any addi-  
24 tional facilities, personnel, information systems, or  
25 other requirements that would allow the personal

1 interview to occur not more than 30 days following  
2 the submission of a visa application.

3 **SEC. \_\_\_\_ . REPEAL OF SPECIAL RULE FOR ALIENS TO PRO-**  
4 **VIDE MEDICAL SERVICES.**

5 The amendments made by paragraph (3) of section  
6 425(h) are null and void and shall have no effect.

7 **SEC. \_\_\_\_ . TECHNICAL CORRECTION TO QUALIFICATIONS**  
8 **FOR CERTAIN IMMIGRANTS.**

9 (a) REPEAL OF TECHNICAL AMENDMENT.—The  
10 amendment made by paragraph (6) of subsection (e) of  
11 the first section 502 (relating to increasing American com-  
12 petitiveness through a merit-based evaluation system for  
13 immigrants) is null and void and shall have no effect.

14 (b) REPEAL OF LABOR CERTIFICATION REQUIRE-  
15 MENT.—Paragraph (5) of section 212(a) of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1182(a)) is amended—

- 17 (1) by striking subparagraph (A); and  
18 (2) by redesignating subparagraphs (B), (C),  
19 and (D) as subparagraphs (A), (B), and (C), respec-  
20 tively.

21 **SEC. \_\_\_\_ . TECHNICAL CORRECTIONS TO TITLE 18, UNITED**  
22 **STATES CODE.**

23 (a) IN GENERAL.—

- 24 (1) REDESIGNATIONS.—Chapter 27 of title 18,  
25 United States Code, is amended by redesignating

1 section 554 added by section 551(a) of the Depart-  
2 ment of Homeland Security Appropriations Act,  
3 2007 (Public Law 109–295; 120 Stat. 1389) (relat-  
4 ing to border tunnels and passages) as section 555.

5 (2) TABLE OF SECTIONS.—The table of sections  
6 for chapter 27 of title 18, United States Code, is  
7 amended by striking the item relating to section  
8 554, “Border tunnels and passages”, and inserting  
9 the following:

“555. Border tunnels and passages.”.

10 (b) CRIMINAL FORFEITURE.—Section 982(a)(6) of  
11 title 18, United States Code, is amended by striking  
12 “554” and inserting “555”.

13 (c) DIRECTIVE TO THE UNITED STATES SEN-  
14 TENCING COMMISSION.—Section 551(d) of the Depart-  
15 ment of Homeland Security Appropriations Act, 2007  
16 (Public Law 109–295; 120 Stat. 1390) is amended in  
17 paragraphs (1) and (2)(A) by striking “554” and insert-  
18 ing “555”.

19 **SEC. \_\_\_\_ . EXPEDITED ADJUDICATION OF EMPLOYER PETI-**  
20 **TIONS FOR ATHLETES, ARTISTS, ENTER-**  
21 **TAINERS, AND OTHER ALIENS OF EXTRAOR-**  
22 **DINARY ABILITY.**

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

1           (1) by striking “Attorney General” each place  
2           such term appears and inserting “Secretary of  
3           Homeland Security”; and

4           (2) in paragraph (6)(D)—

5                 (A) by striking “Any person” and inserting  
6           the following:

7           “(i) Except as provided in clause (ii), any person”;

8           and

9                 (B) by adding at the end the following:

10          “(ii) The Secretary of Homeland Security shall adju-  
11          dicate each petition for an alien described in subparagraph  
12          (O) or (P) of section 101(a)(15) not later than 30 days  
13          after—

14                 “(I) the date on which the petitioner submits  
15          the petition with a written advisory opinion, letter of  
16          no objection, or request for a waiver; or

17                 “(II) the date on which the 15-day period de-  
18          scribed in clause (i) has expired, if the petitioner has  
19          had an appropriate opportunity to supply rebuttal  
20          evidence.

21          “(iii) If a petition described in clause (ii) is not adju-  
22          dicated before the end of the 30-day period described in  
23          clause (ii) and the petitioner is a qualified nonprofit orga-  
24          nization or an individual or entity petitioning primarily on  
25          behalf of a qualified nonprofit organization, the Secretary

1 shall provide the petitioner with the premium-processing  
2 services referred to in section 286(u), without a fee.”.

3 **SEC. \_\_\_\_ . REPORTS ON BACKGROUND AND SECURITY**  
4 **CHECKS.**

5 (a) **REPEAL OF REPORT REQUIREMENT.**—The re-  
6 quirement set out in subsection (c) of section 216 that  
7 the Director of the Federal Bureau of Investigation shall  
8 submit the report described in such subsection is null and  
9 void and shall have no effect.

10 (b) **REPORTS ON BACKGROUND AND SECURITY**  
11 **CHECKS.**—

12 (1) **IN GENERAL.**—Not later than 180 days  
13 after the date of the enactment of this Act, the  
14 Comptroller General of the United States, in con-  
15 junction with the Director of the Federal Bureau of  
16 Investigation, shall submit to the appropriate con-  
17 gressional committees a report on the background  
18 and security checks conducted by the Federal Bu-  
19 reau of Investigation.

20 (2) **CONTENT.**—The report submitted under  
21 paragraph (1) shall include—

22 (A) a description of the background and  
23 security check program;

1 (B) an analysis of resources devoted to the  
2 name check program, including personnel and  
3 support;

4 (C) a statistical analysis of the background  
5 and security check delays associated with dif-  
6 ferent types of name check requests, such as  
7 those requested by United States Citizenship  
8 and Immigration Services or the Office of Per-  
9 sonnel Management, including—

10 (i) the number of background checks  
11 conducted on behalf of requesting agencies,  
12 by agency and type of requests (such as  
13 naturalization or adjustment of status);  
14 and

15 (ii) the average time spent on each  
16 type of background check described under  
17 subparagraph (A), including the time from  
18 the submission of the request to completion  
19 of the check and the time from the initi-  
20 ation of check processing to the completion  
21 of the check;

22 (D) a description of the obstacles that im-  
23 pede the timely completion of such background  
24 checks;

1           (E) a discussion of the steps that the Di-  
2           rector of the Federal Bureau of Investigation is  
3           taking to expedite background and security  
4           checks that have been pending for more than  
5           60 days; and

6           (F) a plan for the automation of all inves-  
7           tigative records related to the name check proc-  
8           ess.

9           (3) ANNUAL REPORT ON DELAYED BACK-  
10          GROUND CHECKS.—Not later than the end of each  
11          fiscal year, the Attorney General shall submit to the  
12          appropriate congressional committees a report con-  
13          taining, with respect to that fiscal year—

14           (A) a statistical analysis of the number of  
15           background checks processed and pending, in-  
16           cluding check requests in process at the time of  
17           the report and check requests that have been  
18           received but are not yet in process;

19           (B) the average time taken to complete  
20           each type of background check;

21           (C) a description of efforts made and  
22           progress by the Attorney General in addressing  
23           any delays in completing such background  
24           checks; and

1 (D) a description of the progress that has  
2 been made in automating files used in the name  
3 check process, including investigative files of  
4 the Federal Bureau of Investigation.

5 (4) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated such sums  
7 as may be necessary to carry out this subsection.

8 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-  
9 FINED.—In this section, the term “appropriate congres-  
10 sional committees” means—

11 (1) the Committee on the Judiciary of the Sen-  
12 ate;

13 (2) the Committee on Homeland Security and  
14 Governmental Affairs of the Senate;

15 (3) the Committee on the Judiciary of the  
16 House of Representatives; and

17 (4) the Committee on Homeland Security of the  
18 House of Representatives.

19 **SEC. \_\_\_\_ . DEPLOYMENT OF TECHNOLOGY TO IMPROVE**  
20 **VISA PROCESSING.**

21 Section 222 of the Immigration and Nationality Act  
22 (8 U.S.C. 1202) is amended by adding at the end the fol-  
23 lowing:

24 “(i) VISA APPLICATION INTERVIEWS.—

1           “(1) VIDEOCONFERENCING.—For purposes of  
2 subsection (h), the term ‘in person interview’ in-  
3 cludes an interview conducted by videoconference or  
4 similar technology after the date on which the Sec-  
5 retary of State, in consultation with the Secretary of  
6 Homeland Security, certifies to the appropriate com-  
7 mittees of Congress that security measures and  
8 audit mechanisms have been implemented to ensure  
9 that biometrics collected for a visa applicant during  
10 an interview using videoconference or similar tech-  
11 nology are those of the visa applicant.

12           “(2) MOBILE VISA INTERVIEWS.—The Sec-  
13 retary of State is authorized to carry out a pilot pro-  
14 gram to conduct visa interviews using mobile teams  
15 of consular officials after the date on which the Sec-  
16 retary of State, in consultation with Secretary of  
17 Homeland Security, certifies to the appropriate com-  
18 mittees of Congress that such a pilot program may  
19 be carried out without jeopardizing the integrity of  
20 the visa interview process or the safety and security  
21 of consular officers.

22           “(3) APPROPRIATE COMMITTEES OF CON-  
23 GRESS.—In this subsection the term ‘appropriate  
24 committees of Congress’ means—

1           “(A) the Committee on Foreign Relations,  
2           the Committee on Homeland Security and Gov-  
3           ernmental Affairs, and the Committee on the  
4           Judiciary of the Senate; and

5           “(B) the Committee on Foreign Affairs,  
6           Committee on Homeland Security, and the  
7           Committee on the Judiciary of the House of  
8           Representatives.”.

9 **SEC. \_\_\_\_ . ADDITIONAL CUSTOMS AND BORDER PROTEC-**  
10 **TION OFFICERS FOR HIGH VOLUME PORTS.**

11         Subject to the availability of appropriations, before  
12 the end of fiscal year 2008 the Secretary of Homeland  
13 Security shall employ not less than an additional 200 Cus-  
14 toms and Border Protection officers to address staff short-  
15 ages at the 20 United States international airports with  
16 the highest number of foreign visitors arriving annually,  
17 as determined pursuant to the most recent data collected  
18 by the United States Customs and Border Protection  
19 available on the date of the enactment of this Act.

20 **SEC. \_\_\_\_ . GOVERNMENT ACCOUNTABILITY OFFICE STUDY**  
21 **ON ENGLISH PROFICIENCY.**

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

24           (1) the needs of citizens and lawful permanent  
25         residents of the United States whose native language

1 is not English to obtain English language and lit-  
2 eracy proficiency;

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

6 (3) the estimated costs of operating English  
7 language acquisition programs in the public and pri-  
8 vate sector for those residents of the United States  
9 who lack English language proficiency.

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

12 (1) an inventory of all existing Federal pro-  
13 grams designed to improve English language and lit-  
14 eracy acquisition for adult citizens and lawful per-  
15 manent residents of the United States, including—

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

18 (B) a summary of the Federal expendi-  
19 tures for each such program during fiscal years  
20 2002 through 2006;

21 (C) data on the participation rates of indi-  
22 viduals within each such program and those  
23 who have expressed an interest in obtaining  
24 English instruction but have been unable to  
25 participate in existing programs;

1 (D) a summary of evaluations and per-  
2 formance reviews of the effectiveness and sus-  
3 tainability of each such program; and

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

7 (2) the identification of model programs at the  
8 Federal, State, and local level with demonstrated ef-  
9 fectiveness in helping adult citizens and lawful per-  
10 manent residents of the United States gain English  
11 language and literacy proficiency;

12 (3) a summary of funding for State and local  
13 programs that support improving the English lan-  
14 guage proficiency and literacy of citizens and lawful  
15 permanent residents of the United States;

16 (4) a summary of the costs incurred and bene-  
17 fits received by Federal, State, and local govern-  
18 ments in serving citizens and lawful permanent resi-  
19 dents of the United States who are not proficient in  
20 English, including—

21 (A) costs for foreign language translators;

22 (B) the production of documents in mul-  
23 tiple languages; and

24 (C) compliance with Executive Order  
25 13166;

1           (5) an analysis of the costs incurred by busi-  
2           nesses that employ citizens and lawful permanent  
3           residents of the United States who are not proficient  
4           in English, including—

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

7                   (B) an estimate of lost productivity; and

8                   (C) costs for providing English training to  
9           employees;

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

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

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

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

23                   (2) the Committee on the Judiciary of the Sen-  
24          ate;

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

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

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

9           **SEC. \_\_\_\_ . REPEAL OF ENGLISH LEARNING PROGRAM.**

10          The requirements of section 711 are null and void  
11          and such section shall have no effect.

12          **SEC. \_\_\_\_ . REPEAL OF AUTHORIZATION OF ADDITIONAL**  
13                                   **PORTS OF ENTRY.**

14          The requirements of the first section 104 (relating  
15          to ports entry) are null and void and such section shall  
16          have no effect.

17          **SEC. \_\_\_\_ . LIMITATION ON SECURE COMMUNICATION RE-**  
18                                   **QUIREMENT.**

19          Notwithstanding section 123, the Secretary may de-  
20          velop and implement the plan described in such section  
21          only subject to the availability of appropriations for such  
22          purpose.

23          **SEC. \_\_\_\_ . DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.**

24          Notwithstanding clause (ii) of subsection (e)(6)(E) of  
25          the first section 601 (included in title IV relating to non-

1 immigrants in the United States previously in unlawful  
2 status), the fees collected under subparagraph (C) of sub-  
3 section (e)(6) of such section 601 shall be deposited in  
4 the State Impact Assistance Account established under  
5 the first subsection (x) (relating to the State Impact As-  
6 sistance Account) of section 286 of the Immigration and  
7 Nationality Act, as added by subsection (b) of the first  
8 section 402 (relating to admission of nonimmigrant work-  
9 ers), and used for the purposes described in such section  
10 286(x).

11 **SEC. \_\_\_\_ . ADDITIONAL REQUIREMENTS FOR THE BORDER**  
12 **PATROL TRAINING CAPACITY REVIEW.**

13 (a) **ADDITIONAL COMPONENT OF REVIEW.**—The re-  
14 view conducted under subsection (a) of section 128 shall  
15 include an evaluation of the positive and negative impacts  
16 of privatizing border patrol training, including an evalua-  
17 tion of the impact of privatization on the quality, morale,  
18 and consistency of border patrol agents.

19 (b) **CONSIDERATIONS.**—In conducting the review  
20 under subsection (a) of section 128, the Comptroller Gen-  
21 eral of the United States shall consider—

22 (1) the report by the Government Account-  
23 ability Office entitled “Homeland Security: Informa-  
24 tion on Training New Border Patrol Agents” and  
25 dated March 30, 2007;

1           (2) the ability of Federal providers of border  
2 patrol training, as compared to private providers of  
3 similar training, to incorporate time-sensitive  
4 changes based on the needs of an agency or changes  
5 in the law;

6           (3) the ability of a Federal agency, as compared  
7 to a private entity, to defend the Federal agency or  
8 private entity, as applicable, from lawsuits involving  
9 the nature, quality, and consistency of law enforce-  
10 ment training; and

11           (4) whether any other Federal training would  
12 be more appropriate and cost efficient for privatiza-  
13 tion than basic border patrol training.

14           (c) CONSULTATION.—In conducting the review under  
15 subsection (a) of section 128, the Comptroller General of  
16 the United States shall consult with—

17           (1) the Secretary of Homeland Security;

18           (2) the Commissioner of the Bureau of Customs  
19 and Border Protection; and

20           (3) the Director of the Federal Law Enforce-  
21 ment Training Center.

22 **SEC. \_\_\_\_ . Y-2B VISA ALLOCATION BETWEEN THE FIRST**  
23 **AND SECOND HALVES OF EACH FISCAL YEAR.**

24           (a) NUMERICAL LIMITATIONS.—Section 214(g)(1) of  
25 the Immigration and Nationality Act (8 U.S.C. 1184(g)),

1 as amended by section 409(1), is further amended in sub-  
2 paragraph (D) by striking “101(a)(15)(Y)(ii)(II)” and in-  
3 serting “101(a)(15)(Y)(ii)”.

4 (b) TECHNICAL CORRECTION.—

5 (1) REPEAL.—The amendment made by para-  
6 graph (3) of section 409 shall be null and void and  
7 shall have no effect.

8 (2) CORRECTION.—Paragraph (10)(A) of sec-  
9 tion 214(g) of the Immigration and Nationality Act  
10 (8 U.S.C. 1184(g)), as redesignated by paragraph  
11 (2) of section 409, is amended by striking “an alien  
12 who has already been counted toward the numerical  
13 limitation of paragraph (1)(B) during fiscal year  
14 2004, 2005, or 2006 shall not again be counted to-  
15 ward such limitation during fiscal year 2007.” and  
16 inserting “an alien who has been present in the  
17 United States as an H-2B nonimmigrant during  
18 any 1 of 3 fiscal years immediately preceding the fis-  
19 cal year of the approved start date of a petition for  
20 a nonimmigrant worker described in section  
21 101(a)(15)(H)(ii)(b) shall not be counted toward  
22 such limitation for the fiscal year in which the peti-  
23 tion is approved. Such alien shall be considered a re-  
24 turning worker.”.

1 (c) ALLOCATION.—Paragraph (11) of section 214(g)  
2 of the Immigration and Nationality Act (8 U.S.C.  
3 1184(g)), as redesignated by section 409(2), is amended—

4 (1) by inserting “(A)” before “The”; and

5 (2) by adding at the end the following:

6 “(B) The numerical limitations under paragraph  
7 (1)(D) shall be allocated for each fiscal year to ensure that  
8 the total number of aliens subject to such numerical limits  
9 who enter the United States pursuant to a visa or are ac-  
10 corded nonimmigrant status under section  
11 101(a)(15)(Y)(ii) during the first 6 months of such fiscal  
12 year is not greater than 50 percent of the total number  
13 of such visas available for that fiscal year.”.

14 **SEC. \_\_\_\_ . H-2A STATUS FOR FISH ROE PROCESSORS AND**  
15 **TECHNICIANS.**

16 Section 101(a)(15)(H)(ii)(a) of the Immigration and  
17 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is  
18 amended by inserting “for employment as a fish roe proc-  
19 essor or fish roe technician or” before “to perform agricul-  
20 tural labor or services”.

21 **SEC. \_\_\_\_ . AUTHORITY FOR ALIENS WITH PROBATIONARY Z**  
22 **NONIMMIGRANT STATUS TO SERVE IN THE**  
23 **ARMED FORCES.**

24 An alien who files an application for Z nonimmigrant  
25 status shall under the first section 601 (included in title

1 IV relating to nonimmigrants in the United States pre-  
2 viously in unlawful status), upon submission of any evi-  
3 dence required under paragraphs (f) and (g) of such sec-  
4 tion 601 and after the Secretary of Homeland Security  
5 has conducted appropriate background checks, to include  
6 name and fingerprint checks, that have not by the end  
7 of the next business day produced information rendering  
8 the applicant ineligible shall be eligible to serve as a mem-  
9 ber of the Armed Forces of the United States.

10 **SEC. \_\_\_\_ . CONSULTATION WITH CONGRESS.**

11 Notwithstanding subsection (a) of the first section 1  
12 (relating to effective date triggers), the certification by the  
13 Secretary of Homeland Security under such subsection (a)  
14 shall be prepared in consultation with the Comptroller  
15 General, the Committee on the Judiciary and the Com-  
16 mittee on Homeland Security and Governmental Affairs  
17 of the Senate, and the Committee on the Judiciary and  
18 the Committee on Homeland Security of the House of  
19 Representatives.

20 **SEC. \_\_\_\_ . ESTABLISHMENT OF A CITIZENSHIP AND IMMI-  
21 GRATION SERVICES OFFICE IN FAIRBANKS,  
22 ALASKA.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-  
24 rity, acting through the Director for United States Citi-  
25 zenship and Immigration Services, shall establish an office

1 under the jurisdiction of the Director in Fairbanks, Alas-  
2 ka, to provide citizenship and immigration services.

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

6 **SEC. \_\_\_\_ . PILOT PROGRAM RELATED MEDICAL SERVICES**  
7 **IN UNDERSERVED AREAS.**

8 Clause (iii) of section 214(l)(4)(C) of the Immigra-  
9 tion and Nationality Act (8 U.S.C. 1184(l)), as amended  
10 by section 425(b)(1), is amended by striking subclause (I)  
11 and inserting the following:

12 “(I) with respect to a State, for the  
13 first fiscal year of the pilot program con-  
14 ducted under this paragraph, the greater  
15 of—

16 “(aa) 15; or

17 “(bb) the number of the waivers  
18 received by the State in the previous  
19 fiscal year;”.

20 **SEC. \_\_\_\_ . ESTABLISHMENT OF AN ADDITIONAL UNITED**  
21 **STATES ATTORNEY OFFICE AND AN ADDI-**  
22 **TIONAL IMMIGRATION AND CUSTOMS EN-**  
23 **FORCEMENT OFFICE.**

24 (a) ESTABLISHMENT OF A SATELLITE UNITED  
25 STATES ATTORNEY OFFICE IN ST. GEORGE, UTAH.—The

1 Attorney General, acting through the United States Attor-  
2 ney for the District of Utah, shall establish a satellite of-  
3 fice under the jurisdiction of the United States Attorney  
4 for the District of Utah in St. George, Utah. The primary  
5 function of the satellite office shall be to prosecute and  
6 deter criminal activities associated with illegal immigrants.

7 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT OF-  
8 FICE.—

9 (1) ESTABLISHMENT.—The Secretary of Home-  
10 land Security, acting through the Assistant Sec-  
11 retary of Homeland Security for United States Im-  
12 migration and Customs Enforcement, shall establish  
13 an office under the jurisdiction of the Assistant Sec-  
14 retary within the vicinity of the intersection U.S.  
15 Highway 191 and U.S. Highway 491 to reduce the  
16 flow of illegal immigrants into the interior of the  
17 United States.

18 (2) STAFFING.—The office established under  
19 paragraph (1) shall be staffed by 5 full-time employ-  
20 ees, of whom—

21 (A) 3 shall work for the Office of Inves-  
22 tigation; and

23 (B) 2 shall work for the Office of Deten-  
24 tion and Removal Operations.

1           (3) OTHER RESOURCES.—The Assistant Sec-  
2       retary shall provide the office established under  
3       paragraph (1) with the resources necessary to ac-  
4       complish the purposes of this subsection, including  
5       office space, detention beds, and vehicles.

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

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

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

12 **SEC. \_\_\_\_ . INTERNATIONAL REGISTERED TRAVELER PRO-**  
13 **GRAM.**

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

17           “(3) INTERNATIONAL REGISTERED TRAVELER  
18       PROGRAM.—

19                   “(A) IN GENERAL.—The Secretary of  
20       Homeland Security shall establish an inter-  
21       national registered traveler program that incor-  
22       porates available technologies, such as bio-  
23       metrics and e-passports, and security threat as-  
24       sessments to expedite the screening and proc-  
25       essing of international travelers, including

1 United States Citizens and residents, who enter  
2 and exit the United States. The program shall  
3 be coordinated with the US-VISIT program,  
4 other pre-screening initiatives, and the Visa  
5 Waiver Program within the Department of  
6 Homeland Security.

7 “(B) FEES.—The Secretary may impose a  
8 fee for the program established under subpara-  
9 graph (A) and may modify such fee from time  
10 to time. The fee may not exceed the aggregate  
11 costs associated with the program and shall be  
12 credited to the Department of Homeland Secu-  
13 rity for purposes of carrying out the inter-  
14 national registered traveler program. Amounts  
15 so credited shall remain available until ex-  
16 pended.

17 “(C) RULEMAKING.—Within 365 days  
18 after the date of enactment of the Secure Bor-  
19 ders, Economic Opportunity and Immigration  
20 Reform Act of 2007, the Secretary shall initiate  
21 a rulemaking to establish the program, criteria  
22 for participation, and the fee for the program.

23 “(D) IMPLEMENTATION.—Not later than 1  
24 year after the date of enactment of the Secure  
25 Borders, Economic Opportunity and Immigra-

1           tion Reform Act of 2007, the Secretary shall  
2           establish a phased-implementation of a biomet-  
3           ric-based international registered traveler pro-  
4           gram in conjunction with the US-VISIT entry  
5           and exit system, other pre-screening initiatives,  
6           and the Visa Waiver Program within the De-  
7           partment of Homeland Security at United  
8           States airports with the highest volume of inter-  
9           national travelers.

10           “(E) PARTICIPATION.—The Secretary shall  
11           ensure that the international registered traveler  
12           program includes as many participants as prac-  
13           ticable by—

14                   “(i) establishing a reasonable cost of  
15                   enrollment;

16                   “(ii) making program enrollment con-  
17                   venient and easily accessible; and

18                   “(iii) providing applicants with clear  
19                   and consistent eligibility guidelines.”.

20 **SEC. \_\_\_\_ . WORKING CONDITIONS FOR Y NONIMMIGRANTS.**

21           Paragraph (1) of subsection (c) of section 218B of  
22           the Immigration and Nationality Act, as added by section  
23           403, is amended—

1           (1) by redesignating subparagraphs (D)  
2 through (L) as subparagraphs (E) through (M), re-  
3 spectively; and

4           (2) by inserting after subparagraph (C), the fol-  
5 lowing:

6                   “(D) WORKING CONDITIONS.—Y non-  
7 immigrants will be provided the same working  
8 conditions and benefits as similarly employed  
9 United States workers.”.

10 **SEC. \_\_\_\_ . MATTERS RELATED TO TRIBES.**

11       (a) BORDER SECURITY ON CERTAIN FEDERAL  
12 LANDS.—

13           (1) REPEAL OF REQUIREMENTS.—Subpara-  
14 graph (B) of section 122(b)(1) shall be null and void  
15 and have no effect.

16           (2) TRAINING REQUIREMENTS.—In addition to  
17 the requirements of subparagraphs (A) and (C) of  
18 section 122(b), to gain operational control over the  
19 international land borders of the United States and  
20 to prevent the entry of terrorists, unlawful aliens,  
21 narcotics, and other contraband into the United  
22 States, the Secretary, in cooperation with the Sec-  
23 retary concerned (as that term is defined in section  
24 122(a), shall provide Federal land resource, sacred  
25 sites, and Native American Graves Protection and

1       Repatriation Act (25 U.S.C. 3001 et seq.) (com-  
2       monly referred to as NAGPRA) training for U.S.  
3       Customs and Border Protection agents dedicated to  
4       protected land (as that term is defined in section  
5       122(a)).

6       (b) BORDER RELIEF GRANT PROGRAM.—

7             (1) REPEAL OF DEFINITION.—Paragraph (2) of  
8       subsection (d) of section 132 shall be null and void  
9       and have no effect.

10            (2) HIGH IMPACT AREA DEFINED.—For the  
11       purposes of section 132, the term “High Impact  
12       Area” means any county or Indian reservation des-  
13       ignated by the Secretary as such, taking into consid-  
14       eration—

15             (A) whether local law enforcement agencies  
16       in that county have the resources to protect the  
17       lives, property, safety, or welfare of the resi-  
18       dents of that county;

19             (B) the relationship between any lack of  
20       security along the United State border and the  
21       rise, if any, of criminal activity in that county  
22       or Indian reservation; and

23             (C) any other unique challenges that local  
24       law enforcement face due to a lack of security  
25       along the United States border.

1           (c) NATIONAL LAND BORDER SECURITY PLAN.—  
2 Notwithstanding subsection (a) of section 134, the Sec-  
3 retary of Homeland Security shall consult with representa-  
4 tives of Tribal law enforcement prior to submitting to Con-  
5 gress the National Land Border Security Plan required  
6 by such subsection.

7           (d) REDUCING ILLEGAL IMMIGRATION AND ALIEN  
8 SMUGGLING ON TRIBAL LANDS.—Notwithstanding para-  
9 graph (2) of subsection (c) of section 219, the report re-  
10 quired by such subsection shall not include the material  
11 described in such paragraph.

12 **SEC. \_\_\_\_ . EB-5 REGIONAL CENTER PROGRAM.**

13           Paragraph (3) of section 201(b) of the Immigration  
14 and Nationality Act (8 U.S.C. 1153(b)), as redesignated  
15 and amended by section 502(b)(3) of this Act, is further  
16 amended—

17                   (1) by striking “2,800” and inserting “10,000”;

18           and

19                   (2) by striking “1,500” and inserting “7,500”.

1 **Subtitle B—Commission on War-**  
2 **time Relocation and Internment**  
3 **of Latin Americans of Japanese**  
4 **Descent**

5 **SEC. \_\_\_ 1. SHORT TITLE.**

6 This subtitle may be cited as the “Commission on  
7 Wartime Relocation and Internment of Latin Americans  
8 of Japanese Descent Act”.

9 **SEC. \_\_\_ 2. PURPOSE.**

10 The purpose of this subtitle is to establish a fact-find-  
11 ing Commission to extend the study of the Commission  
12 on Wartime Relocation and Internment of Civilians to in-  
13 vestigate and determine facts and circumstances sur-  
14 rounding the relocation, internment, and deportation to  
15 Axis countries of Latin Americans of Japanese descent  
16 from December 1941 through February 1948, and the im-  
17 pact of those actions by the United States, and to rec-  
18 ommend appropriate remedies, if any, based on prelimi-  
19 nary findings by the original Commission and new discov-  
20 eries.

21 **SEC. \_\_\_ 3. ESTABLISHMENT OF THE COMMISSION.**

22 (a) **IN GENERAL.**—There is established the Commis-  
23 sion on Wartime Relocation and Internment of Latin  
24 Americans of Japanese descent (referred to in this subtitle  
25 as the “Commission”).

1 (b) COMPOSITION.—The Commission shall be com-  
2 posed of 9 members, who shall be appointed not later than  
3 60 days after the date of enactment of this Act, of  
4 whom—

5 (1) 3 members shall be appointed by the Presi-  
6 dent;

7 (2) 3 members shall be appointed by the Speak-  
8 er of the House of Representatives, on the joint rec-  
9 ommendation of the majority leader of the House of  
10 Representatives and the minority leader of the  
11 House of Representatives; and

12 (3) 3 members shall be appointed by the Presi-  
13 dent pro tempore of the Senate, on the joint rec-  
14 ommendation of the majority leader of the Senate  
15 and the minority leader of the Senate.

16 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-  
17 bers shall be appointed for the life of the Commission. A  
18 vacancy in the Commission shall not affect its powers, but  
19 shall be filled in the same manner as the original appoint-  
20 ment was made.

21 (d) MEETINGS.—

22 (1) FIRST MEETING.—The President shall call  
23 the first meeting of the Commission not later than  
24 the latter of—

1 (A) 60 days after the date of enactment of  
2 this Act; or

3 (B) 30 days after the date of enactment of  
4 legislation making appropriations to carry out  
5 this subtitle.

6 (2) SUBSEQUENT MEETINGS.—Except as pro-  
7 vided in paragraph (1), the Commission shall meet  
8 at the call of the Chairperson.

9 (e) QUORUM.—Five members of the Commission  
10 shall constitute a quorum, but a lesser number of members  
11 may hold hearings.

12 (f) CHAIRPERSON AND VICE CHAIRPERSON.—The  
13 Commission shall elect a Chairperson and Vice Chair-  
14 person from among its members. The Chairperson and  
15 Vice Chairperson shall serve for the life of the Commis-  
16 sion.

17 **SEC. 4. DUTIES OF THE COMMISSION.**

18 (a) IN GENERAL.—The Commission shall—

19 (1) extend the study of the Commission on  
20 Wartime Relocation and Internment of Civilians, es-  
21 tablished by the Commission on Wartime Relocation  
22 and Internment of Civilians Act—

23 (A) to investigate and determine facts and  
24 circumstances surrounding the United States'  
25 relocation, internment, and deportation to Axis

1 countries of Latin Americans of Japanese de-  
2 scendent from December 1941 through February  
3 1948, and the impact of those actions by the  
4 United States; and

5 (B) in investigating those facts and cir-  
6 cumstances, to review directives of the United  
7 States armed forces and the Department of  
8 State requiring the relocation, detention in in-  
9 ternment camps, and deportation to Axis coun-  
10 tries of Latin Americans of Japanese descent;  
11 and

12 (2) recommend appropriate remedies, if any,  
13 based on preliminary findings by the original Com-  
14 mission and new discoveries.

15 (b) REPORT.—Not later than 1 year after the date  
16 of the first meeting of the Commission pursuant to section  
17 \_\_\_\_ 3(d)(1), the Commission shall submit a written report  
18 to Congress, which shall contain findings resulting from  
19 the investigation conducted under subsection (a)(1) and  
20 recommendations described in subsection (a)(2).

21 **SEC. \_\_\_\_ 5. POWERS OF THE COMMISSION.**

22 (a) HEARINGS.—The Commission or, at its direction,  
23 any subcommittee or member of the Commission, may, for  
24 the purpose of carrying out this subtitle—

1           (1) hold such public hearings in such cities and  
2           countries, sit and act at such times and places, take  
3           such testimony, receive such evidence, and admin-  
4           ister such oaths as the Commission or such sub-  
5           committee or member considers advisable; and

6           (2) require, by subpoena or otherwise, the at-  
7           tendance and testimony of such witnesses and the  
8           production of such books, records, correspondence,  
9           memoranda, papers, documents, tapes, and materials  
10          as the Commission or such subcommittee or member  
11          considers advisable.

12          (b) ISSUANCE AND ENFORCEMENT OF SUB-  
13          POENAS.—

14           (1) ISSUANCE.—Subpoenas issued under sub-  
15          section (a) shall bear the signature of the Chair-  
16          person of the Commission and shall be served by any  
17          person or class of persons designated by the Chair-  
18          person for that purpose.

19           (2) ENFORCEMENT.—In the case of contumacy  
20          or failure to obey a subpoena issued under sub-  
21          section (a), the United States district court for the  
22          judicial district in which the subpoenaed person re-  
23          sides, is served, or may be found, may issue an order  
24          requiring such person to appear at any designated  
25          place to testify or to produce documentary or other

1 evidence. Any failure to obey the order of the court  
2 may be punished by the court as a contempt of that  
3 court.

4 (c) WITNESS ALLOWANCES AND FEES.—Section  
5 1821 of title 28, United States Code, shall apply to wit-  
6 nesses requested or subpoenaed to appear at any hearing  
7 of the Commission. The per diem and mileage allowances  
8 for witnesses shall be paid from funds available to pay the  
9 expenses of the Commission.

10 (d) INFORMATION FROM FEDERAL AGENCIES.—The  
11 Commission may secure directly from any Federal depart-  
12 ment or agency such information as the Commission con-  
13 siders necessary to perform its duties. Upon request of  
14 the Chairperson of the Commission, the head of such de-  
15 partment or agency shall furnish such information to the  
16 Commission.

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

21 **SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVI-**  
22 **SIONS.**

23 (a) COMPENSATION OF MEMBERS.—Each member of  
24 the Commission who is not an officer or employee of the  
25 Federal Government shall be compensated at a rate equal

1 to the daily equivalent of the annual rate of basic pay pre-  
2 scribed for level IV of the Executive Schedule under sec-  
3 tion 5315 of title 5, United States Code, for each day (in-  
4 cluding travel time) during which such member is engaged  
5 in the performance of the duties of the Commission. All  
6 members of the Commission who are officers or employees  
7 of the United States shall serve without compensation in  
8 addition to that received for their services as officers or  
9 employees of the United States.

10 (b) TRAVEL EXPENSES.—The members of the Com-  
11 mission shall be allowed travel expenses, including per  
12 diem in lieu of subsistence, at rates authorized for employ-  
13 ees of agencies under subchapter I of chapter 57 of title  
14 5, United States Code, while away from their homes or  
15 regular places of business in the performance of services  
16 for the Commission.

17 (c) STAFF.—

18 (1) IN GENERAL.—The Chairperson of the  
19 Commission may, without regard to the civil service  
20 laws and regulations, appoint and terminate the em-  
21 ployment of such personnel as may be necessary to  
22 enable the Commission to perform its duties.

23 (2) COMPENSATION.—The Chairperson of the  
24 Commission may fix the compensation of the per-  
25 sonnel without regard to chapter 51 and subchapter

1 III of chapter 53 of title 5, United States Code, re-  
2 lating to classification of positions and General  
3 Schedule pay rates, except that the rate of pay for  
4 the personnel may not exceed the rate payable for  
5 level V of the Executive Schedule under section 5316  
6 of such title.

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

12 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-  
13 TENT SERVICES.—The Chairperson of the Commission  
14 may procure temporary and intermittent services under  
15 section 3109(b) of title 5, United States Code, at rates  
16 for individuals that do not exceed the daily equivalent of  
17 the annual rate of basic pay prescribed for level V of the  
18 Executive Schedule under section 5316 of such title.

19 (f) OTHER ADMINISTRATIVE MATTERS.—The Com-  
20 mission may—

21 (1) enter into agreements with the Adminis-  
22 trator of General Services to procure necessary fi-  
23 nancial and administrative services;

24 (2) enter into contracts to procure supplies,  
25 services, and property; and

1           (3) enter into contracts with Federal, State, or  
2           local agencies, or private institutions or organiza-  
3           tions, for the conduct of research or surveys, the  
4           preparation of reports, and other activities necessary  
5           to enable the Commission to perform its duties.

6 **SEC. \_\_\_ 7. TERMINATION.**

7           The Commission shall terminate 90 days after the  
8           date on which the Commission submits its report to Con-  
9           gress under section \_\_\_ 4(b).

10 **SEC. \_\_\_ 8. AUTHORIZATION OF APPROPRIATIONS.**

11           (a) IN GENERAL.—There are authorized to be appro-  
12           priated such sums as may be necessary to carry out this  
13           subtitle.

14           (b) AVAILABILITY.—Any sums appropriated under  
15           the authorization contained in this section shall remain  
16           available, without fiscal year limitation, until expended.

17           **Subtitle C—Amendments Related**  
18           **to the AgJOBS Act of 2007**

19 **SEC. \_\_\_ 1. EVIDENCE OF IDENTITY AND WORK AUTHORIZA-**  
20           **TION.**

21           Clause (iii) of section 274A(c)(1)(B) of the Immigra-  
22           tion and Nationality Act (8 U.S.C. 1324a(c)(1)(B)), as  
23           amended by section 302, is further amended inserting “or  
24           Z-A visa.” at the end.

1 **SEC. \_\_\_\_ 2. TECHNICAL CORRECTION.**

2 Paragraph (1) of section 218C(c) of the Immigration  
3 and Nationality Act, as added by section 404, is amended  
4 by striking “218E, 218F, and 218G” and inserting  
5 “218D and 218E”.

6 **SEC. \_\_\_\_ 3. H-2A EMPLOYMENT REQUIREMENTS.**

7 (a) **TECHNICAL CORRECTION TO REQUIREMENTS**  
8 **FOR MINIMUM BENEFITS, WAGES, AND WORKING CONDI-**  
9 **TIONS.**—Subsection (b) of section 218D of the Immigra-  
10 tion and Nationality Act, as added by section 404, is  
11 amended in the matter preceding paragraph (1) by strik-  
12 ing “218C(b)(2)” and inserting “218C(a)”.

13 (b) **LIMITATION ON REQUIRED WAGES.**—Paragraph  
14 (3) of such section 218D(b) is further amended by striking  
15 subparagraph (B) and inserting the following:

16 “(B) **LIMITATION.**—Effective on the date  
17 of the enactment of section 404 of the Secure  
18 Borders, Economic Opportunity and Immigra-  
19 tion Reform Act of 2007 and continuing for 3  
20 years thereafter, no adverse effect wage rate for  
21 a State may be more than the adverse effect  
22 wage rate for that State in effect on January  
23 1, 2003, as established by section 655.107 of  
24 title 20, Code of Federal Regulations.”.

25 (c) **RANGE PRODUCTION OF LIVESTOCK.**—Section  
26 218D of the Immigration and Nationality Act, as added

1 by section 404, is amended by striking subsection (e) and  
2 inserting the following:

3 “(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing  
4 in this section, section 218C, or section 218E shall pre-  
5 clude the Secretary of Labor and the Secretary from con-  
6 tinuing to apply special procedures and requirements to  
7 the admission and employment of aliens in occupations in-  
8 volving the range production of livestock.”.

9 (d) EVIDENCE OF NONIMMIGRANT STATUS.—Such  
10 section 218D is further amended by striking subsection  
11 (f).

12 **SEC. \_\_\_ 4. PROCEDURE FOR ADMISSION AND EXTENSION**  
13 **OF STAY OF H-2A WORKERS.**

14 (a) IDENTIFICATION DOCUMENT.—Paragraph (2) of  
15 subsection (g) of section 218E of the Immigration and Na-  
16 tionality Act, as added by section 404, is amended by  
17 striking subparagraphs (B) and (C) and inserting the fol-  
18 lowing:

19 “(B) The document shall be machine-read-  
20 able, tamper-resistant, and shall contain a  
21 digitized photograph and other biometric identi-  
22 fiers that can be authenticated.

23 “(C) The document shall—

24 “(i) be compatible with other data-  
25 bases of the Secretary for the purpose of

1           excluding aliens from benefits for which  
2           they are not eligible and determining  
3           whether the alien is unlawfully present in  
4           the United States;

5           “(ii) be compatible with law enforce-  
6           ment databases to determine if the alien  
7           has been convicted of criminal offenses;

8           “(iii) shall, during the alien’s author-  
9           ized period of admission as an H-2A non-  
10          immigrant, serve as a valid entry document  
11          for the purpose of applying for admission  
12          to the United States—

13           “(I) instead of a passport and  
14          visa if the alien—

15           “(aa) is a national of a for-  
16          eign territory contiguous to the  
17          United States; and

18           “(bb) is applying for admis-  
19          sion at a land border port of  
20          entry; or

21           “(II) in conjunction with a valid  
22          passport, if the alien is applying for  
23          admission at an air or sea port of  
24          entry;

1           “(iv) may be accepted during the pe-  
2           riod of its validity by an employer as evi-  
3           dence of employment authorization and  
4           identity under section 274A(b)(1)(B); and

5           “(v) shall be issued to the H-2A non-  
6           immigrant by the Secretary promptly after  
7           such alien’s admission to the United States  
8           as an H-2A nonimmigrant and reporting  
9           to the employer’s worksite under or, at the  
10          discretion of the Secretary, may be issued  
11          by the Secretary of State at a consulate in-  
12          stead of a visa.”.

13          (b) SPECIAL RULES.—Such section 218E is further  
14          amended by striking subsection (i) and inserting the fol-  
15          lowing:

16          “(i) SPECIAL RULE FOR ALIENS EMPLOYED AS  
17          SHEEPHERDER OR GOAT HERDERS.—Notwithstanding  
18          any other provision of this Act, an alien admitted under  
19          section 101(a)(15)(H)(ii)(a) for employment as a sheep-  
20          herder or goat herder—

21                 “(1) may be admitted for a period of up to 3  
22          years;

23                 “(2) shall be subject to readmission; and

24                 “(3) shall not be subject to the requirements of  
25          subsection (h)(4).”.

1           “(j) SPECIAL RULES FOR ALIENS EMPLOYED AS  
2 DAIRY WORKERS.—Notwithstanding any other provision  
3 of this Act, an alien admitted under section  
4 101(a)(15)(H)(ii)(a) for employment as a dairy worker—

5           “(1) may be admitted for a period of up to 3  
6 years;

7           “(2) may not be extended beyond 3 years;

8           “(3) shall not be subject to the requirements of  
9 subsection (h)(4)(A); and

10           “(4) shall not after such 3 year period has ex-  
11 pired be readmitted to the United States as an H-  
12 2A or Y-1 worker.”.

13 **SEC. \_\_\_ 5. WORKER PROTECTIONS AND LABOR STAND-**  
14 **ARDS ENFORCEMENT.**

15           Paragraph (7) of section 218F(c) of the Immigration  
16 and Nationality Act, as added by section 404, is amended  
17 by striking subparagraph (C).

18 **SEC. \_\_\_ 6. DEFINITIONS.**

19           (a) SEASONAL.—Section 218G of the Immigration  
20 and Nationality Act, as added by section 404, is amended  
21 by striking paragraph (11) and inserting the following:

22           “(11) SEASONAL.—

23           “(A) IN GENERAL.—The term ‘seasonal’,  
24 with respect to the performance of labor, means  
25 that the labor—

1 “(i) ordinarily pertains to or is of the  
2 kind exclusively performed at certain sea-  
3 sons or periods of the year; and

4 “(ii) because of the nature of the  
5 labor, cannot be continuous or carried on  
6 throughout the year.

7 “(B) EXCEPTION.—Labor performed on a  
8 dairy farm or on a horse farm shall be consid-  
9 ered to be seasonal labor.”

10 (b) CONFORMING AMENDMENT.—Section  
11 101(a)(15)(H)(ii)(a) of the Immigration and Nationality  
12 Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), as amended by sub-  
13 section (c) of section 404, is further amended, by striking  
14 “dairy farm,” and inserting “dairy farm or horse farm,”.

15 **SEC. 7. ADMISSION OF AGRICULTURAL WORKERS.**

16 (a) LIMITATION ON ACCESS TO INFORMATION.—Sub-  
17 section (d) of section 214A of the Immigration and Na-  
18 tionality Act, as added by section 622(b), is amended by  
19 striking paragraph (6), and insert the following:

20 “(6) LIMITATION ON ACCESS TO INFORMA-  
21 TION.—Files and records collected or compiled by a  
22 qualified designated entity for the purposes of this  
23 section are confidential and the Secretary shall not  
24 have access to such a file or record relating to an  
25 alien without the consent of the alien, except as al-

1       lowed by a court order issued pursuant to section  
2       604.”.

3       (b) TERMS OF EMPLOYMENT.—Subsection (h)(3)(b)  
4 of such section 214A is amended by striking clause (iv)  
5 and inserting the following:

6                   “(iv) EFFECT OF ARBITRATION FIND-  
7                   INGS.—If the Secretary receives a finding  
8                   of an arbitrator that an employer has ter-  
9                   minated the employment of an alien who is  
10                  granted a Z–A visa without just cause, the  
11                  Secretary shall credit the alien for the  
12                  number of days of work not performed  
13                  during such period of termination for the  
14                  purpose of determining if the alien meets  
15                  the qualifying employment requirement of  
16                  subsection (j)(1)(A).”.

17       (c) RECORD OF EMPLOYMENT.—Subsection (h)(4) of  
18 such section 214A is amended by striking subparagraph  
19 (B) and inserting the following:

20                   “(B) CIVIL PENALTIES.—

21                   “(i) IN GENERAL.—If the Secretary  
22                   finds, after notice and opportunity for a  
23                   hearing, that an employer of an alien  
24                   granted Z–A nonimmigrant status has  
25                   failed to provide the record of employment

1 required under subparagraph (A) or has  
2 provided a false statement of material fact  
3 in such a record, the employer shall be  
4 subject to a civil money penalty in an  
5 amount not to exceed \$1,000 per violation.

6 “(ii) LIMITATION.—The penalty appli-  
7 cable under clause (i) for failure to provide  
8 records shall not apply unless the alien has  
9 provided the employer with evidence of em-  
10 ployment authorization granted under this  
11 subsection.

12 “(iii) REPORTING REQUIREMENT.—  
13 The Secretary shall promulgate regulations  
14 requiring an alien granted Z–A non-  
15 immigrant status to file a report by the  
16 conclusion of the 4-year period beginning  
17 on the date of enactment showing that the  
18 alien is making satisfactory progress to-  
19 ward complying with the requirements of  
20 subsection (j)(1)(A).”.

21 (d) TERMINATION OF A GRANT OF Z–A VISA.—Sub-  
22 section (i) of such section 214A is amended by striking  
23 paragraph (3).

24 (e) ADJUSTMENT TO PERMANENT RESIDENCE.—  
25 Paragraph (1) of subsection (j) of such section 214A is

1 amended by striking subparagraphs (C) and (D) and in-  
2 serting the following:

3 “(C) APPLICATION PERIOD.—Not later  
4 than 8 years after the date of the enactment of  
5 the AgJOBS Act of 2007, the alien must—

6 “(i) apply for adjustment of status; or

7 “(ii) change status to Z nonimmigrant  
8 status pursuant to section 601(l)(1)(B) of  
9 the Secure Borders, Economic Opportunity  
10 and Immigration Reform Act of 2007, pro-  
11 vided that the alien also complies with the  
12 requirements for second renewal described  
13 in section 601(k)(2) of such Act, except for  
14 sections 601(k)(2)(B)(i) and (iii).

15 “(D) FINE.—The alien pays to the Sec-  
16 retary a fine of \$400.”.

17 (f) ENGLISH LANGUAGE.—Paragraph (6) of such  
18 subsection (j) is amended by striking subparagraph (A)  
19 and inserting the following:

20 “(A) IN GENERAL.—Not later than the  
21 date on which a Z–A nonimmigrant’s status is  
22 adjusted or is renewed under section  
23 601(l)(1)(B), a Z–A nonimmigrant who is 18  
24 years of age or older must pass the naturaliza-

1           tion test described in paragraphs (1) and (2) of  
2           section 312(a).”.

3           (g) **ELIGIBILITY FOR LEGAL SERVICES.**—Such sec-  
4 tion 214A is amended by striking subsection (m) and in-  
5 serting the following:

6           “(m) **ELIGIBILITY FOR LEGAL SERVICES.**—Section  
7 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53)  
8 shall not be construed to prevent a recipient of funds  
9 under the Legal Services Corporation Act (42 U.S.C. 2996  
10 et seq.) from providing legal assistance directly related to  
11 an application for a Z–A visa under subsection (d) or an  
12 adjustment of status under subsection (j).”.

13 **SEC. \_\_\_ 8. EFFECTIVE DATE.**

14           Subsection (a) of section 1 in the material preceding  
15 paragraph (1) shall be deemed to read as follows:

16           (a) **IN GENERAL.**—With the exception of the proba-  
17 tionary benefits conferred by section 601(h) of this Act,  
18 section 214A(d) of the Immigration and Nationality Act,  
19 as added by section 622, the provisions of subtitle C of  
20 title IV, and the admission of aliens under section  
21 101(a)(15)(H)(ii) of the Immigration and Nationality Act  
22 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV, the  
23 programs established by title IV, and the programs estab-  
24 lished by title VI that grant legal status to any individual  
25 or that adjust the current status of any individual who

1 is unlawfully present in the United States to that of an  
2 alien lawfully admitted for permanent residence, shall be-  
3 come effective on the date that the Secretary submits a  
4 written certification to the President and the Congress,  
5 based on analysis by and in consultation with the Com-  
6 troller General, that each of the following border security  
7 and other measures are established, funded, and oper-  
8 ational: