WORKING DRAFT: 4/13/07

SECURITY THROUGH REGULARIZED IMMIGRATION AND A VIBRANT ECONOMY ACT OF 2007 ("STRIVE" ACT OF 2007) SECTION-BY-SECTION ANALYSIS[1]

Certification Requirements Prior to Implementation of New Immigrant Worker Programs:
The Secretary of Homeland Security ("Secretary") may not implement the New Worker program or grant conditional nonimmigrant status under the STRIVE Act until he submits a certification to the President and Congress that the following conditions have been met: (1) a report to Congress on the implementation of the border surveillance technology improvements, including target dates, has been submitted; (2) the systems and infrastructure necessary to carry out the improvements to immigration document security, including documents that will be issued under the New Worker Program and to aliens granted conditional nonimmigrant classification, have been tested and are ready for use; and (3) the first phase of the Electronic Employment Verification System for critical infrastructure employers has been implemented.

TITLE I – BORDER ENFORCEMENT

SUBTITLE A – ASSETS FOR CONTROLLING UNITED STATES BORDERS

Sec. 101. Enforcement Personnel.
This section requires the Secretary to increase the number of full-time active duty port of entry inspectors, immigration and customs enforcement investigators, border patrol agents, and Deputy U.S. Marshals. The bill also requires DHS to assign at least a 20% net increase in border patrol agents to the Canadian border in each fiscal year between 2008 and 2012. This section also provides for additional personnel to investigate alien smuggling, subject to appropriations.

Finally, this section provides for the recruitment of former members of the Armed Forces to serve in US Customs and Border Protection ("CBP") and requires the Secretaries of Homeland Security and Defense to jointly submit a report on recruitment incentives to Congress not later than 60 days after the date of the bill's enactment.

Sec. 102. Technological Assets.
This section requires that the Secretaries of Homeland Security and Defense develop and implement a plan to increase the availability and use of Department of Defense equipment to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the U.S. to prevent illegal immigration. Section 102 requires the Secretaries of Homeland Security and Defense to submit a related report to Congress not later than six months after the date of the bill's enactment.

During the 1-year period beginning on the date on which the report is submitted, the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the US.

[1] Prepared by the American Immigration Lawyers Association and the National Immigration Forum.

Sec. 103 Infrastructure.
This section requires the Secretary to construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the US.

Sec. 104. Ports of Entry.
This section authorizes the Secretary to construct additional ports of entry along the international land borders of the US, and to make necessary improvements to the ports of entry in existence on the date of enactment of this bill.

Sec. 105. Secure Communication.
This section requires the Secretary to develop and implement a plan to improve use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities among border patrol agents conducting operations between ports of entry; between border patrol agents and their respective stations; between border patrol agents and residents in remote areas along the international land borders of the US; and between all appropriate border security agencies of the Department and State, local and tribal law enforcement agencies.

Sec. 106. Unmanned Aerial Vehicles.
This section requires the Secretary to acquire and maintain unmanned aerial vehicles and related equipment for use to patrol the international borders of the US.

Sec. 107. Surveillance Technologies Programs.
This section requires the Secretary, no later than 90 days after the date of enactment of this bill, to develop and implement a program to fully integrate and utilize aerial surveillance technologies. The Secretary is required to submit to Congress a report regarding this program no later than 180 days after implementing the program under this subsection.

This section requires the Secretary to establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the US and to establish a security known as a "virtual fence." Section 107 also requires the Secretary to submit a related report to Congress no later than 1 year after the program's initial implementation.

SUBTITLE B – BORDER SECURITY PLANS, STRATEGIES, AND REPORTS

Sec. 111. Surveillance Plan.
This section requires the Secretary to develop a comprehensive plan to submit to Congress no later than 6 months after the date of enactment of this bill for the systematic surveillance of the borders of the U.S. that includes the following: (1) assessment of existing technologies employed on the international land and maritime borders of the U.S.; (2) description of compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of enactment of this Act; among other requirements.

Sec. 112. National Strategy for Border Security.
This section requires the Secretary, in consultation with the heads of other appropriate Federal agencies, to develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the US and the international land and

maritime borders of the US. The Strategy Plan lays out 13 components that must be included in the Plan, which includes but is not limited to (1) the implementation schedule for the comprehensive plan for systemic surveillance described in section 111; (2) an assessment of the threat posed by terrorist groups that may try to infiltrate the US at locations along the US borders; (3) risk-assessment for all US ports of entry and all portions of the international and maritime borders of the US; and (4) an assessment of the legal requirements that prevent achieving and maintaining operational control over the US borders. The Secretary is also required to consult with State, local, and tribal authorities with responsibility for locations along the international land and maritime borders, as well as any other private sector entities, nongovernmental agencies and affected communities. This Strategy must be submitted to Congress not later than 1 year after the date of enactment of the bill.

Sec. 113. Reports on Improving the Exchange of Information on North American Security.
This section provides that within one year of the bill's enactment (and yearly thereafter), the Secretary of State must submit a report on improving the exchange of information related to the security of North America. Each report submitted shall contain a description of the following: (1) security clearances and document integrity; (2) immigration and visa management regarding high-risk individuals; (3) visa policy coordination and immigration security; (4) North American visitor overstay program; (5) terrorist watch lists; (6) money laundering, currency smuggling, and alien smuggling; and (7) law enforcement cooperation.

Sec. 114. Border Patrol Training Capacity Review.
This section requires the Comptroller General of the US to conduct a review of the basic training provided to Border Patrol agents to ensure it is provided as efficiently and cost-effectively as possible. The bill spells out components for this review.

Sec. 115. Secure Border Initiative Financial Accountability.
This section requires the Inspector General ("IG") of the Department of Homeland Security to review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000 to determine whether the action complies with a number of requirements such as cost requirements, performance objectives, program milestones and time lines, amongst others. If the IG becomes aware of any improper conduct in the course of conducting a contract review, s/he must refer such information to the Secretary or appropriate official in DHS. This section includes a number of reporting requirements that relate to general reviews of contract actions, contracts with foreign companies and U.S. ports.

SUBTITLE C – SOUTHERN BORDER SECURITY

Sec. 121. Improving the Security of Mexico's Southern Border.
This section requires the Secretary of State, in coordination with the Secretary, to cooperate with the Mexican and Canadian governments to establish a program: (1) to assess the specific needs of the countries of Central America in maintaining the security of the international borders of such countries; (2) to use the assessment made under (1) to determine the financial and technical support needed by the countries of Central America from Canada, Mexico and the US to meet such needs; (3) to provide technical assistance to the countries of Central America to promote issuance of secure passports and travel documents by such countries; (4) to encourage the countries of Central America to control alien smuggling and trafficking, to prevent the use and manufacture of fraudulent travel documents and to share relevant information with Mexico, Canada, and the US.

Section 121 also provides that the Secretary, in cooperation with the Secretary of State, will cooperate with the appropriate officials of the governments of the countries of Central America: (1) to provide law enforcement assistance to such countries to specifically address immigration issues to increase the ability of such governments to dismantle human smuggling organizations and gain additional control over international borders between the countries of Central America; and (2) to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol such international borders.

Finally, this section requires the Secretary of State, in coordination with the Secretary and the Director of FBI, to cooperate with the appropriate officials of the governments of other countries of Central America in order to track Central American gangs.

Sec. 122. Report on Deaths at the United States-Mexico Border.
This section requires the Commissioner of the CBP to collect statistics relating to deaths occurring at the US-Mexico border, including the cause of death and the total number of deaths. The Commissioner is required to submit a report to the Secretary no later than 1 year after the enactment of this bill (and annually thereafter).

Sec. 123. Cooperation with the Government of Mexico.
This section requires the Secretary of State, in cooperation with the Secretary and representatives of Federal, State and local law enforcement agencies involved in border security, to work with the Government of Mexico to improve coordination between the U.S. and Mexico regarding: (1) improved border security between the US and Mexico; (2) the reduction of human trafficking and smuggling between the US and Mexico; (3) the reduction of drug trafficking and smuggling between US and Mexico; (4) the reduction of gang membership in the US and Mexico; (5) the reduction of violence against women in the US and Mexico; and (6) the reduction of other violence and criminal activity.

The Secretary of State shall work with the Government of Mexico to (1) to educate citizens and nationals of Mexico regarding eligibility for status as a non-immigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the US; and (2) to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals of Mexico.

This section also requires the Federal, State and local representatives in the US to work with their Mexican counterparts concerning border security structures in order to solicit the views of affected communities, to lessen tensions and to foster greater understanding and cooperation concerning border security structures.

Not later than 180 days after the date of enactment of this bill (and annually thereafter) the Secretary of State shall submit to Congress a report on the actions taken by the US and Mexico under this section.

Sec. 124. Temporary National Guard Support for Securing the Southern Land Border of the United States.
This section requires that the Governor of a State may, with the approval of the Secretary of Defense, order the National Guard of such State, to temporarily assist with securing the southern

border. The authorized activities under this Section include, but are not limited to ground reconnaissance activities, provision of translation services, emergency medical assistance services, the rescue of aliens in peril, and the construction of roadways, patrol roads, fences and barriers. Activities shall not include the direct participation of the National Guard in a search, seizure, arrest or similar activity. The authority of this section shall expire on January 1, 2009.

Sec. 125. United States-Mexico Border Enforcement Review Commission.
This section establishes the US-Mexico Border Enforcement Review Commission ("Commission"). The purposes of this Commission are: (1) to study the overall enforcement and detention strategies, programs and policies of Federal agencies along the US-Mexico border; and (2) to make recommendations to the President and Congress with respect to such strategies, programs and policies. The Commission shall consist of 16 voting members with expertise in migration, border enforcement and protection, civil and human rights; and cross border trade and commerce. Members shall serve a term for the life of the Commission or 3 years, whichever is sooner.

Not later than 2 years after the date of this first meeting called, the Commission shall submit a report to the President and Congress that contains: (1) findings with respect to the duties of the Commission; (2) recommendations regarding border enforcement policies, strategies, and programs; (3) suggestions for the implementation of the Commission's recommendations; and (4) a recommendation as to whether the Commission should continue to exist after the date of termination. Unless the Commission is reauthorized by Congress, the Commission shall terminate on the date that is 90 days after the date the Commission submits the report.

SUBTITLE D – SECURE ENTRY INITIATIVES

Sec. 131. Biometric Data Enhancements.
This section requires that not later than December 31, 2008, the Secretary shall: (1) in consultation with the Attorney General, enhance connectivity between DHS' Automated Biometric Fingerprint Identification System ("IDENT") and the FBI's identification system to ensure more expeditious data searches; and (2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system as described under the law.

Sec. 132. US-VISIT System.
This section requires that no later than 6 months after the date of enactment of this bill, the Secretary shall submit to Congress a schedule for making the US-Visitor and Immigrant Status Indicator Technology (US-VISIT) system fully operational.

Sec. 133. Document Fraud Detection.
The section requires the Secretary to provide all CBP officers training in identifying and detecting fraudulent travel documents and access to the Forensic Document Laboratory. The IG of DHS is required to conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory and submit to Congress the findings of the assessment not later than 6 months after the date of enactment of this bill.

Sec. 134. Improved Document Integrity.
Not later than December 31, 2008, every document, other than an interim document issued by the Secretary which may be used as evidence of an alien's authorization to travel, shall be machine-

readable and tamper-resistant and shall incorporate a biometric identifier to allow the Secretary to verify electronically the identity and status of the alien.

Sec. 135. Biometric Entry-Exit System.
This section authorizes the Secretary to require aliens departing the US to provide biometric data and other information relating to their immigration status. It also authorizes immigration officers to collect biometric data from any applicant for admission or alien seeking transit through the US; any lawful permanent resident entering the US not regarded as seeking admission; and alien crewmen seeking admission to land temporarily in the U.S. This section creates new grounds of inadmissibility for aliens who knowingly fail to comply with a lawful request for biometric data.

Sec. 136. Evasion of Inspection or Violation of Arrival, Reporting, Entry, or Clearance Requirements.
This section creates new crimes and penalties for evading border inspection personnel and for disobeying lawful orders of border enforcement officers. Violators may be subject to a fine, imprisonment for not more than 3 years or both; or imprisonment for not more than 10 years or both if such person, in commission of this violation, attempts to inflict or inflicts bodily injury. Any person who willfully disregards or disobeys the command or lawful authority of an immigration customs agent shall be fined or imprisoned for not more than five years or both.

SUBTITLE E – LAW ENFORCEMENT RELIEF FOR STATES

Sec. 141. Border Relief Grant Program.
This section authorizes the Secretary to award grants to an eligible law enforcement agency located in a county that is not more than 100 miles from a US border with Mexico or Canada or located in a high impact area, in order to provide assistance to such agency to address (A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the US border; and (B) the impact of any lack of security along the US border. Funds may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity, including obtaining equipment, hiring additional personnel, and upgrading law enforcement technology.

Sec. 142. Northern and Southern Border Prosecution Initiative.
This section allows the Attorney General to reimburse State and local prosecutors based along the border for prosecuting federally initiated and referred drug cases.

SUBTITLE F – RAPID RESPONSE MEASURES

Sec. 151. Deployment of Border Patrol Agents.
The Secretary may provide a State with not more than 1,000 additional border patrol agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the US at any location other than the authorized port of entry, if the Governor of a State on an international border of the US declares an international border security emergency and requests such agents from the Secretary. Emergency deployments shall be made in accordance with all applicable collective bargaining agreements and obligations.

Sec. 152. Border Patrol Major Assets.
This section provides that the Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including aircraft,

watercraft, and other assets. The Secretary shall also increase the number of helicopters and power boats under the control of the Border Patrol; establish a policy on how such equipment shall be used; and implement training programs for the agents who use such assets. The Secretary shall establish a fleet of motor vehicles appropriate for use by the Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. All motor vehicles shall have a panic button and global positioning system device used solely in emergency situations.

Sec. 153. Electronic Equipment.
This section provides that the Secretary shall ensure that each police-type vehicle in the fleet of the Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases. The Secretary shall also enhance existing radio communications systems so that all law enforcement personnel working in each area where Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities. The Secretary must ensure that the Border Patrol has state-of-the-art handheld global position system devices and night vision equipment.

Sec. 154. Personal Equipment.
This section provides that the Secretary will ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent; is equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals; and is provided with all necessary uniform items.

Sec. 155. Authorization of Appropriations.
This section appropriates to the Secretary such sums as may be necessary for each of the fiscal years 2008 to 2012 to carry out this subtitle.

SUBTITLE G—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

Sec. 161. Definitions.
This section provides definitions.

Sec. 162. Port of Entry Infrastructure Assessment Study.
This section requires the Administrator of General Services to update the Port of Entry Infrastructure Assessment Study prepared by CBP and submit each study to Congress no later than January 31 of each year. Each updated study shall: (1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented; (2) include the projects identified in the National Land Border Security Plan required by section 164; and (3) provide a prioritization of the aforementioned projects.

Sec. 163. National Land Border Security Plan.
This section provides that no later than 1 year after the date of enactment of this bill (and annually thereafter), the Secretary shall submit a National Land Border Security Plan to Congress. The plan shall include a vulnerability assessment of each port of entry located on the northern border or southern border. The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern or southern border to assist in conducting a vulnerability assessment at such port and to provide other assistance with the preparation of the plan required.

Sec. 164. Expansion of Commerce Security Programs.
Not later than 180 days after the date of enactment of this bill, the Commissioner of CBP shall develop a plan to expand the programs of the Customs-Trade Partnership Against Terrorism established under the SAFE Port Act, including adding additional personnel for such programs, along the northern and southern border; and shall implement on the southern border, on a demonstration basis, at least 1 Customs-Trade Partnership Against Terrorism program. Finally, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

Sec. 165. Port of Entry Technology Demonstration Program.
This section provides that the Secretary shall carry out a technology demonstration program to (1) test and evaluate new port of entry technologies; (2) refine port of entry technologies and operational concepts; and (3) train personnel under realistic conditions. No later than 1 year after the date of enactment of this bill, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program.

Sec. 166. Authorization of Appropriations:
This section authorizes the appropriation of sums as may be necessary for the fiscal years 2008 though 2012 to carry out this subtitle.

Subtitle H – Safe and Secure Detention

Sec. 171. Definitions.
This section provides definitions for terms relating to asylum, withholding of removal, reasonable fear of persecution, credible fear of persecution, vulnerable populations, and aliens protected under the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment.

Sec. 172. Recording Secondary Inspection Interviews.
This section requires the Secretary to establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department exercising expedited removal authority under the INA code. The Secretary shall also ensure that a fluent interpreter is used when the interviewing officer does not speak a language understood by the alien and there is no other government employee available who is able to interpret.

Sec. 173. Procedures Governing Detention Decisions.
This section amends Section 236 of the INA (relating to the apprehension and detention of aliens) and adds a new subsection relating to custody decisions, mandating that they must be made in writing and served upon the alien within 72 hours of the alien's detention or within 72 hours of a positive credible fear of persecution or reasonable fear of persecution determination. This section also defines what criteria must be considered in making a custody determination, a custody re-determination; and the exceptions for mandatory detention.

Sec. 174. Legal Orientation Program.
This section requires the Attorney General, in consultation with the Secretary, to ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered by the Executive Office for Immigration Review of the DOJ.

Sec. 175. Conditions of Detention.
This section requires Secretary to ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards. The improvements address policies that relate to fair and humane treatment; limitations on shackling; investigation of grievances, telephone access; location of facilities; quality of medical care; translation capabilities, among others.

Section 175 also requires the Secretary to promulgate new standards or modify existing standards to recognize the special characteristics of non-criminal detainees and vulnerable populations.

Finally, this section requires the Secretary to ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where such personnel work addressing the unique needs of: (1) asylum seekers, (2) victims of torture or other trauma, and (3) other vulnerable populations.

Sec. 176. Office of Detention Oversight.
This section creates a new Office of Detention Oversight within the Department of Homeland Security. There shall be at the head of the Office an Administrator who shall be appointed by the Secretary and who shall be responsible for inspections of detention centers housing immigrants and investigations into the allegations of systemic problems at such centers or serious violations of the detention standards. The Administrator shall report to the Secretary and the Assistant Secretary of ICE on related findings and investigations. The Administrator shall to submit a related report (annual) to the Secretary and to Congress.

Sec. 177. Secure Alternatives Program.
This section requires the Secretary to establish a secure alternatives program under which an alien who has been detained may be released under enhanced supervision to prevent the alien from absconding and to ensure that the alien makes appearances related to such detention.

Sec. 178. Less Restrictive Detention Facilities.
This section requires the Secretary to facilitate the construction or use of secure but less restrictive detention facilities. For situations where release or secure alternatives programs are not an option, the Secretary shall ensure that special detention facilities are specifically designed to house parents with their minor children. Priority for placement in less restrictive facilities shall be given to asylum seekers, families with minor children, other vulnerable populations, and nonviolent criminal detainees.

Sec. 179. Authorization of Appropriations; Effective Date.
This section authorizes the appropriation of such sums as are necessary to carry out this subtitle. The subtitle and the amendments made shall take effect 6 months after the date of enactment of this bill.

SUBTITLE I – OTHER BORDER SECURITY INITIATIVES

Sec. 181. Combating Human Smuggling.
This section requires the Secretary to develop and implement a plan to improve coordination among ICE, CBP, and any other Federal, State, local or tribal authorities. This plan shall consider, among other measures: (1) the interoperability of databases utilized to prevent human smuggling; (2)

adequate and effective personnel training; (3) methods and programs to effectively target networks that engage in such smuggling; (4) effective utilization of visas for victims of trafficking and other crimes; and (5) investigatory techniques, equipment and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling. The Secretary shall submit a related report to Congress not later than 1 year after the implementation of the plan.

Sec. 182. Screening of Municipal Solid Waste.
This section provides that no later than 90 days after the date of enactment of this bill, the Commissioner of CBP will submit a report to Congress on whether the methodologies and technologies used by CBP to screen for and detect the presence of chemical, nuclear, biological and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the CBP to screen for such weapons and if they are less effective, actions that CBP will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

Sec. 183. Border Security on Certain Federal Land.
To gain operational control over the international land borders of the U.S. to prevent the entry of terrorists, unlawful aliens, narcotics and other contraband into the U.S., in cooperation with the Secretary concerned, the Secretary shall provide: (1) increases in CBP personnel to secure protected land along the international land borders of the U.S.; (2) Federal land resource training for CBP agents dedicated to protected land; and (3) unmanned aerial vehicles and related equipment on protected land that is directly adjacent to the international land border of the US with priority given to the units of the National Park System.

TITLE II – INTERIOR ENFORCEMENT

Subtitle A – Reducing the Number of Illegal Aliens in the United States

Sec. 201. Incarceration of Criminal Aliens.
This section mandates the continuation of the Institutional Removal Program (IRP) or the development of and implementation of another program to identify removable persons in federal and state correctional facilities, prevent their release into the community and ensure their removal upon completion of their sentence. The IRP may be expanded to all 50 states. Section 201 also requires the maximum practical usage of technology, such as videoconferencing, mobile access to IDENT, and live scan technology, to make the IRP available in remote locations. A report to Congress is required not later than 60 days after enactment of the Act and annually thereafter. Money will be authorized in such sums as may be necessary in each of the fiscal years 2008 through 2012.

Sec. 202. Encouraging Aliens to Depart Voluntarily.
This section tightens the voluntary departure requirements as laid out in Section 240B of the INA (relating to voluntary departure) and enhances the penalties for failure to depart in accordance with a voluntary departure agreement. This Section authorizes the Secretary to permit removable aliens to voluntarily depart prior to the commencement of removal proceedings. Such permission shall not be valid beyond a 120 day period and the alien must depart the U.S. at his or her own expense. The Secretary may require the alien to post a voluntary departure bond to ensure a timely departure.

Once removal proceedings have been initiated but before the conclusion of such proceedings, an alien may be permitted to voluntarily depart but such permission shall be limited to a 60 day departure period. Permission to voluntarily depart the U.S. may only be granted after a finding that the alien has the means to voluntarily depart and intends to do so. An immigration judge may require an alien to post a voluntary departure bond to ensure that they will leave; however, this requirement may be waived if the alien presents compelling evidence that the posting of the bond will pose serious financial hardship and the alien presents credible evidence that such a bond is unnecessary.

Conditions on Voluntary Departure: Voluntary departure may only be granted pursuant to an affirmative agreement by the alien. In exchange for the alien's agreement to depart voluntarily prior to the commencement of proceedings, the Secretary may agree to a reduction in the period of inadmissibility under Section 212(a)(9)(A) (relating to aliens previously removed) or 212(a)(9)(B)(i) (relating to aliens who are unlawfully present in the U.S.)

Agreements made by an alien during removal proceedings or at the conclusion of proceedings, must be part of the record before the immigration judge. The alien must be advised of the consequences of the voluntary departure agreement before accepting it. Motions, appeals, applications, appeals, petitions or petitions for review do not toll the period of voluntary departure or otherwise affect, enjoin, delay, stay or toll the alien's obligations to depart from the US, absent an express agreement in writing in the exercise of the Secretary's discretion prior to the expiration of the voluntary departure period.

Consequences of violating the agreement: If the alien does not depart within the time allowed or fails to comply with any other terms of the agreement, the alien is: 1) ineligible for the benefits of the agreement; 2) subject to a $3,000 civil penalty; 3) is subject to an alternate order of removal; and ineligible for voluntary departure, adjustment, cancellation of removal, change in nonimmigrant classification, or registry for the time that s/he remains in the United States plus an additional ten years.

Aliens will not be permitted to voluntarily depart under this section if the Secretary or AG previously permitted the noncitizen to depart voluntarily after the date of enactment of this bill. The Secretary may promulgate regulations that limit eligibility or impose additional conditions on voluntary departure. This section applies to voluntary departure orders made on or after 180 days following enactment.

Sec. 203. Deterring Aliens Ordered Removed from Remaining in the United States Unlawfully.

This section amends Section 212(a)(9)(A) (relating to aliens previously removed) and renders inadmissible aliens who were ordered removed under Sec. 235(b)(1) (relating to aliens who are removed without a hearing under Sections 212(a)(6)(C) (relating to misrepresentations) and 212(a)(7) (relating to documentation requirements) and who seek admission *not later than 5* years after the date of the alien's removal (or *not later than 20 years* after the alien's removal in the case of a second or subsequent removal or at any time if the alien was convicted of an aggravated felony).

It also renders aliens inadmissible who were ordered removed under Sec. 240 (relating to removal proceedings) who left while their removal orders were outstanding and apply for admission *not*

later than 10 years after the date of the alien's departure or removal (or *not later than 20 years* after the alien's removal in the case of a second or subsequent removal or at any time if the alien was convicted of an aggravated felony.)

Sec. 204. Prohibition of Sale of Firearms to, or the Possession of Firearms by Certain Aliens.
This section expands the list of existing federal crimes to include the sale of firearms to and possession of firearms by any person unlawfully present, present in a nonimmigrant classification, or present after being paroled into the United States.

Sec. 205. Uniform Statute of Limitations for Certain Immigration, Naturalization, and Peonage Offenses.
This section expands the statute of limitations to ten years for all nationality and citizenship offenses; passport, visa and immigration offenses; and for offenses under the criminal provisions of the INA, including willful failure to register or failure to provide a change of address and crimes involving trafficking in persons.

Sec. 206. Expedited Removal.
This section amends Section 238 of the INA (relating to the expedited removal of certain criminal aliens) and authorizes the Secretary to use expedited procedures to determine the deportability of aliens who are non lawful permanent resident aliens and who have been convicted of any criminal offense that establishes the alien's deportability under the INA relating to aggravated felonies or espionage, sabotage, treason or sedition. These amendments take effect on the date of enactment of this bill and apply to aliens apprehended or convicted on or after that date.

Sec. 207. Field Agent Allocation.
This section amends Section 103(f) of the INA (relating to the minimum number of ICE agents in each state) and increases the number to not fewer than 40 full-time active duty ICE agents which shall be allocated to each State to investigate immigration violations and ensure the departure of removable aliens; and not fewer than 15 full-time active USCIS agents must be allocated to carry out USCIS adjudications. These requirements may be waived for States with a population of less than 2,000,000. Section 207 will take effect 90 days after the enactment of the Act.

Sec. 208. Streamlined Processing of Background Checks Conducted For Immigration Benefit Application and Petitions.
This section expands Section 105 of the INA (relating to liaison with Internal Security Officers) and requires the Secretary to establish an interagency task force to resolve cases where applications or petitions have been delayed more than two years from the date of filing due to outstanding background check investigations. The task force shall consist of representatives from Federal agencies with immigration, law enforcement or national security responsibilities. Appropriations are authorized to the FBI for each FY 2008 through 2012.

The FBI Director must submit a report not later than 180 days, to the Judiciary Committee in both the House and Senate on background checks, which provides statistical breakdowns on the types of delays and the applicants' countries of origin, a description of the program, and the steps the FBI Director is taking to expedite checks that have been pending more than 180 days.

Construction: This section clarifies that nothing in the Act shall be construed to require the Secretary or the AG to grant an application for asylum, adjustment of status, naturalization or any

grant of relief from removal to any alien for whom a national security, criminal, or other investigation of a case is open or pending that is material to the alien's eligibility.

Timeframes: The Secretary may not delay adjudication or document issuance beyond 180 days unless the Secretary certifies that such a background may establish that the alien poses a risk to national security or public safety. There is no right to review or appeal the Secretary's decision to delay adjudication. Regulations shall be promulgated regarding interim work authorization for applicants subjected to delays beyond 180 days.

This section also requires the Secretary to submit an annual report to Congress on the numbers of cases affected by this section. The Secretary and AG shall also establish an Office of the Public Advocate for Immigration Clearances within DHS and DOJ to liaise with the public to identify and resolve delays related to background checks.

Sec. 209. State Criminal Assistance Program.
This section amends Section 241(i)(5)(C) of the INA (relating to appropriations that are to be distributed to a State or political subdivision for correctional purposes) and provides for reimbursement to state and local governments for pre-conviction costs for aliens charged with or convicted of crimes. States are to be reimbursed both for costs incurred for the incarceration of any illegal alien or Cuban national convicted of a felony of such State and indirect costs related to the imprisonment of such aliens. Reimbursement allotments must give special consideration to proximity with the Border or whether it includes an area within a State with a large population of undocumented aliens relative to the general population. Section 209 defines "indirect costs" to include: (1) court costs, county attorney costs, detention costs and criminal proceedings expenditures that do not involve going to trial; (2) indigent costs; and (3) unsupervised probation costs. $200,000,000 is authorized to be appropriated for each of the fiscal years 2008 through 2012.

Sec. 210. Transportation and Processing of Illegal Aliens Apprehended by State and Local Law Enforcement Officers.
This section requires the DHS to provide sufficient transportation and officers in order to transfer undocumented persons from state and local law enforcement custody to a DHS detention facility, and would authorize the DHS to appropriate such sums as may be necessary to do so for FYs 2008 through 2012.

Sec. 211 Reducing Illegal Immigration and Alien Smuggling on Tribal Lands.
This section authorizes grants to Indian tribes with land adjacent to an international border that may have been adversely affected by illegal immigration. The grants may be used for law enforcement, health care, environmental restoration and preserving cultural resources. This section also requires the Secretary, within 180 days of enactment of this bill, to submit a report including information on the level of access of Border patrol agents on tribal lands, the extent to which enforcement could be improved through enhanced access, and a strategy for obtaining access and identifying grants provided to Indian tribes that relate to border security.

Sec. 212. Mandatory Address Reporting Requirements.
This section amends Section 265 of the INA (relating to notices of change of address) and enhances address reporting requirements by requiring aliens to notify the Secretary in writing or by electronic notification of an address change and phone number where the alien may be contacted. The address must be their actual current residential mailing address – not a P.O. Box or the address of the

attorney, representative, employer or labor organization. Aliens in removal proceedings or administrative appeals must notify the AG of their address. Aliens who are detained by the Secretary do not have to report their current address while they are detained but must do so when released. Specific reporting requirements may be imposed by the Secretary under special circumstances, including when aliens may be employed at a remote location, or for aliens who are incarcerated in Federal, State or local correctional facilities.

The Secretary will coordinate and cross reference address information with information contained under other Federal programs including: 1) information on petitions, applications, or motions filed with DHS, DOS, or DOL; 2) information available to the AG when aliens are in removal proceedings or when an administrative appeal or judicial review is filed; and 3) information that is collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

The Secretary may rely on the address provided by the alien to send forms, notices, documents, registration and fingerprinting forms. The AG and Secretary may also rely on those addresses to contact aliens about pending removal proceedings.

A noncitizen's failure to comply with registration and address notification requirements before the enactment of this Act, will not affect their eligibility to apply for benefits under the INA.

Sec. 213. State and Local Enforcement of Federal Immigration Laws.
This section amends Section 287(g) of the INA (relating to state officer and employees performing immigration officer functions), which authorizes the Secretary to enter into written agreements with the States or political subdivisions, allowing state officers and employees to perform immigration officer functions. Section 213 requires the Secretary to reimburse State or political subdivisions for training costs of their officers or employees, including overtime costs, if applicable. Appropriations are authorized to carry out this section.

Sec. 214. Increased Criminal Penalties Related to Drunk Driving.
This section expands Sections 212(a)(2) of the INA (relating to criminal grounds of inadmissibility) and Section 237(a)(2) (relating to criminal grounds of removability) by creating a new subparagraph (F) for "Drunk Drivers" thereby making inadmissible and removable any alien who has been convicted of three offenses for driving under the influence, including at least one offense that is a felony under Federal or State law, for which the alien was sentenced to more than one year imprisonment. Courts cannot accept a guilty plea for driving under the influence unless the court administers a specific advisal on the record of the immigration consequences of a conviction for driving under the influence, including a conviction by entry of a plea. If a court does not administer the advisal to the defendant and the defendant shows that the basis of the conviction to which the defendant pled guilty may result in the defendant's deportation, exclusion, or denial of naturalization, the court, may, upon defendant's motion vacate the judgment and permit the defendant to withdraw the plea and enter a plea of not guilty. If the record does not show that the court administered the advisement, it is presumed that the defendant did not receive the advisal. Defendants are not required to disclose their immigration status at any time. These provisions take effect on the date of enactment. A waiver of inadmissibility is available under Section 212(h) of the INA (relating to waivers of inadmissibility).

Sec. 215. Law Enforcement Authority of States and Political Subdivisions and Transfer of Aliens to Federal Custody.

This section adds a new Section 240D to the INA, which reaffirms that law enforcement personnel of a State or political subdivision possess the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody, a noncitizen, for the purpose of assisting in the enforcement of criminal provisions of the immigration laws in the normal course of carrying out law enforcement duties. Section 215 makes it clear that the state authority has never been displaced or preempted by a Federal law.

If a State or political subdivision exercises its authority with respect to the detention of a noncitizen, the Sectary must, in response to a request, determine the immigration status of an offender and report to the requesting agency whether they intend to take custody of the "offender". Funds can be used to reimburse the State for these activities.

Aliens detained solely for civil violations of Federal immigration laws will be separated to the extent practicable. Federal facilities will provide an appropriate level of security. The Secretary must establish a regular schedule and circuit for the prompt transportation of apprehended aliens.

The Secretary may contract with States and local law enforcement and detention agencies to implement section 215. Before entering into an agreement or contract, the Secretary must determine if the State has in place any formal or informal policies that violate section 642 of IIRAIRA (8 USC 1373). Section 215 does not require law enforcement in States or political subdivisions to assist in enforcement of immigration laws and includes a clause that states "Nothing in this section shall be construed to require law enforcement personnel of a State or political subdivision to assist in the law enforcement of the immigration laws of the United States." This section authorizes appropriations deemed necessary for FY 2008 and each subsequent year for the detention and removal of aliens.

Sec. 216. Laundering of Monetary Instruments.

This section amends the Criminal Code by inserting Section 274(a) of the INA (relating to the bringing in and harboring of certain aliens in to the U.S.) to the list of crimes covered by the Tariff Act and by inserting Section 1590 relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

Sec. 217. Increase of Federal Detention Space and the Utilization of Faculties Identified for Closures as a Result of the Defense Base Closure Realignment Act of 1990.

This section authorizes the Secretary to construct and acquire at least 20 additional facilities have a capacity to detain a combined total of not less than 20,000 individuals at any time for aliens pending removal or a decision on removal. The Secretary must also construct or acquire additional facilities subject to appropriations for detention beds required by the Intelligence Reform and Terrorism Protection Act of 2004.

In addition, the Secretary must fully utilize all possible options to cost effectively increase available detention capacities, including facilities that are currently owned and operated by the Federal Government subject to appropriations. The Secretary must consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure Realignment Act of 1990. The location of any detention facility shall be determined by the senior officer responsible for detention and removal operations and shall be located to enable

employees and officers to increase the annual rate and level of removals of illegal aliens. An annual report must be submitted not later than one year after the date of enactment of the bill.

Sec. 218. Determination of Immigration Status of Individuals Charged with Federal Offenses.
This section requires the office of a U.S. attorney prosecuting a criminal case in Federal court to determine not later than 30 days after filing the initial pleadings in a case, whether each defendant in the case is lawfully present in the U.S., and to notify the court of his or her findings. If the defendant is not lawfully present, the court must be notified of the alien's status, and if possible, the country of origin and legal residence. Notice must be provided to the alien and alien's counsel of such determination. All Federal courts that hear criminal cases and appeals must modify their case management systems to allow this information to be collected. Section 218 is not to be construed to provide a basis for admitting evidence to a jury or the public. Statistical annual reports must be filed with Congress. Funds are authorized to be appropriated for each of the fiscal years 2008 through 2012 and shall remain available until expended.

Sec. 219. Expansion of the Justice Prisoner and Alien Transfer System.
This section requires the AG to issue a directive no later than 60 days after the enactment of this Act that expands the JPATS to provide additional services with respect to illegal aliens in the U.S. that includes increasing daily operations with buses and hubs in 3 geographic regions and allocating a set number of seats that could be traded or given to other metropolitan bases on need. An annual report is required.

Section 220. Cancellation of Visas.
This section amends Section 222(g) (relating to when nonimmigrant visas can be voided) by permitting the Secretary to void any nonimmigrant visa that was issued to an alien who remained in the U.S. beyond the alien's period of authorized stay. It prohibits the alien's readmission to the U.S. as a nonimmigrant except on the basis of a visa (other than a visa that was voided) that was issued in the consular office located in the country of the alien's nationality or foreign residence.

Subtitle B: Passport and Visa Security

Section 221. Reform of Passport Fraud Offenses.
This section amends the criminal code and expands penalties pertaining to passport, visa and document-related fraud. Specifically, this section addresses the following categories: (1) Trafficking of passports (i.e., knowingly forging, counterfeiting, altering, or falsely making 10 or more passports); (2) False statements in an application for a passport (i.e., knowingly making any false statement or misrepresentation in an application for a United States passport); (3) Forgery and unlawful production of a passport (i.e., knowingly producing, issuing, authorizing, or verifying a passport in violation of the laws); (4) Misuse of a passport (i.e., knowingly using any passport issued or designed for the use of another); (5) Schemes to defraud aliens (i.e., knowingly executing scheme, in connection with any matter that is authorized by federal immigration laws to defraud any person); (6) Immigration and visa fraud (i.e., knowingly and without lawful authority producing, issuing or transferring 10 or more immigration documents); and (7) Attempts or conspiracies to violate any of these offenses.

This section also increases the alternative maximum term of imprisonment for certain offenses and creates a new chapter of definitions in the criminal code as it relates to passport, visa and document

related fraud. For example, this section contains broad and new definitions for "immigration document," "immigration laws," "passport", and "use" of a passport, among others.

Section 222. Other Immigration Reforms.
This section requires the United States Sentencing Commission to promulgate or amend the sentencing guidelines, policy statements and official commentaries that pertain to passport, visa and document-related fraud to reflect the seriousness of such offenses. This section requires the Commission to submit a related report to Congress within one year of enactment of this Act.

Section 222 also states that if a judicial officer is not reasonably assured that a person will appear as required before trial without compromising the safety of any other person or the community, the judicial officer must order the detention of that person. This Section establishes certain presumptions which may be rebutted under certain circumstances.

This section also mandates that the Attorney General (in consultation with the Secretary) develop binding prosecution guidelines to protect legitimate refugees and asylum seekers and to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with United States treaty obligations. This subsection makes clear that there is no private right of action and that the guidelines developed (and any internal office procedures related to such guidelines) are intended solely for the guidance of attorneys of the United States.

The Secretary may provide a waiver from prosecution under this title for certain vulnerable populations, including a person (A) seeking protection under section 208 (relating to asylum) or 241(b)(3) (relating to "withholding of removal" or restrictions on removal to a country where an alien's life or freedom would be threatened) of the INA or under the Convention against Torture; (B) referred for a credible fear interview, a reasonable fear interview or an asylum-only hearing; or (C) has filed an application for status under paragraph (15)(T) (relating to trafficking), (15)(U)(relating to victims of criminal activity), 27(J) (relating to special immigrant juvenile status) or 51 (relating to the Violence Against Women Act) of section 101(a) of the INA; or section 216(c)(4)(C) (relating to certain battered immigrants seeking removal of conditional status), 240A(b)(2) (relating to certain battered spouses and children seeking relief from removal), or 244(a)(3) (relating to Temporary Protected Status) of the INA.

Section 222 amends the State Department Basic Authorities Act relating to investigations of illegal passport or visa issuance or use; identity theft or document fraud affecting or relating to the programs, functions and authorities of the Department of State; peonage and slavery offenses; and offenses committed in the special maritime and territorial jurisdiction of the United States.

Subtitle C: Detention and Removal of Aliens Who Illegally Enter of Remain in the United States

Section 231. Detention and Removal of Aliens Ordered Removed.
This section amends Section 241(a) of the INA (relating to the detention, release and removal of aliens ordered removed) and authorizes DHS to detain certain aliens ordered removed for more than 90 days beyond the removal period if the alien: 1) fails or refuses to make a timely application for travel related documents, or 2) conspires or acts to prevent his or her removal the removal of the alien subject to an order of removal, AND 3) the Secretary makes a "certification" for such alien. The removal period shall not begin until the alien is taken into custody.

A new paragraph relating to "Certification" authorizes the Secretary to detain an alien for more than 90 days beyond the removal period pursuant to a written certification that: (1) the alien is significantly likely to be removed in the reasonably foreseeable future; (2) the alien has failed to make a timely application, in good faith, for travel documents or has otherwise conspired or acted to prevent the removal of the alien; (3) the alien would have been removed if the alien had not (a) failed or refused to make all reasonable efforts to comply with the removal order, (b) failed or refused to fully cooperate with the DHS to establish his identity and carry out the removal order, or (c) conspired or acted to prevent such removal; (4) the alien has a highly contagious disease that poses a threat to public safety; (5) there is a reason to believe that the release of the alien would threaten the national security of the United States; or (6) release of the alien would threaten the safety of the community and the alien (a) has been convicted of 1 or more aggravated felonies as defined in the Act or of one or more conspiracies to do so for which the alien served an aggregate term of imprisonment of at least 5 years and the alien is likely to engage in acts of violence in the future or (b) because of a mental condition or personality disorder and behavior associated with that behavior, is likely to engage in acts of violence in the future.

This section permits DHS to renew certification every 180 days after providing the alien with an opportunity to submit documents or other evidence in support of release. Any renewal shall be subject to review.

The Secretary may detain an alien ordered removed who has been previously released if the alien fails to comply with the conditions of departure, fails to continue to satisfy the conditions of supervision, or upon reconsideration, the Secretary makes a certification for the alien's re-detention.

DHS shall establish an administrative review process to permit the alien to appeal a decision by DHS to detain or extend the removal period for the alien (and any renewal of certification). An immigration judge shall review a determination by DHS to detain an alien and shall uphold the decision of the DHS if the DHS establishes by clear and convincing evidence that such detention is authorized. The decision of an immigration judge shall not be subject to appeal but shall be reviewable in a habeas corpus proceeding. Generally, judicial review of actions or decisions made pursuant to this section is available through habeas.

The amendments made by this section shall take effect on the date of the bill's enactment and shall apply to any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the bill's enactment, and any act or condition occurring or existing before, on, or after the date of the bill's enactment.

Section 232. Increased Criminal Penalties for Immigration Violations.
This section amends INA Section 204(b) of the INA (relating to the investigation and approval of preference petitions) by adding a sentence to that section that precludes approval of an immigrant visa petition if the petitioner has been found removable from the United States.

This section clarifies that certain lawful permanent residents who are in the United States on a conditional basis shall be considered as aliens lawfully admitted for permanent residence and to be present in the United States as aliens lawfully admitted for naturalization purposes only if the alien filed an application for the removal of conditions not less than 90 days before applying for naturalization.

This section also amends Section 318 of the INA to preclude naturalization unless the person has been lawfully admitted to the United States for permanent residence. The burden of proof shall be on the alien to show that the alien entered the United States lawfully, and the time, place and manner of such entry into the United States. This section further states that no alien shall be naturalized if they have an outstanding finding of deportability pursuant to a warrant of arrest issued under the law and that no application for naturalization shall be considered by the DHS or any court if there is pending against the applicant any removal proceeding, or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, if the removal proceeding or other proceeding was commenced before a final agency decision on naturalization was made pursuant to a hearing under this Act. The findings by the DHS to terminate removal proceedings or cancel removal of an alien under this Act shall not be binding upon the Secretary in determining whether the alien established eligibility for naturalization.

This section would amend the INA and clarify district court jurisdiction in cases of delay. If there is a failure to render a final administrative decision under the INA before the end of the 180-day period beginning on the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. The court shall have jurisdiction to determine the matter or remand the matter, with appropriate, instructions, to the Secretary.

Section 233. Aggravated Felony.

This section expands the definition of aggravated felony slightly by amending Section 101(a)(43)(N) of the INA to include Section 274(a)(4) of the INA (relating to alien smuggling cases where the offense is part of an ongoing commercial organization or enterprise that involved multiple aliens and the aliens were transported in a way that presented a danger to the aliens' lives or the aliens posed a life-threatening health risk to the US people.) It clarifies that the definition applies to an offense in violation of Federal or State law, and to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, and regardless of whether the conviction was entered before, on, or after September 30, 1996.

Section 234. Increased Criminal Penalties Related to Gang Violence, Removal and Alien Smuggling.

This section amends Section 212(a)(2) of the INA (relating to inadmissibility based on criminal activity) and enhances the penalties associated with gang membership, for failure to depart after removal, and alien smuggling offenses. This section: (1) creates new grounds of inadmissibility and deportability for aliens convicted of a gang crime as defined by the criminal code and bars such individuals from temporary protected status; (2) increases the criminal penalties associated with failure to depart after removal and extends such penalties to aliens found removable based on inadmissibility grounds; (3) increases the criminal penalties associated with willful failure to comply with terms of release under supervision; (4) enhances the criminal offenses and increases penalties associated with alien smuggling; (5) increases the criminal penalties associated with the unauthorized employment of aliens; and (6) broadens the scope of conduct triggering federal firearms offense liability.

Section 235. Illegal Entry.

This section amends Section 275 of the INA (relating to the improper entry by aliens) and makes it a criminal penalty to knowingly enter or cross the border into the U.S. at a time or place other than as designated by the DHS; to knowingly elude examination or inspection by an immigration officer (including failing to stop at the command of such officer) or a customs or agriculture inspection at a port of entry; or to knowingly enter by means of a false or misleading representation or concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws or shipping laws). Criminal penalties under this section increase if the violation occurred after a criminal conviction(s).

This section also increases the civil penalties for aliens apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers

Section 236. Illegal Reentry.
This section amends Section 276 of the INA (relating to the reentry of a removed alien) and increases the criminal penalties associated with reentry of certain aliens previously removed. Aliens with criminal convictions would face harsher penalties and aliens who were removed prior to completion of a term of imprisonment would also be required to serve the remainder of the previously imposed sentence.

This section also bars the alien's ability to challenge the validity of any prior removal order unless the alien demonstrates by clear and convincing evidence that: (1) the alien exhausted all administrative remedies that may have been available to seek relief against the order; (2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and (3) the entry of the order was fundamentally unfair.

This section includes an exemption for aiding and abetting a violation of this section if the individual is acting without compensation (or an expectation of one), to provide humanitarian assistance or transportation to a location where such assistance can be rendered.

TITLE III – EMPLOYMENT VERIFICATION

Sec. 301. Employment Verification.
Subsection 301(a): This section amends INA Sec. 274A as follows:

Employment of unauthorized workers is unlawful. This section makes it unlawful to hire or continue to employ anyone that an employer knows is not authorized, provides good faith shield for employers, authorizes the Secretary to require employer certify compliance and indicates that this section does not authorize the establishment of a national identification cards.

Document verification requirement. This section requires attestations (signature can be electronic) on the part of both the employer and the worker. The employer must attest that he or she verified a worker's identity and employment authorization status. This section identifies a menu of documents a worker may show to establish identity and work authorization. The documentation requirements vary depending on the worker's immigration/citizenship status. Under this section, employment and identity documents are described as:

- For a U.S. national: a U.S. passports; a biometric, machine readable, tamper-resistant social security card, or a REAL ID driver's license or identity card

- For a lawful permanent resident (LPR): a permanent residence card or a biometric, machine readable, tamper-resistant social security card

- For a non-LPR who is authorized for employment: an employment authorization card that has a photo or other identifying information including name, DOB, gender and address, and contains security features, or a biometric machine readable, tamper-resistant social security card

- For a worker who is not able to obtain a document listed above, a document designated by the Secretary that contains:
    - A photo or other identifying info including name, DOB, gender address, and security features, or
    - until the employer required to participate in the Electronic Employment Verification System (EEVS), a document or combination of documents, that as of enactment of this bill, the Secretary has established by regulation.

This section includes an exception to the documentation requirement for certain minors and people with disabilities.

This section also creates the attestation process for the worker. The worker must attest under penalty of perjury on a form designated by the Secretary that the worker is a U.S. national, lawful permanent resident (LPR) or work-authorized alien. If the worker falsely represents that he or she has employment authorization, the fine is $5,000 or 3 years' imprisonment or both

Retention of attestation: The employer must retain and make available the attestation document(s) to DHS, DOJ, or DOL. An employer must retain copies of the worker's attestations and related identity and eligibility documents for three years after the person is hired or one year after the person's employment is terminated (whichever is later).

Electronic employment verification system: This section creates a new employment verification system. The section sets out the requirements for EEVS that the Secretary and Social Security Commissioner ("Commissioner") are to implement. The Secretary has 180 days after the bill is enacted to certify a technology standard based on recommendations from National Institute of Standards and Technology ("NIST"). An extension is possible if doing so will substantially improve EEVS. The technology standard will be the basis for a cross-agency, cross-platform system to share immigration and social security information necessary to confirm individuals. DHS and NIST will issue a report on the development and implementation of the technology standard within18 months of the enactment of this bill.

Employer verification procedures: This section requires an employer to submit an initial inquiry to EEVS regarding employment eligibility within 5 business days after the worker starts. DHS must respond within 1 working day after inquiry with either a confirmation of workers identity and eligibility or tentative nonconfirmation.

- If EEVS issues a tentative nonconfirmation (EEVS is tentatively unable to confirm the worker's identity or employment eligibility), DHS must provide the worker an opportunity to submit additional documentation within 15 days (with extensions possible for good cause at the request of the individual).
- If additional documents are submitted, DHS must conduct a manual verification of identity/employment eligibility of the individual.
- Within 30 working days after deadline for employee to submit additional documentation, DHS must return a confirmation or final nonconfirmation.

This section provides a default confirmation if DHS fails to respond according to the outlined timetable. This default confirmation is revocable if DHS later determines the worker is ineligible for employment.

An Employer may not terminate an individual based on a tentative nonconfirmation, but must terminate any individual with a final nonconfirmation. Individuals who receive a final nonconfirmation shall have the right to administrative and judicial review as specified in this section.

DHS in conjunction with the Social Security Administration (SSA) must permit individuals to review (for accuracy) their employment eligibility and identity records prior to getting or changing a job.

Reverification: This section makes it an unfair immigration-related employment practice for an employer to reverify a worker's employment identity and eligibility unless the worker's employment authorization has an expiration date, in which case:

- DHS must (1) notify employer 30 days before a worker's employment authorization expires and (2) notify employer of need to reverify at which point worker must show receipt for application for extension of employment authorization or documents listed for verification of employment authorization.
- A worker must, within 90 days of the date that employment authorization expires, show required documents demonstrating that he/she is authorized to work. If the employee has applied for required or replacement documents with USCIS and USCIS has not processed the documentation within 60 days, USCIS must provide a letter giving the employee a 90 extension to produce the necessary documentation.

This section also permits reverification in cases where the employer had "actual" or "constructive" notice that the worker was unauthorized to work or when otherwise required by law.

This section indicates that an employer may not verify a worker's employment eligibility if the worker is continuing his/her employment as defined in the regulations. Critical infrastructure employers must reverify their employees as soon as EEVS is implemented.

This section requires DHS, in consultation with SSA, to design and operate the EEVS so that it: (1) maximizes reliability and ease of use while protecting privacy and security, (2) allows the employer to submit queries over the internet or phone line, (3) responds to each of the employer's inquiries, (4) maintains records of each inquiry and response, (5) records any failure of EEVS to receive such inquiry, (6) contains privacy safeguards (encryption, testing for vulnerabilities, etc.),

(7) has audit capability, (8) contains safeguards against unlawful discriminatory employment practices, and (9) permits the employer to submit attestation.

The information required to be stored in EEVS databases is limited to: the individual's full legal name, date of birth (DOB) or social security number (SSN), employment authorization status ID numbers, employers' name and address, a record of previous inquiries, determinations and corrected tentative nonconfirmations.

This section further requires the Commissioner to establish a reliable and secure ways of determining: (1) whether the name and SSN match SSA's information, (2) whether an SSN was issued to worker, (3) whether an SSN is work-authorized, and (4) ensures other information maintained by SSA is not disclosed to employers through the system.

The Secretary must establish reliable and secure ways of determining: (1) whether the name and alien ID number or authorization number match DHS's information and are valid, (2) whether an alien ID number or authorization number was issued to the individual, and (3) whether an individual is work-authorized.

The SSA and DHS are required to complete privacy impact statements and must provide training materials to employers using the EEVS. DHS is also required to set up a staffed 24-hour hotline to answer any queries from workers and employers regarding EEVS determinations.

Participation: This section creates a phased-in timetable for when an employer is required to use the EEVS. Critical infrastructure employer must participate within 1 year of enactment of this bill. Ann employer with 5000 or more employees must participate within 2 years of the bill's enactment. An employer with 1000-5000 employers must comply within 3 years of enactment of this bill. Finally, an employer with less than 1000 employees must participate in the EEVS within 4 years of the bill's enactment. DHS must publish requirements in the federal register prior to implementation and can permit participation of any employer on voluntary basis.

Employers are not required to participate in EEVS for employees in "casual employment"; employees provided to the employer by a person providing contract services such as a temporary agency; or an independent contractor performing services for the employer. DHS can waive or delay participation requirements for any employer as long as Congress is first notified. If the Comptroller General does not certify EEVS as required in this bill, DHS must delay or waive the requirement to participate.

The failure to participate by an employer who is required to do so will be treated as hiring without having verified documents which gives rise to a rebuttable presumption that the employer has violated the provision against knowingly or with careless disregard, hiring an alien not authorized to work. Such presumption does not apply in a criminal prosecution.

Employer requirements: This section requires the employer to notify the worker that the employer is using EEVS for immigration enforcement and obtaining documentation information for ID/eligibility verification of the worker and that the employer will record it on a form designated by DHS, and will retain the form for inspection and will safeguard any information collected.

Procedure in case of lost, stolen, damaged document: If the employment authorization document(s) of the worker is lost, stolen, or damaged, the worker may on an interim basis present a receipt for an application of a replacement employment authorization document. The worker must present the replacement document within 90 days. If the worker has applied to USCIS for the replacement document and USCIS has not processed the document within 60 days, USCIS must provide a letter giving the worker a 90 day extension to produce the necessary documentation. If the worker is hired to work for less than10 days, the employer cannot accept a receipt in lieu of the actual document.

Employer requirements for confirmation or nonconfirmation: The employer is required to retain a record of a confirmation of employment eligibility from the EEVS for three years after the time of hire or 1 year after termination. If the employer receives tentative nonconfirmation, the employer is required to retain the record of the tentative nonconfirmation until such notice is final or final confirmation is received.

The employer must notify the worker within 10 business days of a tentative nonconfirmation and must inform the worker of his/her right to contest the tentative nonconfirmation.

- If the worker does not contest within 15 working days of such notice, the tentative nonconfirmation becomes final and the employer must retain a record of the final nonconfirmation for a period of three years after hiring or one year after termination. The worker's failure to contest may not be a basis to claim that the employer acted in a "knowing manner".
- If worker contests within 15 business days of receiving notice, the worker must submit the appropriate information to contest to EEVS and use the process set out in this section. The worker must acknowledge receipt of notice in writing. A tentative nonconfirmation becomes final only when it is not contested within 15 days of worker receiving notice or when EEVS issues final confirmation or nonconfirmation.

The employer may not terminate a worker based on a tentative nonconfirmation, but must terminate employment upon receiving a final nonconfirmation. Once final confirmation or nonconfirmation is issued, the employer must record it on a DHS designated form using an EEVS generated code. If the employer continues to employ the worker after a final nonconfirmation, a rebuttable presumption that the employer is in violation of the prohibition against hiring and continuing to employ an unauthorized worker is created. Such a presumption does not apply to in a criminal prosecution.

Prohibition on unlawfully accessing EEVS information (i.e., other than verifying identity or employment authorization) or modifying the EEVS pursuant to law: The penalty for unlawful access is up to $1,000 per individual and/or up to 6 months imprisonment, per compromised file. The penalty for unlawful use (ID theft for financial gain, evading security) is up to $10,000 and/or up to 1 year imprisonment per individual whose information was misappropriated.

Safe harbor for employers participating in EEVS and complying with reporting requirements: The federal government cannot use EEVS for any purpose other than those described in this section. Only federal employees at SSA, DHS, or DOL responsible for employment eligibility verification or for evaluating EEVS may access EEVS. After notifying Congress, DHS can modify the requirements of this section to improve EEVS.

Annual study: This section requires the Comptroller General (Comptroller) to conduct an annual study and report on EEVS as to whether it meets following requirements:

- The new information submitted by a workers is updated in all relevant databases within 3 working days in 99% of cases,
- No more than 1% of all tentative nonconfirmations are wrong annually,
- No more than 3% of all final nonconfirmations are wrong annually,
- The number of wrong tentative nonconfirmations for non-U.S. citizens is up to 300% more than the number of such wrong notices for citizens annually,
- The number of incorrect final nonconfirmations for non-U.S. citizens is up to 300% more than the number of such wrong notices for citizens annually,
- A determination of whether or not EEVS is resulting in increased discrimination against certain ethnicities, this determination to be based on an independent study commissioned by the Comptroller in each phase of EEVS expansion (this needs a qualifying word or two),
- at least 97% of EEVS using employers fully comply with privacy requirements,
- DHS and SSA have sufficient funding and staffing for EEVS deadlines,
- The Comptroller will consult with business, labor, immigrants, states, privacy advocates and agencies to issue report,
- within 21 months after this bill enacted, the Comptroller must issue a report to DHS and Congress, and annually thereafter, and
- If the Comptroller determines EEVS meets above requirements, the Comptroller will certify it for the year.

Administrative review: This section creates a new administrative process for a worker terminated as a result of final nonconfirmation. In such case, a worker must file an appeal within 60 days. If appeal results in a confirmation of work authorization, DHS must determine if the erroneous nonconfirmation resulted from (1) an error or negligence on the part of an EEVS employee, (2) the decision rules or process utilized by EEVS, or (3) erroneous information unrelated to worker's error. If the erroneous final nonconfirmation was not a result of an act or omission of the worker, DHS will compensate for lost wages.

- Lost wages are calculated based on the wage rate and work schedule prior to termination, for the first work day after termination through 180 days after completion of the administrative review.
- Lost wages cannot include any period when the worker was not authorized for employment.
- Reimbursement of lost wages cannot come from DHS annual appropriations.

Judicial review: This section creates a judicial review process for an administrative decision. This process must commence not later than 90 days after a decision is made in the administrative review process.

Within 180 days after enactment of this bill, the Federal Judicial Center must submit to Congress recommendations on jurisdiction and procedures for judicial review described in this section. If such judicial review reverses the administrative review decision, the court must compensate the individual for lost wages. No private right of action exists for any claim in this section and the federal government has exclusive enforcement authority.

This section also provides a safe harbor for contractors if they hire an unauthorized worker through a subcontractor unless they knew the subcontractor was hiring unauthorized workers.

This section does not affect any existing rights or obligations of a worker or an employee under federal, state or local laws.

Compliance: This section requires DHS to establish a procedure for filing a complaint regarding potential violations related to hiring or continuing to employ unauthorized workers, investigating such complaint, as well as investigating any other violation related to hiring or continuing to employ unauthorized workers that DHS determines appropriate.

This section gives subpoena power to DHS. If there is a failure to comply with a subpoena, the Secretary can request that the Attorney General issue an order requiring compliance. Failure to obey such order may be punished as contempt of court. This section also gives DOL the authority to investigate and ensure compliance with this bill through the Fair Labor Standards Act.

DHS, when levying fines or other penalties on an employer for non-compliance with EEVS, must notify the employer of the basis for determining that a violation has taken place. The employer must be notified of the opportunity to respond and may ask that any penalties be reduced or eliminated. The employer has 45 days after receiving notice to file a petition for remission/mitigation of such penalty or petition for termination of the proceedings. If DHS determines that the fine was incurred wrongly, or finds mitigating circumstances, DHS may lessen fine or penalty. Mitigating circumstances may include good-faith compliance and EEVS participation, or agreement to use EEVS if the employer is not otherwise required. Relief is not available to an employer who has engaged in pattern of violations. DHS must issue a written determination.

Civil penalties: This section indicates the employer violations related to hiring or continuing to employ unauthorized workers must pay the following civil penalties:

- between $500 and $4,000 for each unauthorized worker,
- if the employer has been fined once in preceding 12 months, between $4,000 and $10,000 for each unauthorized worker, and
- if employer has been fined more than once in preceding 12 months, between $6,000 and $20,000 for each unauthorized worker.

This section also indicates that an employer violating record keeping or verification practices must pay the following civil penalties:

- between $200 and $2,000 for each violation,
- if the employer has been fined once in preceding 12 months, between $400 and $4,000 for each violation, and
- if the employer has been fined more than once in preceding 12 months, $6,000 for each violation.

Notwithstanding the civil penalties in this section, the Secretary may impose injunctive orders.

In the case of a purely paperwork violation, without the intent to hire unauthorized an worker, the employer has 30 days after being given notice to correct the situation. The Secretary has the

authority to reduce penalties weighing factors such as hiring volume, compliance history good-faith, and voluntary disclosures.

Judicial review: This section indicates that the employer may seek judicial review within 45 days of an adverse final decision. The Federal Judicial Center must submit to Congress within 180 days enactment of this bill, a report on the judicial review process.

Enforcement: If an employer fails to comply with final determination, the Attorney General may file a suit to enforce compliance, between 46 and 90 days after final determination is issued. The burden remains on the employer to show that the final determination was not supported by preponderance of the evidence. The employer is entitled to reasonable costs and attorneys' fees up to $50,000, if the employer prevails on merits of the case. Under this provision, Consumer Price Index adjustments apply. DHS must pay from operating costs.

Criminal penalties and injunctions for pattern or practice violations: An employer engaged in a pattern of knowing violations in recruiting, hiring or continuing to employ unauthorized workers is subject to fines not to exceed $20,000 for each worker, imprisonment of up to 3 years, or both. Furthermore, the Attorney General may bring a civil action suit against such employer.

Prohibition on indemnity bonds: This section makes it unlawful for an employer to require potential a worker to post a bond or security or provide any financial guaranty or indemnity against potential liability arising under this section. Violators will be subject to a $10,000 civil penalty for each violation and to an order requiring the employer to return any money received.

Prohibition on awards of government contracts, grants, and agreements: An employer not holding a federal contract that is determined to be a repeat violator of this section, must be debarred from the receipt of a federal contract, grant, or agreement for 5 years however a waiver from GSA, DHS and the Attorney General exists.

An employer holding a federal contract who is determined to be a repeat violator or is convicted of a crime under this section, will be debarred from receiving a new federal contract, grant, or agreement for 5 years. DHS and GSA must advise the agency holding the contract of the intent to debar, waiver exists from GSA and DHS after considering agency's views as long as they are not predicated on liability for civil penalty.

Indictments for violations of this section must be considered a cause for suspension per the Federal Acquisition Regulation. A repeat violator means an employer who has knowingly or with reckless disregard, hired or continuingly employed an unauthorized worker more than 1 time and such violations were the result of more than 1 investigation.

Miscellaneous provisions: On any document endorsing authorization of a worker (except LPRs), DHS must conspicuously state any limitations with respect to the period or type of employment or employer for the worker. Also under this section state or local laws are preempted from:

- imposing civil or criminal sanctions on an employer who employs or does business with authorized workers,

- using the EEVS for any other purpose than the one mandated in federal law, including uses with respect to background checks or verifying the status of renters, benefit-recipients, and those seeking to enroll in school or obtain a business license, and
- requiring employers to use EEVS, unless otherwise mandated by Federal law.

Definitions: this section defines employer and independent contractor.

Subsection 301(b): This section creates a new social security card with antifraud measures. This section amends the Social Security Act by requiring that new social security cards be made from durable material, and include encrypted, machine-readable strip unique to card holder. This card is to enable an employer to access the EEVS.

Subsection 301(c): This section repeals the basic pilot program and the requirements to report earnings of unauthorized workers and fraudulent use of social security numbers.

Subsection 301(d): This section amends the definition of unauthorized alien in four sections of the INA, as well as amends the document requirements under Section 274B of the INA.

Subsection 301(e): This section directs the Secretary to establish the Office of Electronic Verification within the Office of Screening Coordination of the Department and delineates responsibilities of the head of that new office, who shall work with the Commissioner.

Subsection 301(f): This section directs the Comptroller General to submit to the Secretary and to Congress a report on the impact of EEVS on employers and employees in the United States. A report must be submitted within 2 years after the date of this Act's enactment and annually thereafter. This subsection lists the information and assessments each report should include.

Subsection 301(g): This section indicates that the effective date for amendments in this bill to be 180 days after enactment.

Sec. 302. Clarification of ineligibility for misrepresentation.
This section amends section 212(a)(6)(C)(ii)(I) of the INA (relating to any alien falsely representing himself/herself to be a U.S. Citizen) by striking "citizen" and inserting "national."

Sec. 303. Antidiscrimination protections.
This section amends section 274B(a)(1) of the INA (relating to prohibition of employment discrimination based on national origin or citizenship status), to prohibit such discrimination through verifying an individual's eligibility for employment through EEVS. It further amends the classes of aliens who are protected from employment discrimination under section 274B(a) of the INA. That same section of the INA is amended by adding antidiscrimination requirements with respect to electronic employment verification. An employer shall be forbidden from: terminating employment due to a tentative nonconfirmation; using EEVS for screening prior to offering employment; reverifying the employment status of current employees beyond the time period set out in the INA; and using the EEVS selectively. This section increases civil fines for unfair immigration-related employment practices. It also increases funding for disseminating information to employers, employees and the general public respecting the rights and remedies prescribed under this section.

Sec. 304. Additional Protections.
This section amends section 274B of the INA to include as an unfair immigration-related employment practice the discrimination against any individual with respect to hiring or recruitment, based on national origin or citizenship status, or with respect to compensation, terms, or conditions of employment.

Sec. 305. Additional worksite enforcement and fraud detection agents.
This section directs the Secretary to increase by at least 2,200 the number of ICE personnel during the 5-year period beginning on the date of the enactment of this bill. The Secretary will also be responsible for ensuring that at least 25% of all of the hours worked by ICE are used for enforcing compliance with sections 274A and 274C of the INA. A provision authorizing appropriations to carry out this section is included.

Sec. 306. Amendments to the Social Security Act and the Internal Revenue Code.
This section amends the Social Security Act by adding a provision that directs the Commissioner, in accordance with this bill, to establish a reliable and secure method to confirm through EEVS whether: information provided to the system is consistent with information maintained by the Commissioner; the name and social security number match; the name and number belonged to an individual who is deceased; or the name and number is blocked. This method should ensure that confirmations or nonconfirmations maintained by the Commissioner are not disclosed or released to employers through EEVS. The Commissioner shall establish other procedures to prevent individuals from fraudulently misusing EEVS by removing blocks on social security numbers. In assigning social security numbers under section 218A of the INA, the Commissioner shall follow the enumeration procedure administered by the Commissioner, the Secretary of State, and the Secretary. These amendments shall take effect 180 days after the enactment of this bill.

This section also amends the Internal Revenue Code ("IRC") by adding provisions requiring the Social Security Administration ("SSA") to disclose certain taxpayer information to DHS. The SSA must provide taxpayer identity information (regarding No-Match notices) of each person who has filed pursuant to the IRC during 2006-2008: (1) that has more than 100 names of employees who did not match the Commissioner's records or more than 10 names of employees with the same taxpayer identity number; (2) which the Commissioner has reason to believe, after reviewing information provided by the Secretary, contains evidence of identity fraud due to multiple use of the same taxpayer identifying number; and (3) which the Commissioner has reason to believe, after reviewing DHS's information, contains evidence that the person failed to register and participate in EEVS. The SSA also must disclose taxpayer identity information of all employees of non-participating employers, certain designated employers, and people participating in EEVS and all employees they hire during a specified timeframe. The Secretary shall disclose the aforementioned taxpayer information only for the purposes listed in this section. The section ends by directing the Commissioner to prescribe a reasonable fee schedule to administer this paragraph. DHS shall pay the fees. This paragraph applies only to requests made within three years of the paragraph's enactment.

This section further amends the IRC by adding confidentiality safeguards that prohibit DHS from disclosing return information to any contractor unless it has satisfied compliance with the Secretary. This section authorizes the necessary appropriations, and states that the Commissioner is authorized

to carry out the functions required by this section only to the extent that the Secretary provides the funds in advance. It prohibits funds from two named trust funds from being used.

Title IV – New Worker Program

Sec. 401. Nonimmigrant Worker.

This section creates the H-2C nonimmigrant worker program for workers who are coming to the U.S. to perform temporary labor or services—including certain specialty occupations; nurses; agricultural workers; and seasonal workers—if unemployed U.S. workers who are able, willing and qualified to perform such labor or services cannot be found. Spouses and/or minor children of H-2C workers can accompany or follow to join.

Sec. 402. Admission of Nonimmigrant Workers.

Under the H-2C worker program, eligible employers can hire qualified foreign workers in cases where no U.S. workers are able, willing, and qualified to perform a job. H-2C applicants must demonstrate their job qualifications, provide evidence of a job offer from a U.S. employer, pay a $500 fee for the processing of the visa and adjudication of the application, undergo a medical examination, and undergo criminal and terrorism-related background checks. The H-2C worker is required to authorize the release of any information contained in the application and any evidence for law enforcement purposes. The H-2C visa is available to family members as well.

Aliens applying for H-2C status are exempted from grounds of inadmissibility for conduct prior to the enactment of this bill for failure to meet labor certification requirements; illegal entry and certain other immigration violations, present without admission or parole; failure to attend removal proceedings; misrepresentation while seeking immigration benefits; stowaways; document fraud; student visa abuse; failure to possess valid immigration documents at time of application for admission; prior removal; acting as guardian required to assist inadmissible and helpless individuals. Inadmissibility derived from certain criminal offenses, trafficking, prostitution, money laundering, security-related grounds, smuggling convictions, and grounds relating to polygamy and international child abduction may not be waived. The Secretary is authorized, however, to waive other grounds of inadmissibility for humanitarian purposes, to ensure family unity, or if it is otherwise in the public interest.

An H-2C visa is valid for three years and may be extended for one additional period of three years. International commuters (persons who reside outside of the U.S. and commute into the U.S. to work) are not subject to these time limits. An H-2C visa terminates if a worker is unemployed for 60 or more consecutive days, unless such unemployment was caused by: (1) a period of physical or mental disability of the worker or his immediate family; (2) an authorized period of leave; or (3) a major disaster or emergency. H-2C visa holders are free to leave and reenter the United States as long as their visas are valid. A worker must leave the U.S. upon the termination of his H-2C visa.

Workers may be ineligible for an H-2C visa or extension of an H-2C visa if they have failed to leave the U.S. upon termination of a prior H-2C visa, have violated any other material term or condition of previously granted H-2C status, are inadmissible, or have been in H-2C status for the preceding six consecutive years. A previous H-2C visa holder who has left the US for at least a year after the expiration of such status may reapply for another H-2C visa.

H-2C workers will be issued a machine-readable, tamper-resistant document that will allow for biometric authentication. This document will serve as a valid travel, identity and work authorization document.

Workers who unlawfully enter, attempt to enter, or cross the border may be barred for 10 years from obtaining cancellation of removal, adjustment of status, voluntary departure, and other non-immigrant status. H-2C workers who fails to depart by the date the authorized H-2C admission concludes shall have their visas voided and will be ineligible for readmission to the U.S. except in certain circumstances described in INA section 222(g).

H-2C workers can change employers as long as the new employer has complied with applicable H-2C recruitment requirements and the worker did not work without authorization after lawful admission to the U.S.

Section 403. Employer Obligations.

H-2C employers must file a petition, pay a fee, and make efforts to recruit U.S. workers for the position for which the H-2C nonimmigrant worker is sought. The employer must attempt to employ U.S. workers by first offering the job to any eligible U.S. worker who applies and is qualified and available.

The employer must attest to providing certain worker protections. In particular, the employer must state that hiring an H-2C worker will not adversely affect wages and working conditions of U.S. workers nor displace one of its own U.S. workers. Other worker protections include: paying the temporary worker not less than the greater of the actual wage paid by the employer to other similarly situated workers or the prevailing wage for the type of job; providing all workers (H-2C or U.S.) with the same working conditions and benefits; not employing H-2C workers at a location where there is a labor dispute; and providing H-2C workers with benefits comparable to those provided under the state workers' compensation law for comparable employment.

The employer must also attest that there are not sufficient U.S. workers who are able, willing, qualified, and available to do the job despite good faith efforts to recruit them (U.S. worker recruitment period, advertising actual wage to be paid, begins no later than 90 days before petition is filed and ends no earlier than 14 days before petition is filed); that s/he is eligible to use the H-2C program; and that the employer is seeking an H-2C worker for a bona fide job. The employer must notify its employees of the filing of the petition to hire an H-2C worker.

A copy of the petition with the attestation and supporting documentation must be provided to every H-2C worker employed under the petition, made available for public examination at the employer's place of business or worksite and to the Secretary of Labor during any audit, and remain available for examination for 5 years. An H-2C employer must notify the Secretary of Labor and the Secretary of Homeland Security within 3 business days of an H-2C worker's separation from employment or transfer to another H-2C employer.

All H-2C petitions will be subject to audits by the Secretary of Labor. Any employer who is deemed by the Secretary of Labor to have misrepresented a material fact, made a fraudulent statement, failed to comply with the terms of the attestations, or failed to cooperate in the audit process will not have any petitions approved and will be ineligible to participate in any labor certification programs for up to 3 years.

The Secretary of Labor may not approve an employer's petition for an H-2C worker if the work to be performed is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management & Budget) where the unemployment rate for workers who have not completed education beyond a high school diploma averaged more than 9 percent.

H-2C nonimmigrants cannot be treated as independent contractors and cannot be denied any right or remedy available under federal, state or local labor and employment laws. H-2C employers must also comply with all applicable federal, state, and local tax and revenue laws. This section makes it unlawful for an employer or labor contractor of an H-2C worker to intimidate, threaten, restrain, coerce, retaliate, discharge or otherwise discriminate against an employee or former employee who discloses information that the employee reasonably believes demonstrates a violation of the H-2C program or cooperates in an investigation concerning compliance with the H-2C program.

Foreign labor contractors and employers who recruit foreign workers must disclose to each worker at the time of recruitment in writing and in English or, as necessary and reasonable, in the language of the recruited worker the place of employment, the compensation, a description of employment activities, the period of employment, any employee benefits and any related costs, any travel or transportation expenses, the existence of any labor organizing effort, strike, lockout or other labor dispute at the place of employment, the existence of any commission arrangement, the extent to which workers will be compensated for injuries or death through workers' compensation, private insurance, or other sources, any education or training to be provided, and a statement describing all of the worker protections in the Act. Foreign labor contractors are prohibited from charging H-2C workers fees for their activities, but may charge them for reasonable transportation costs.

Foreign labor contractors must obtain certificates of registration from the Secretary of Labor. The Secretary of Labor shall promulgate regulations to establish an electronic system to complete the application process and issue a certificate of approval no later than 14 days after application is filed. Such certificates are valid for two years. The Secretary of Labor may refuse to issue or renew, or may suspend or revoke, a certificate of registration if the applicant or holder has made a material misrepresentation in the application, is not the real party in interest, or has failed to comply with this Act. Foreign labor contractors and employers who do not comply with this subsection are subject to remedial action. A foreign labor contractor may be required to post a bond in an amount sufficient to ensure the protection of individuals recruited. An H-2C worker may not be required to waive any rights or protections granted in this Act, nor may an employer threaten such a worker with withdrawal of the H-2C petition should the worker exercise any of these rights.

The Secretary of Labor is required to create regulations for the receipt, investigation, and disposition of complaints for violations of the H-2C program by any aggrieved worker. The provision sets time limits for filing the complaint (no later than 12 months after violation), reasonable cause findings (no later than 30 days after complaint is filed), hearings (no later than 60 days after finding of reasonable cause), and findings no later than 60 days after hearing). A prevailing complainant is entitled to an award of reasonable attorneys' fees and costs. The Secretary of Labor may also bring an action in any court of competent jurisdiction to seek remedial action, including injunctive relief, to recover damages, or to ensure compliance with the terms and conditions of the bill's whistleblower protections. These rights and remedies are in addition to any other contractual or statutory rights and remedies that workers have.

The Secretary of Labor can impose administrative remedies and penalties upon a finding of a violation of the provisions of this Act governing employers and foreign labor contractors. Such remedies include back wages, benefits and civil monetary penalties. Criminal penalties can be imposed for intentional violations of the whistleblower protections that cause extreme physical or financial harm.

Section 404. Alien Employment Management System.

The Secretary in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, must develop and implement the Alien Employment Management System to manage and track the employment of H-2C workers. The System will determine if the alien is employed, which employers have hired the alien, the number of H-2C workers the employer is authorized to hire and is currently employing, and the length of time for which the alien has been employed in the U.S. The System will also permit employers request multiple H-2C workers and submit applications for such workers electronically.

Section 405: Recruitment of United States Workers

This section details procedures for recruitment of United States workers, including requiring the Secretary of Labor to establish a web page on the DoL website that provides a single link to each state workforce agency's statewide electronic registry of jobs available throughout the United States to U.S. workers. Employers must post the employment opportunity at a prevailing wage level and must maintain records describing the reasons for not hiring any of the U.S. applicants for at least a year.

Section 406. Numerical Limitations.

This section sets numerical limitations on the issuance of H-2C visas. For the first fiscal year of implementation, 400,000 H-2C visas will be made available for use within this program. This number will adjust in accordance with the market, with evaluations and adjustments done on a quarterly basis throughout the fiscal year. For example, If the numerical limit is reached within the first quarter, an additional 20% will be made available in the final three quarters of the year. In the subsequent fiscal year, the numerical limitation will increase by 20% of the original allotted amount. If the limit is reached in the second or third quarters, these increases will be 15% and 10% respectively. Reaching the cap in the fourth quarter leads to a 10% increase in the subsequent fiscal year. If the numerical limit is not reached in a given year, and this effect is not in the first year of the program or due to processing backlogs, the limitation will decrease by 10% for the following fiscal year. In any fiscal year, no more than 600,000 visas may be issued.

Section 407. Adjustment to Lawful Permanent Resident Status.

This section provides qualified H-2C workers and their families with two avenues to apply for permanent residency: 1) Employer Sponsored: at any time the employer may file an immigrant visa petition on behalf of an H-2C worker; 2) Self-Petition: the worker may self petition if she has been in H-2C visa status for at least five years. In both cases, the applicant must show s/he is admissible

The H-2C self-petitioner must: meet employment and presence requirements; meet English and civics learning requirements; and pay a $500 application fee. The H-2C self-petitioner will first receive lawful permanent residence status on a conditional basis and during the 90 day period before his two year anniversary of receiving such status must petition DHS to have these conditions removed. Each petition for removal of conditional status must include: evidence of continued employment; evidence of compliance with payment of income taxes, basic citizenship skills,

completion of security and law enforcement background checks, among other things. An H-2C worker may remain in the United States after his visa has expired if he is the beneficiary of a pending labor certification petition, immigrant visa petition, or application for adjustment of status.

Section 408. Requirements for Participating Countries.
This section makes clear that the Department of State must negotiate bilateral agreements with countries home countries of H-2C workers. Pursuant to such agreements, home countries are required to accept the return of nationals who are ordered removed from the United States within 3 days of removal; cooperate with the U.S. government regarding gang membership, violence, human trafficking, human smuggling, and illegal immigration; provide passport information and criminal records regarding individuals seeking admission to or who are present in the United States; educate their nationals regarding worker protections under U.S. H-2C worker programs, and evaluate means to provide housing incentives for returning workers.

Section 409. Compliance Investigators.
This section states that subject to the availability of appropriations, the Secretary of Labor shall annually increase, by at least 2,000, the number of compliance investigators dedicated to enforcing this title.

Section 410. Standing Commission on Immigration and Labor Markets.
This section establishes the Standing Commission on Immigration and Labor Markets as an independent federal agency within the executive branch. The Commission is tasked with examining and analyzing various aspects of the H-2C program, including the impact of the admission of H-2C workers on immigration, the U.S. economy, the unemployment rate, wages, the workforce, and businesses, and make appropriate recommendations to the President and Congress regarding, among other things, necessary adjustments to the numerical limitations of the H-2C program to meet U.S. labor needs.

Section 411. Admission of Nonimmigrants.
This section amends Section 214(b) (relating to presumption of status) and Section 214(h) (no intention to abandon foreign residence) of the INA to include H-2C beneficiaries in the list of dual intent workers.

Section 412. Agency Representation and Coordination.
This section establishes that compliance investigations are to be coordinated with the appropriate regional office of the National Labor Relations Board, the Department of Labor, and all relevant State and local agencies charged with enforcing workplace standards.

Section 413. Sense of Congress Regarding Personal Protective Equipment.
This section recommends that the Secretary of Labor require employers to provide personal protective equipment to employees, at no cost, no later than 90 days after the date of enactment of this bill.

Section 414. Rulemaking; Effective Date.
The Secretary of Labor is required to promulgate implementing regulations within six months of the date of enactment of this bill. The H-2C program will take effect one year after the date of enactment of the bill.

Section 415. Authorization of Appropriations.
This section authorizes appropriation of the sums necessary to carry out Title IV of the Act.

TITLE V -- VISA REFORMS

SUBTITLE A—BACKLOG REDUCTION

Sec. 501. Elimination of existing backlogs.
This section exempts immediate relatives (spouses, children, and parents of U.S. citizens) from the annual level of 480,000 for family-sponsored immigrant visas. Unused family-sponsored immigrant visas from previous fiscal years, dating back to FY2001, are recaptured and made available for family-sponsored immigrant visas for future fiscal years.

The level of employment-based immigrant visas is increased from 140,000 to 290,000 per fiscal year. Unused employment-based immigrant visas from previous fiscal years, dating back to FY2001, are recaptured and made available for employment-based immigrant visas for future fiscal years. Visas issued to spouses and children on or after October 1, 2004 under the employment-based category will no longer be counted against the cap. However, no more than 800,000 visas may be issued to employment-based spouses and children during any fiscal year.

Sec. 502. Increasing country limits and exempting family-sponsored and employment-based immigrants.
Section 502 increases the per country limits for family-sponsored and employment-based immigrants from 7% to 10% (in the case of countries) and from 2% to 5% (in the case of dependent areas).

Sec. 503. Allocation of immigrant visas.
Section 503 redistributes the 480,000 family-sponsored immigrant numbers among existing family preference categories, as follows: 10% is allocated to the first preference—unmarried sons and daughters of U.S. citizens. 50% is allocated to the second preference—spouses and unmarried sons and daughters of lawful permanent residents—of which 77% of such visas will be allocated to spouses and children of lawful permanent residents. 10% is allocated to the third preference—married sons and daughters of U.S. citizens. 30% is allocated to the fourth preference—brothers and sisters of U.S. citizens.

The 290,000 ceiling for employment-based immigrant visas is redistributed among the employment-based immigrant visa categories and certain modifications are made to current categories. 15% is allocated to the first preference, down from 28.6%—aliens with extraordinary ability, outstanding professors and researchers, and multinational executives and managers. 15% is allocated to the second preference, down from 28.6%—aliens holding advanced degrees or having exceptional ability. 35% is allocated to the third preference, raised from 28.6%—skilled workers and professionals. 5% is allocated to a re-designated fourth preference, down from 7.1%—investors. 30% is allocated to a re-designated fifth preference—other workers performing unskilled labor that is not of a temporary or seasonal nature (previously included in third preference).
In addition, each year, all unused immigrant visas from the first four preference categories will be made available for fifth preference workers. For fiscal years 2007 through 2017, 30 percent of fifth preference visas will be provided to immigrants present in the U.S. before January 7, 2004.

The current fourth preference category is stricken, so that special immigrants are no longer counted against the employment-based ceiling. Similarly, Section 203 strikes INA § 203(b)(6), which provides special numerical rules for K special immigrants. The number of special immigrants who are Iraqi or Afghan translators is increased for fiscal years 2007, 2008, and 2009 from 50 to 300.

Sec. 504. Nursing shortage.

This section exempts certain immigrants and their accompanying spouses and dependants from direct numerical limitations. The limits shall not apply to qualified immigrants seeking admission to perform labor in shortage occupations, as designated by the Secretary of Labor, as long as their employment will not adversely affect the terms and conditions of United States workers. This shall apply from the date of enactment of this bill to September 30, 2017. This category is also exempted from per country level limitations for family-sponsored and employment-based immigrants. The Secretary of HHS is required to submit to Congress a report on increasing the domestic supply of nurses and physical therapists and take other specified actions to address shortages in these professions.

Sec. 505. Expedited adjudication of employer petitions for aliens of extraordinary artistic ability.

This section requires the Secretary to adjudicate petitions of aliens with extraordinary abilities in the arts and those accompanying them (O visas), or athletes and entertainers (P visas), within 30 days after they submit appropriate evidence. Failure to complete adjudication in that timeframe permits the petitioner to use a premium processing service without a fee, as long as the petitioner is a nonprofit organization or is petitioning on behalf of a qualified nonprofit organization.

Sec. 506. Powerline workers and boilermakers.

This section permits nonimmigrant admission of Canadian citizens to perform powerline repair and maintenance or boilermaker repair and maintenance.

Sec. 507. H-1B visas.

This section exempts, from the numerical limitation on employees of nonprofit organizations, individuals who have been awarded a medical specialty certification based on post-doctoral training and experience in the United States, and individuals who have earned a master's or higher degree in science, technology, engineering, or mathematics (STEM) from an institution of higher education outside of the United States. The H-1B cap is set at 115,000 for FY2007. If the cap is reached in FY2007 and/or subsequent fiscal years, this section permits limitation to increase to 120% of prior fiscal year limitation, not to exceed 180,000.

Sec. 508. United States educated immigrants.

Section 508(a) exempts the following immigrant visa applicants from worldwide numerical limitations: aliens who have earned a master's or higher degree from an accredited university in the United States; aliens who have been awarded a medical specialty certificate based on post-doctoral training and experience in the United States; aliens who will perform labor in shortage occupations as designated by the Secretary of Labor; aliens who have earned a master's degree or higher in science, technology, engineering, or math and have been working in a related field in the US as a nonimmigrant during the 3 year period preceding application; priority workers and workers who have received a national interest waiver; and spouses and children of immigrants in these categories.

Section 508(b) adds immigrants with advanced degrees, medical specialty or post-doctoral training to labor certification categories listed in 212(a)(5)(A).

Sec. 508(c) requires healthcare workers to attest that they have no outstanding financial or other obligations to their home government incurred as a result of their education or training. The Secretary may waive this requirement if the alien can prove that the obligation was incurred through coercion, the obligation has been deemed satisfied or where other extraordinary circumstances exist or undue hardship would result.

Sec. 509. Student visa reform.

This section amends section 101(a)(15)(F) with respect to nonimmigrant classification of student visas, carving out a visa category for students (along with their accompanying spouses and minor children) pursuing a bachelors or graduate degree in science, technology, engineering or math (STEM), or are engaged in optional practical training in one of these STEM fields for a period not to exceed 24 months. It authorizes off-campus employment in cases where the eligible student is enrolled full-time and the employer submits an attestation to the Secretary of Labor that the employer has spent at least 21 days recruiting U.S. workers to fill the position, will pay the alien at the actual wage level for the occupation at the place of employment, or the prevailing wage for the occupation in general, and will not employ the alien for more than 20 hours during the academic term and more than 40 hours during vacation or other academic breaks.

Sec. 510. L-1 visa holders subject to visa backlog.

This section extends the period of authorized stay for an L-visa nonimmigrant if a petition to accord immigrant status or a labor certification has been filed and at least 365 days have elapsed since the date of filing. The stay shall extend until a final decision is made on the alien's lawful permanent residence.

Sec. 511. Retaining workers subject to green card backlog.

This section directs the Secretary to promulgate regulations that permit employment-based (EB) immigrants and their dependents to file an application for adjustment of status, regardless of whether a visa is immediately available, if the alien has an approved or pending petition for status as: (EB 1st preference) an alien of extraordinary ability; outstanding researchers or professors; certain multinational executives or managers; (EB 2nd preference) holder of an advanced degree or with exceptional ability in the sciences, arts or business; and (EB 3rd preference) skilled workers, professionals and other workers. It gives the Secretary the discretion to authorize concurrent filing of the petition and adjustment application. An applicant under this section must pay a supplemental $500 fee, to be used by DHS for backlog reduction and clearing security background check delays. The Secretary shall provide employment and travel authorization in 3-year increments while the application is pending.

Sec. 512. Streamlining the adjudication process for established employers.

This section requires the Secretary to establish within 180 days of the enactment of this bill Act a pre-certification procedure for employers who file multiple petitions under sections 214(c) (nonimmigrant petitions) or 203(b) (EB green card petitions) of the INA.

Sec. 513. Providing premium processing of employment-based visa petitions.

This section authorizes the Secretary to establish and collect a fee for premium processing of (1) employment-based immigrant petitions and (2) administrative appeals filed on the basis of an employment-based immigrant petition.

Sec. 514. Eliminating procedural delays in labor certification process.

This section requires the Secretary of Labor to provide prevailing wage determinations to employers seeking a labor certification for aliens not later than 20 days after the request is received. Failure to respond within the time allotted will set the valid prevailing wage rate at the wage rate proposed by the employer. The Secretary of Labor shall accept alternative wage surveys submitted by the employer unless the Secretary determines that the Occupational Employment Statistics Survey is more accurate. This section also requires the Secretary to maintain a website with links to the official workforce agency of each state and to make a procedure available for employers to make technical corrections to applications. The Secretary of Labor is required to adjudicate motions to reconsider, and administrative appeals of, denials of permanent labor certification within 60 days of the date of filing and shall process all applications filed before March 28, 2005, within 180 days of the date of enactment of this bill.

Sec. 515. Visa revalidation.

This section authorizes the Secretary of State to permit (E), (H), (I), (L), (O), and (P) visa holders to apply for visa renewal within the United States provided that the visa is valid or did not expire more than 12 months before the date of such application; the alien is seeking the same nonimmigrant status; and the alien has complied with all immigration laws.

Sec. 516. Relief for minor children and widows.

This section permits a spouse, parent or child to continue to be classified as an immediate relative following the death of a United States citizen. To qualify, a spouse (1) must have been married for at least two years, or if less than two years, be able to prove that the marriage was bona fide and (2) have filed a petition is filed within two years of the date of death. This section also permits an alien relative whose spouse or parent died prior to the enactment of the bill to submit a petition within 2 years from the date of enactment. At the Attorney General's discretion, aliens who were excluded, deported, removed or departed voluntarily before the enactment of this Act based solely on not having been classified as immediate relatives are eligible for parole into the United States.

This section also provides for review of applications for adjustment of status if submitted prior to the death of the qualifying relative provided that the alien is an immediate relative, is family-sponsored, and is a derivative beneficiary of an employment-based immigrant or a diversity immigrant. If the qualifying relative dies before the date of enactment of this Act, the alien may renew the application without a fee within 2 years after the date of enactment. This section also allows an alien whose qualifying relative dies before the immigrant visa has been processed to proceed as if the death had not occurred.

Sec. 517. Relief for widows and orphans.

This section creates a special immigrant classification for women and children deemed to have a credible fear of harm related to sex or age, and lacking adequate protection from that harm. Minors benefiting from this provision may not petition for parents, but may petition for the minor's siblings

or the minor's children under the age of 18. A spouse benefiting under this provision may not petition for a spouse previously declared to be missing, deceased or the source of the harm.

Sec. 518. Sons and daughters of Filipino World War II veterans.
This section exempts the sons and daughters of Filipino WWII veterans from the annual numerical limitations.

Sec. 519. Determinations under the Haitian Refugee Immigration Fairness Act of 1998.
This section amends HRIFA of 1988 by basing classification as a child on the age and status of the individual as of October 21, 1998. It allows applicants eligible for benefits under HRIFA to submit applications no later than 2 years after date of enactment of this bill or 1 year after promulgation of regulations implementing this section, and makes other technical corrections to HRIFA.

Sec. 520. S visas.
This section expands the S visa classification (for individuals in possession of critical knowledge or information regarding criminal or terrorist organizations) to include a provision on information relating to a criminal enterprise undertaken by a foreign government or its representatives and information relating to activities involving weapons of mass destruction. Eligibility for this visa type requires a willingness to provide such information. This section also increases the annual numerical limitation on S visas to a maximum of 1000. If fewer than 250 visas are issued under this provision, the Secretary shall issue a report to address issues such as the basis for the reduction, the efforts made to admit such nonimmigrants, and any extenuating circumstances contributing to the reduction in admissions.

Sec. 521. L visa limitations.
This section requires that approval of an L visa petition, based on the opening of or employment in a new facility. Approval must be for no more than 12 months and only if the employer operating the new facility has a business plan, sufficient physical premises to carry out proposed activities, and the financial ability to begin business immediately upon approval of the petition. An extension may be granted only if certain conditions are met. A spouse under this section may not receive employment authorization during the initial 12 month visa period. This section requires DHS and DOS to work cooperatively to verify the existence of the company or facility in the U.S. and abroad.

Sec. 522. Establishment of new fashion model nonimmigrant classification.
This section adds fashion models of distinguished merit and ability to those aliens eligible for the O visa. No more than 1000 visas may be issued annually under this category. This section also deletes fashion models from the H-1B classification.

Sec. 523. EB-5 Regional center program.
This section authorizes concurrent filing of EB-5 classification petitions and adjustment of status applications; permits the Secretary to charge an additional $2500 fee to apply for designation as a regional center; permits a $2000 premium processing fee for applications filed under this provision; and creates an immigrant entrepreneur regional center account in the general fund of the Treasury

Sec. 524. Return of Talent Program.
This section permits eligible aliens under new INA section 101(a)(27)(N) to temporarily return to the alien's country of citizenship to materially contribute to that country if it is engaged in post-

conflict or natural disaster reconstruction activities, for a period less than 2 years barring any exceptions provided for under this section. Spouses, parents, siblings and minor children of such an eligible alien are able to travel to and from the United States with the alien. During such travel, the alien or the alien's eligible accompanying relatives shall be considered physically present and residing in the United States for purposes of naturalization, to meet continuous residency requirements. Aliens eligible are immigrants who have been lawfully admitted into the United States for permanent residence and who demonstrate an ability and willingness to contribute to reconstructing the alien's country of citizenship. The alien must be a citizen of a country (1) in which Armed Forces of the United States have been engaged within the past ten years; (2) where the United Nations Security Council authorized peacekeeping operations during the past ten years; or (3) which received, during the preceding 2 years, funding from USAID in response to a declared disaster. The Secretary, along with the Secretary of State, shall submit a report to Congress within 2 years of this Act's enactment that describes the countries that participate in the Return of Talent Program and how they benefited from it. Funds are to be appropriated to USCIS to carry out this section.

SUBTITLE B – PRESERVATION OF IMMIGRATION BENEFITS FOR VICTIMS OF A MAJOR DISASTER OR EMERGENCY

Sec. 531. Short title.
The short title of this subtitle is "Major Disaster and Emergency Victims Immigration Benefits Preservation Act."

Sec. 532. Definitions.
This section defines the terms "direct result of a major disaster or emergency," "emergency," "last business day," and "major disaster," as used in this subtitle.

Sec. 533. Special immigrant status.
This section allows the Secretary, in the event of major disaster or emergency, to confer the status of special immigrant on aliens whose applications to be classified under family-sponsored, employment-based, non-immigrant visas under 101(a)(15)(K) of the INA, or for labor certifications revoked or terminated based on solely death, disability, or loss of employment of the petitioner, applicant or alien beneficiary as a direct result of the event. Spouses and children who accompany or are following to join an eligible alien also qualify under this section, as do grandparents or legal guardians of children whose parents died as a direct result of a major disaster or emergency.

Sec. 534. Extension of filing or reentry deadlines.
This section permits aliens who were disabled as the result of a major disaster or emergency, and their spouses and children, to lawfully remain and be provided employment authorization in the United States in the same nonimmigrant status until 1 year after the alien's death or onset of disability. The Secretary is authorized to excuse delays in filing applications and delays in departure from the United States as long as compliance occurs within a reasonable time period. Diversity immigrant visas may be issued and adjustment of status may be granted based on availability. This section further states that aliens, who were unable to timely file an application to register for temporary protected status due to a major disaster or emergency, may still file within 90

days of the original due date. Voluntary departures will be extended 60 days to aliens unable to depart due to a major disaster or emergency. Lastly, this section permits nonimmigrant visa holders who lost employment as a result of a major disaster or emergency to accept new employment upon the filing of a new petition by an employer not later than 1 year after major disaster or emergency. Reasonable periods for purposes of Hurricanes Katrina and Rita are set throughout this section.

Sec. 535. Humanitarian relief for certain surviving spouses and children.
This section permits spouses and children of a US citizen to continue to be classified as immediate relatives in the event that the citizen died as a direct result of a major disaster or emergency, provided that a petition is filed no later than 2 years after the date of death. Spouses, children, and unmarried sons and daughters who were the beneficiaries of a petition for family-sponsored immigration are allowed to maintain their preference status and priority date following the death of an LPR in a major disaster or emergency. Spouses, children and unmarried sons and daughters may self-petition if present in the United States at the time, and may be eligible for deferred action and work authorization. In the event that an applicant for employment-based adjustment of status dies as a result of a major disaster or emergency, the surviving spouse and child may continue to have their applications for adjustment of status adjudicated. The applications of surviving spouses or children, who are following to join a deceased refugee or asylee, may continue to be adjudicated as if the death had not occurred, as long as the death was the result of a major disaster or emergency.

Sec. 536. Recipient of public benefits.
This section prohibits a finding of inadmissibility or deportability based solely on the receipt of public benefits provided as a result of a major disaster or emergency.

Sec. 537. Age-out protection.
The Secretary is authorized to continue to grant a benefit for an individual who would otherwise have "aged out" of eligibility if the age-out occurred as a direct result of a major disaster or emergency.

Sec. 538. Employment eligibility verification.
This section authorizes the Secretary to suspend or modify any requirements under section 274A(b) of the INA or subtitle A of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 if the Secretary determines it is necessary as a result of a major disaster or emergency. The Secretary shall notify Congress with respect to such actions.

Sec. 539. Naturalization.
This section authorizes the Secretary to administer the provisions of Title III of the INA with respect to applicants for naturalization, notwithstanding any provision of such title relating to the jurisdiction of an eligible court, or requiring residence to be maintained or any action to be taken in a specific district or State.

Sec. 540. Discretionary authority.
This section permits the Secretary or Attorney General to waive violations of the immigration laws committed by a lawful alien who failed to comply as a direct result of a major disaster or emergency.

Sec. 541. Evidentiary standards and regulations.

This section directs the Secretary to establish appropriate evidentiary standards for demonstrating that a major disaster or emergency directly resulted in death, disability or loss of employment due to physical damage of a business.

Sec. 542. Identification documents.
This section gives the Secretary the authority to instruct any Federal agency to issue temporary identification documents to individuals affected by a major disaster or emergency. These documents will be accepted for identification under any Federal law until 1 year after the event. U.S. nationals will not be required to accept or carry these documents. The documents will not constitute proof of citizenship or immigration status.

Sec. 543. Waiver of regulations.
This section directs the Secretary to carry out the provisions of this subtitle as expeditiously as possible, to the extent that the Secretary need not issue regulations prior to implementing, nor be restrained by any law relating to rule making, information collection, or publication in the Federal Register, including the APA.

Sec. 544. Notices of change of address.
An alien, who resided in a district in the United States declared by the President to be affected by a major disaster or emergency, may notify the Secretary in writing of an address change, if required to do so, within the time limits set by the Secretary.

Sec. 545. Foreign students and exchange program participants.
A lawful nonimmigrant, as described in subparagraph (F), (J), or (M) of section 101(a)(15) of the INA, will maintain the same status if the alien fails to satisfy a term of the condition of the status due to a major disaster or emergency.

Title VI – Legalization of Undocumented Individuals
SUBTITLE A – CONDITIONAL NONIMMIGRANTS

Sec. 601. Conditional Nonimmigrants.
This section authorizes the Secretary to classify an alien as a conditional nonimmigrant or conditional nonimmigrant dependent if the alien (1) submits an application for such classification and (2) meets the requirements of this section.

Presence in the U.S. This section provides that the alien must establish that he or she: (1) was present in the U.S. before June 1, 2006; (2) has been continuously present in the U.S. since that date; and (3) was not legally present in the U.S. on that date in any nonimmigrant status. For purposes of this subsection, an absence from the U.S. without authorization of more than 180 days between June 1, 2006 and the beginning of the application period shall constitute a break in continual presence.

Conditional Nonimmigrant Dependents. This section requires the Secretary to classify the spouse or child of a conditional nonimmigrant as a conditional nonimmigrant dependent, or provide the spouse or child with a conditional nonimmigrant dependent visa if: (1) the spouse or child meets the applicable eligibility requirements under this section; or (2) the alien was, before the date on which this Act was introduced to Congress, the spouse or child of an alien who was subsequently classified as a conditional nonimmigrant under this section. The spouse or child of a conditional nonimmigrant is also eligible for classification as a conditional nonimmigrant if the termination of the relationship with the principal alien spouse or parent was connected to domestic violence and the spouse or child has been battered or subjected to extreme cruelty by the principal alien spouse or parent.

Other Criteria. An alien may be classified as a conditional nonimmigrant or conditional immigrant dependent if the Secretary determines that the alien: (1) is admissible; (2) has not ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group or political opinion; (3) has not been convicted of a felony or three or more misdemeanors under Federal or state law; and (4) is not an alien who has been convicted by final judgment of a particularly serious crime and there are no reasonable grounds for believing that the alien has committed a particularly serious crime outside the U.S. before arriving in the US.

Exceptions to Grounds of Inadmissibility. Exempts aliens applying for conditional nonimmigrant status from grounds of inadmissibility related to labor certification, immigration admissions violations, documentation requirements, and unlawful presence. Authorizes the Secretary to waive other grounds of inadmissibility for humanitarian purposes, to ensure family unity, or if it is otherwise in the public interest – except criminal and security grounds. Exempts conditional nonimmigrant applicants from civil penalties related to voluntary departure violations and from reinstatement of removal for conduct that occurred prior to introduction of this bill.

Attestation of Employment. This section prohibits the Secretary from granting conditional nonimmigrant status unless the alien attests under penalty of perjury that the alien was: (1) employed full time, part time, or seasonally in the U.S. or was self-employed before June 1, 2006 and has been employed since that date; and (2) submits sufficient prima facie evidence – as determined by the Secretary - to establish employment or physical presence in the U.S. This section creates exemptions from the employment attestation requirement for individuals who by circumstance could not satisfy it such as elderly, disabled, pregnant, and student applicants.

Security and Law Enforcement Background Checks. This section requires all conditional nonimmigrant applicants to submit fingerprints for security and law enforcement background checks.

Period of Authorized Stay. This section establishes that the period of authorized stay for a conditional nonimmigrant or a conditional nonimmigrant dependent is 6 years from the date the status is conferred. The Secretary may not adjust or change the status of a conditional nonimmigrant or conditional nonimmigrant dependent for the duration of the 6-year period but may extend the status to accommodate the processing of an adjustment of status application.

Fees and Fines. This section requires the Secretary to impose a fee on the aliens that is sufficient to cover the administrative and other expenses incurred with the review of the applications. Aliens older than 21 years of age must also submit a fine of $500.

Treatment of Applicants. An alien who files an application under this section shall: (1) be granted employment authorization pending final adjudication of the application; (2) be granted permission to travel abroad; (3) not be detained for immigration purposes unless the alien commits a criminal offense; and (4) not be considered an unauthorized alien until employment authorization is denied.

Before Application Period. This section also provides that if an alien is apprehended between the date of the enactment of this Act and the date on which regulations are promulgated, and the alien can establish prima facie eligibility as a conditional nonimmigrant or a conditional nonimmigrant dependent, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section. Further, if an immigration judge determines that an alien who is in removal proceedings has made a prima facie case of eligibility for classification as a conditional nonimmigrant or a conditional nonimmigrant dependent, the judge shall administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

Relationship to Certain Orders. An alien who is present in the U.S. and has been ordered deported, excluded, removed, or ordered to depart voluntarily from the U.S. under any provision of the INA, may apply for classification as a conditional nonimmigrant or conditional nonimmigrant dependent and shall not be required to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal, or voluntary departure order.

Termination. Any benefit provided to an alien classified or seeking classification as a conditional nonimmigrant or conditional nonimmigrant dependent shall terminate if: (1) the Secretary determines that the alien is ineligible for such classification and all review procedures under this Act have been exhausted or waived; (2) the alien is found to be removable from the U.S.; (3) the alien has used documentation issued to them in their status as a conditional nonimmigrant or conditional nonimmigrant dependent for unlawful or fraudulent purposes; or (4) in the case of a spouse or child of an alien applying for classification as a conditional nonimmigrant, the benefits for the principal (sponsoring) alien are terminated.

Dissemination of Information. This section requires the Secretary, during the 12-month period immediately after the issuance of regulations implementing this section, to broadly disseminate information regarding the conditional nonimmigrant or conditional nonimmigrant dependent classifications and requirements to participate in the conditional nonimmigrant program.

Sec. 602. Adjustment of Status for Conditional Nonimmigrants.

Requirements. This section provides that, notwithstanding any other provision of law, the Secretary may adjust the status of a conditional nonimmigrant or a conditional nonimmigrant dependent to that of an alien lawfully admitted for permanent residence if the

alien satisfies the applicable requirements under this section. A conditional nonimmigrant applying for adjustment of status under this section must establish that, during the 6-year period immediately preceding the application for adjustment of status, him or her: (1) has been employed full-time, part-time, or seasonally in the U.S.; (2) has been self-employed in the U.S.; or (3) has met the education requirements[2].

Exceptions and Special Rules. This section exempts from the employment requirements any conditional nonimmigrant dependent who is younger than 21 years of age or who is at least 65 years of age on the date of the enactment of this Act. The employment requirements outlined in this section shall be reduced for an alien who cannot demonstrate employment based on physical or mental disability (as defined under the Americans with Disabilities Act) or pregnancy.

Fees and Fines. This section requires the Secretary to establish an application fee that is sufficient to cover the expenses incurred by the review of applications for conditional nonimmigrant status. An alien filing an application for adjustment of status under this section, except a conditional nonimmigrant dependent less than 21 years old on the date of enactment, also must pay a $1,500 fine to the Secretary. Applicants for adjustment of status must also pay a $500 State impact assistance fee.

Admissible under Immigration Laws. This section requires a conditional nonimmigrant or conditional nonimmigrant dependent applying for adjustment of status under this section to establish that he or she is admissible under the Immigration & Nationality Act. Any prior waiver of inadmissibility granted to an alien under this Act shall remain in effect.

Legal Reentry. This section requires a conditional nonimmigrant applying for adjustment of status under this section to physically depart the U.S. and, after such departure, be readmitted to the U.S. as a conditional nonimmigrant or applicant for conditional nonimmigrant status. This departure and readmission must be recorded by DHS and must take place at least 90 days before the conditional nonimmigrant files an application for adjustment to lawful permanent resident status under this section. The legal reentry requirement shall not apply to an alien who, on the date of filing for adjustment of status:

(1) has served in the Armed Forces of the U.S.;
(2) has a son or a daughter who has served in the Armed Forces of the U.S.;
(3) has a pending or approved application for Temporary Protected Status ("TPS"),Nicaraguan Adjustment and Central American Relief Act ("NACARA"), or Haitian Refugee Immigration Fairness Act (HRIFA);
(4) is older than 64 or younger than 21 years of age;
(5) suffers from an ongoing physical or mental disability (as defined in the Americans with Disabilities Act
(6) is a single parent head of household; or
(7) cannot comply with such paragraph due to extreme hardship to the alien or immediate family member.

A conditional nonimmigrant who fails to depart and reenter the US in accordance with this section may not become a lawful permanent resident under this section.

[2] Although this language appears in the bill, it appears to be a drafting error,

Medical Examination. This section requires a conditional nonimmigrant or conditional nonimmigrant dependent to undergo an appropriate medical examination.

Payment of Income Taxes. Before adjusting status, a conditional nonimmigrant or conditional nonimmigrant dependent must satisfy any applicable federal tax liability, by establishing that: (1) no tax liability exists, (2) all outstanding liabilities have been paid, or (3) the conditional nonimmigrant has entered into, and is in compliance with, an agreement for payment of all outstanding liabilities with the IRS.

Basic Citizenship Skills. This section also requires a conditional nonimmigrant or conditional nonimmigrant dependent to establish that he or she: (1) possesses the requisite knowledge and understanding of English and U.S. history/government to attain citizenship, or (2) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of U.S. history. A conditional nonimmigrant or conditional nonimmigrant dependent who demonstrates that he or she has met those requirements may be considered to have satisfied those requirements for the purposes of becoming naturalized as a citizen of the United States.

Security and Law Enforcement Background Checks. This section also requires the Secretary, before adjusting the status of the alien, the Secretary shall conduct another security and law enforcement background check.

Military Selective Service. If a conditional nonimmigrant or conditional nonimmigrant dependent is within the age period required under the Military Selective Service Act, the conditional nonimmigrant must establish registration under this bill.

Treatment of Conditional Nonimmigrant Dependents. This section also provides that the Secretary may adjust the status of a conditional nonimmigrant dependent to that of a person admitted for lawful permanent residence if the principal conditional immigrant spouse or parent has been found eligible for adjustment of status under this section. The Secretary may also adjust the status of a conditional nonimmigrant dependent to that of a person admitted for permanent residence irrespective of the status of the principal conditional immigrant if: (i) the termination of the relationship with such spouse or parent was connected to domestic violence; and (ii) the spouse or child has been battered or subjected to extreme cruelty by the principal alien spouse or parent.

Back of Line. This section ensures that an alien adjusting under the DREAM Act provisions of this title may not adjust status to that of a lawful permanent resident until an immigrant visa number becomes available for legal immigrants who were waiting in line under family and employment-based categories on the date of enactment of this bill or 8 years after the enactment of DREAM, whichever comes earlier.

Ineligibility for Public Benefits. This section provides that for purposes of the welfare law, an alien whose status has been adjusted under this section shall not be eligible for any federally means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under the law.

Sec. 603. Administrative and Judicial Review.

Administrative Review. This section requires the Secretary to establish a review process within the USCIS to provide for a single level of administrative appellate review of a final determination of an application for classification as a conditional nonimmigrant or for adjustment of status. Such review shall be based solely upon the administrative record established at the time of the determination and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

Judicial Review. The U.S. Courts of Appeals shall have jurisdiction to review the denial of an application for classification or adjustment of status under this subtitle. Judicial review of a denial of an application shall be based solely upon the administrative record established at the time of the review. The U.S. District Courts shall have jurisdiction over any claim related to implementation or operation of this subtitle that arises from a pattern or practice of agency action that is arbitrary or capricious or contrary to law.

Finally, Section 603 provides that an alien seeking administrative or judicial review may not be removed from the U.S. until a final decision is rendered establishing that the alien is ineligible for classification or adjustment of status unless such removal is based on criminal or national security grounds.

Sec. 604. Mandatory Disclosure of Information.

This section requires DHS and DOS to provide information contained in an application for conditional nonimmigrant status or for adjustment of status to a duly recognized law enforcement entity that submits a written request for such information in connection with a criminal or national security investigation or prosecution. Other than pursuant to such a request, information contained in the application may not be used by any Federal agency other than to make a determination on the application.

Sec. 605. Penalties for False Statements in Applications.

This section establishes criminal penalties (fines and up to 5 years in prison) for any person who files or assists in filing an application under this subtitle that knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations. It also establishes criminal penalties for creating or supplying a false document for use in making such an application. An alien convicted of violating this section shall be considered inadmissible to the U.S. But submission of documents that contain incorrect data used by the alien to gain employment shall not be deemed to a violation of this section.

Sec. 606. Aliens Not Subject to Direct Numerical Limitations.

An alien whose status is adjusted from that of a conditional nonimmigrant or conditional nonimmigrant dependent to lawful permanent resident is not subject to the worldwide levels of immigration.

Sec. 607. Employer Protections.

This section shields employers of aliens applying for conditional nonimmigrant status or adjustment of status under this program from civil and criminal tax liability relating directly to the employment of such alien before receiving employment authorization under this title.

This section does not shield an employer from liability for unfair immigration-related employment practices or any other labor and employment law violations.

Sec. 608. Limitations on Eligibility.
This section limits ineligibility for any immigration benefit under any provision of this title solely on the basis that the alien violated provisions of the Federal criminal code related to passport and document fraud during the period beginning on the date of the enactment of this Act and ending on the date on which the alien applies for any benefits under this title. The alien may only be prosecuted for violating one of these provisions if the alien's application for such benefit is denied.

Sec. 609. Rulemaking.
This section provides that the Secretary shall promulgate regulations regarding the timely filing and processing of application for benefits under this subtitle.

Sec. 610. Authorization of Appropriations.
This section authorizes the appropriation to Secretary of such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle. These funds shall remain available until expended.

SUBTITLE B – DREAM ACT OF 2007

Sec. 621. Short title.
This subtitle may be cited as the "Development, Relief, and Education for Alien Minors Act of 2007" or "DREAM Act of 2007."

Sec. 622. Definitions.
This section defines "institution of higher education" as having the meaning given to that term in section 101 of the Higher Education Act of 1965. "Uniformed services" is defined as having the meaning given to that term in section 101(a) of title 10 of the U.S. Code.

Sec. 623. Restoration of State Option to Determine Residency for Purposes of Higher Education Benefits.
This section repeals section 505 of the IIRAIRA thereby restoring the authority of the states to determine residency for purposes of higher education benefits determinations. The repeal shall take effect as if included in the enactment of IIRAIRA.

Sec. 624. Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children.
This section authorizes the Secretary to cancel the removal of, and adjust to lawful permanent residence status, an alien who is inadmissible or deportable from the U.S., if that alien demonstrates:

(A) that the alien was not yet 16 years old at the time of initial entry and that the alien was physically present in the U.S. for a continuous period of no less than 5 years immediately preceding the date of enactment of this Act;
(B) good moral character since the time of application;
(C) that the alien is not inadmissible or deportable under criminal or national security grounds;

(D) that, at the time of application, the alien has been admitted to an institution of higher education in the U.S., or has earned a higher education in the U.S., or has earned a high school diploma or obtained a general education development certificate in the U.S.; and
(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has either remained in the U.S. under color of law after such order was issued or received such order before attaining the age of 16 years.

This section provides that the Secretary may waive the grounds of ineligibility under INA § 212(a)(6)(E) and the ground of deportability under INA § 237(a)(1)(E) for humanitarian purposes, family unity or when it is otherwise in the public interest.

Treatment of Certain Breaks in Presence. An alien shall be considered to have failed to maintain continuous physical presence in the US under this section if the alien has departed from the US for any period in excess of 90 days or for any periods exceeding 180 days in the aggregate. The Secretary may extend these time periods if the alien demonstrates that the failure to timely return to the US was due to exceptional circumstances.

This section prohibits the Secretary from removing an alien who has a pending application for conditional status under this subtitle.

Sec. 625. Conditional Permanent Resident Status.
This section provides that an alien whose status has been adjusted under section 624 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years and subject to termination.

Notice of Requirements. At the time of obtaining permanent residence on a conditional basis, the Secretary shall notify the alien regarding the requirements that must be satisfied to have the conditional basis of such status removed. But the failure to provide such notice does not shield the alien from enforcement of the provisions of this Act and shall not give rise to any private right of action by the alien.

Termination of Status. The Secretary must terminate the conditional permanent resident status of an alien if the Secretary determines that the alien has become inadmissible, has not demonstrated good moral character, has become a public charge, or has received a dishonorable or other than honorable discharge from the uniformed services. A termination of status returns the alien to the status the alien had, if any, immediately before becoming a conditional permanent resident.

Requirements of Timely Petition for Removal of Condition. The alien has to file a timely application to remove the conditional basis of the permanent resident status. The application must demonstrate that the alien has satisfied all of the conditions of the original grant including, among other things, a showing of good moral character during the period, continuing residence in the U.S. and either completion of a higher education degree, completion of two years towards a bachelor's degree, or at least two years of service in the

military. The application may be filed any time between 180 days before and two years after the date that is six years after initially receiving conditional permanent resident status.

Sec. 626. Retroactive Benefits Under this Act.
This section provides that if, on the date of enactment of this Act, the alien has satisfied all of the requirements to obtain conditional permanent residence and has also completed the higher education or military service requirements, the Secretary still may grant the alien conditional permanent resident status. The alien may subsequently petition for removal of the conditions at the end of the six year period.

Sec. 627. Exclusive Jurisdiction.
This section provides that the Secretary shall have exclusive jurisdiction to determine eligibility for relief under this subtitle, except if the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated. If a final order of deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties delegated to the Secretary under this subtitle.

This section also requires the Attorney General to stay removal proceedings of any alien who meets all of the threshold requirements for conditional permanent residence (except higher education enrollment), is at least 12 years old, and is enrolled full time in a primary or secondary school.

Sec. 628. Penalties for False Statements in Application.
This section creates criminal penalties (fine and up to 5 years in jail) for a person who files an application for relief under this subtitle and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry.

Sec. 629. Confidentiality of Information.
This section requires the Secretary or Attorney General to provide information contained in an application for benefits under this Act to a duly recognized law enforcement entity that submits a written request for such information in connection with a criminal or national security investigation or prosecution. Other than pursuant to such a request, information contained in the application may not be used by any Federal agency other than to make a determination on the application.

Sec. 630. Expedited Processing of Applications; Prohibition on Fees.
This section requires promulgation of regulations that ensure expedited processing of applications filed under this subtitle without requiring additional payment by the applicant for such expedited processing.

Sec. 631. Higher Education Assistance.
This section provides that notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), an alien who adjusts status to that of a lawful permanent resident under this subtitle shall only be eligible for certain loans and assistance.

Sec. 632. GAO Report.
This section requires the GAO to issue a report within 7 years of the date of enactment detailing statistics related to the numbers of aliens who applied for and were granted benefits under this program.

SUBTITLE C – AGJOBS ACT OF 2007

This subtitle establishes a program whereby aliens who can demonstrate a substantial past commitment to agricultural work in the United States are provided an opportunity to adjust their status to that of an alien in "blue card" status and, if they meet the program's prospective agricultural work requirements and other criteria, adjust their status to that of a lawful permanent resident alien.

Section 642. Definitions
This section defines some basic terms related to this title such as "agricultural employment", "temporary", and "work day".

Chapter 1 – Pilot Program for Earned Status Adjustment of Agricultural Workers

Section 643. Requirements for Blue Card Status.
Prior Agricultural Work Requirements**:** Requires an alien to demonstrate that he or she performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006. "Work day" is defined as 5.75 or more hours of agricultural employment. Aliens are provided with an 18-month application period beginning on the first day of the seventh month that begins after the date of enactment. To be eligible for blue card status, an alien must be otherwise admissible under the INA and cannot have been convicted of any felon or a misdemeanor, an element of which involves bodily injury, threat of bodily injury, or harm to property in excess of $500.

Authorized Travel and Employment: Aliens who adjust to blue card status are granted employment authorization to work for any employer, as long as they satisfy the prospective agricultural work requirements of Section 103. They are permitted to travel abroad and reenter the United States.

Termination of Blue Card Status: Aliens may be terminated from blue card status if they achieved such status through fraud, committed acts or crimes that make them inadmissible or fail to satisfy the prospective agricultural work requirement.

Record of Employment: Each employer of a worker in blue card status must provide a written record of employment to the worker and the Secretary.

Required Features of Identity Card: Blue card holders and their spouses and children must receive a card with biometric identifiers and with security features designed to prevent counterfeiting.

Fine: An alien granted blue card status shall pay a $100 fine.

Maximum Number of Blue Cards: The number of blue cards issued during the 5-year period beginning on the date of enactment shall not exceed 1,500,000.

Section 644. Treatment of Aliens Granted Blue Card Status.
Delayed Eligibility for Federal Benefits: An alien granted blue card status is not eligible by reason of such status for any form of assistance or benefit described in PRWORA (8 U.S.C. § 1613(a)) until 5 years after the date on which the alien adjusts to permanent resident status.

Termination from Employment: Prohibits termination of adjusted aliens except for just cause. In the case of complaints of improper termination, an arbitration process is provided. If the alien is found to have been improperly terminated, the alien is credited with the days of work lost. Results of the arbitration determination are final, and may not be used in any other proceeding. A penalty is provided for employers who fail to keep required records of employment of adjusted aliens.

Section 645. Adjustment to Permanent Residence.
Qualifying Employment: Aliens in blue card status may apply for adjustment to lawful permanent resident status if they can prove that they: (1) performed at least 5 years of agricultural employment for at least 100 work days per year during the 5-year period beginning on the date of enactment; (2) performed at least 3 years agricultural employment for at least 150 work days per year during the 3-year period beginning on the date of enactment; or (3) during the 4-year period beginning on the date of enactment worked at least 150 work days during 3 years and 100 work days during the remaining year. The period to establish qualifying employment may be extended up to 12 months if the alien can prove through medical and other records that illness, injury, pregnancy, or severe weather conditions prevented him/her from engaging in employment for a significant period of time. Proof of qualifying employment is provided by employer records filed with DHS under Section 101 or other specified records.

Application Period and Fine: Requires alien to apply for adjustment to permanent resident status not later than 7 years after the date of enactment. The alien must pay a fine of $400 to DHS.

Grounds for Denial of Permanent Resident Status: Precludes adjustment of status to lawful permanent resident for aliens who commit fraud or willful misrepresentation on applications for adjustment, or who have committed an act which makes them inadmissible under the INA, or commit a felony or 3 misdemeanors, or is convicted of an offense which involves bodily injury, a threat of bodily injury or harm to property in excess of $500.

Grounds for Removal: Aliens in blue card status who do not apply for permanent resident status before the expiration of the application period or who fail to meet the prospective work requirement by the end of the application period are deportable and may be removed.

Payment of Taxes: Requires an alien to establish no later than the date of adjustment to permanent resident status that he/she does not have any Federal tax liability for any year during the 5-year period beginning on the date of enactment during which the alien is required to satisfy his/her prospective work obligation.

Spouses and Minor Children: Spouses and minor children residing in the U.S. may receive derivative status from an alien granted blue card status. While in such status they may not be

removed from the U.S. unless they are otherwise found inadmissible under the INA or commit disqualifying acts or crimes. They may travel outside the U.S. in the same manner as an alien in permanent resident status. The derivative spouse may work in the U.S. as long as the qualifying alien maintains blue card status.

Spouses and minor children of blue card aliens who adjust to permanent resident status may obtain such status upon applying for it or if the principal alien included them within his/her application for such status.

Section 646. Applications for Adjustment of Status.

Submission of Applications: Applications for blue card status may be filed directly with the Secretary by the alien through an attorney or qualified organization, or through a "qualified designated entity" (QDE). Applications for adjustment to permanent resident status are filed directly with the Secretary.

Proof of Eligibility for Blue Card and Permanent Resident Status: Applicants may establish eligibility for blue and permanent resident status through government employment records or records provided by employers, collective bargaining organizations and other reliable documentation provided by the alien.

Burden of Proof: Applicants have the responsibility of proving by the preponderance of the evidence that they have worked the requisite work days and hours required to meet the criteria for adjustment to blue card and lawful permanent residence.

Confidentiality of Information: Officials of the government may not use information provided in an application by an applicant or an employer for any purpose other than to make a determination on the application. If, however, a person files an application for a blue card or permanent resident status and knowingly and willfully provides false information or provides a false document, the individual is subject to criminal prosecution and, if convicted, is inadmissible under the INA.

Legal Services Assistance for the Filing of an Application: A recipient of funds from the Legal Services Corporation may provide assistance directly related to filing of an application for blue card or permanent resident status.

Application Fees: The Secretary of DHS may set a schedule of fees to be charged persons applying for blue card and permanent resident status and such fees may be used by DHS to pay its cost of processing such applications.

Section 647. Waiver of Numerical Limitations and Certain Grounds for Inadmissibility.

Exempts aliens adjusted under this program to permanent residents from the numerical limitations in the INA. A limited number of inadmissibility grounds are also waived.

Temporary Stay of Removal and Work Authorization for Certain Applicants: Aliens who file a non-frivolous application for blue card status prior to or during the application period may not be removed and may be granted work authorization in the U.S. until a final determination on the application has been made.

Section 648. Administrative and Judicial Review.

Provides a single level of administrative appellate review for determinations of eligibility for blue card and permanent resident status. Judicial review is limited to orders of removal.

Section 649. Dissemination of Information on Adjustment Program.
Requires dissemination of information on the benefits and eligibility requirements of the blue card program by the Secretary and QDEs no later than the first day of the application period.

Section 650. Regulations, Effective Date and Funding.
Requires promulgation of regulations for the program not later than 7 months after the date of enactment. This section shall take effect on the date regulations are issued on an interim or other basis. Authorizes funding necessary to implement this subtitle.

Section 651. Correction of Social Security Records.
Requires social security records reflecting employment of aliens prior to their adjustment to blue card status to be corrected.

Chapter II – Reform of H-2A Worker Program

Section 652. Amendment to the Immigration and Nationality Act.
This title reforms the existing H-2A program for the temporary admission of alien agricultural workers by replacing the existing Section 218 of the INA with the following new Sections 218, 218A, 218B, 218C and 218D.

Section 218. Applications to the Secretary of Labor: This section provides that employers desiring to employ H-2A aliens must first file an application with the Secretary of Labor and a job offer to domestic workers. If the application meets the requirements of the program and there are not obvious deficiencies it must be accepted by the Secretary of Labor. Applications may be filed by individual employers or by associations on behalf of their employer members.

If the job opportunities for which the application is filed are covered by a collective bargaining agreement, the applicant must assure that the collective bargaining representative has been notified of the application and that the job opportunities are not vacant because the occupant is on strike or locked out, are temporary or seasonal (maximum duration of 10 months), have been or will be offered to U.S. workers, and are covered by workers' compensation insurance.

If the job opportunities for which the application is filed are not covered by a collective bargaining agreement, the applicant must also assure the minimum wages, benefits and working conditions required in Section 218A, non-displacement of U.S. workers, and recruitment of U.S. workers.

Section 218A. H-2A Employment Requirements. This section enumerates the required wages, benefits and terms and conditions of employment for employers of H-2A workers. Preferential treatment of alien workers is prohibited.

Housing: Requires workers in H-2A approved occupations from outside normal commuting distance to be provided with housing that meets federal farm labor camp standards or rental or

public accommodation housing that meets applicable standards, at no cost to the worker. In lieu of providing housing, the employer may provide a monetary housing allowance comparable to the HUD Section 8 housing allowance, but only if the Governor of the state has certified to the Secretary of Labor that there is sufficient housing in the area of intended employment for seasonal agricultural workers.

Transportation: Requires workers in H-2A approved occupations from outside normal commuting distance to be reimbursed reasonable costs for inbound transportation and subsistence if they complete 50-percent of the period of employment, and return transportation and subsistence if they complete the period of employment. Workers required to be provided housing must also be provided transportation from the housing to the work site, if necessary, at no cost to the worker.

Wages: Requires workers in H-2A approved occupations to be paid the highest of the federal, state or local statutory minimum wage, the prevailing wage for the occupation in the area of intended employment, or the applicable Adverse Effect Wage Rate (AEWR). The AEWR may not be greater than the applicable AEWR on January 1, 2003. If Congress fails to set a new wage standard applicable to H-2A workers within three years after the date of enactment, thereafter the existing AEWRs will be annually indexed by the percentage change in the Consumer Price Index, with a maximum adjustment of 4 percent annually. During the three years after enactment, the General Accounting Office is mandated to conduct a study of the H-2A wage standard and make a report to Congress. A Congressional commission is also appointed to conduct such a study and make recommendations to Congress.

Guarantee of Employment: Guarantees workers in H-2A approved occupations employment for a minimum of three-quarters of the period of employment for which they were recruited.

Motor Vehicle Safety: Requires motor vehicle safety and insurance standards for vehicles and drivers used to transport agricultural workers in H-2A occupations similar to those required for domestic farm workers under current law.

Compliance with Laws: Requires employers of H-2A workers to comply with all applicable federal, state and local labor laws, except that a violation of this Section shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act.

Section 218B. Procedure for Admission and Extension of Stay of H-2A Workers:

Petitions to DHS for Admission of Aliens: Authorizes employers with valid labor certifications from the Secretary of Labor (DOL) to petition the Secretary of DHS for approval for the admission of aliens to perform the work described on the labor certification, or for the extension of stay of H-2A aliens already in the United States who are completing a prior period of authorized H-2A employment. The DHS is required to adjudicate the petition within 7 working days.

Admissible Aliens: Aliens are eligible for admission as H-2A workers if they are otherwise eligible for admission under the INA and have not violated the terms of the H-2A program in the past 5 years. The debarment provision for unlawful presence in the present INA is waived on a one-time basis for alien seeking admission as an H-2A worker.

Extensions of Stay of Alien: H-2A aliens are admitted or extended for the period of employment of an approved labor certification, not to exceed 10 months. Employers may petition to extend the stay of H-2A aliens until they have accumulated a maximum of 3 years of continuous stay in the United States as an H-2A alien, after which the alien must depart the United States. An H-2A alien must remain outside the United States for a period equal to at least $1/5^{th}$ of the alien's presence in H-2A status before again being admitted as an H-2A alien.

Abandonment of Employment by Aliens: Aliens who abandon their employment are required to immediately depart the United States and are subject to removal. Employers must report abandonments and early terminations to the Secretary of the DHS. An employer may replace an alien who abandons employment or is terminated for cause if the required reports have been made.

Counterfeit Resistant Identity and Employment Documents: H-2A aliens must be provided with a counterfeit resistant identity and employment authorization document.

Special Rules for Sheepherders, Goat Herders and Dairy Workers: Special rules are provided for aliens employed as sheepherders, goat herders or dairy workers. Such workers may be admitted for an initial period of up to 12 months and they may have the initial period extended for up to 3 years. Upon completion of a cumulative total of 36 months in such work, the alien, or an employer on the alien's behalf, may apply for adjustment to permanent resident status. The stay of an alien with a pending application for permanent residence may be extended by the Secretary in 1-year increments until a final determination is made.

Section 218C. Worker Protection and Labor Standards Enforcement:

Administrative Enforcement of Program Requirements by the Secretary of Labor: This section requires the Secretary of Labor to establish a process for the receipt, investigation and disposition of complaints respecting an employer's failure to meet the conditions of employment specified in Section 218. Complaints may be filed by any aggrieved person or organization not later than 12 months after the alleged failure to comply. If the Secretary of Labor finds that a violation(s) has occurred, the Secretary may require back pay and impose civil money penalties. The Secretary of Labor also notifies the Secretary of the DHS of such violation, and the Secretary of the DHS may debar the employer from the program for a period of 1 year. Additional civil money penalties and debarment for up to 2 years may be imposed on employers who commit willful noncompliance or misrepresentation on an H-2A application.

Private Right of Federal Action and Required Mediation: Provides H-2A aliens a private right of action to enforce the housing, transportation, wage, employment guarantee, motor vehicle safety provisions and discrimination provisions of Sec. 218, and the written promises contained in the employer's job offer. Mediation of the complaint is required, if any party requests it, before a lawsuit may proceed.

Workers' compensation benefits are the exclusive remedy for losses covered by workers' compensation.

Discrimination against a worker who files a complaint or cooperates in an investigation or proceeding in connection with a complaint is prohibited.

Liability of Associations and Association Members for Program Violations: Provisions of current law apply to associations and members of associations employing workers in H-2A certified occupations who commit violations.

Section 218D. Definitions:

This section defines some basic terms related to this title such as "agricultural employment", "bona fide union", and "displace", "laying off", and "regulatory drought".

Chapter III – Miscellaneous Provisions

Section 653. Determination and Use of User Fees.
Authorizes the Secretary to establish fees applicable to employers applying for certification to employ H-2A aliens to cover the actual direct costs of operating the H-2A program.

Section 654. Regulations.
Requires issuance of regulations by the Secretary of Labor, the Secretary of the DHS and the Secretary of State not later than one year after the date of enactment.

Section 655. Reports to Congress.
Requires the Secretary to report to Congress, not later than September 30 of each year, with information compiled during the previous year regarding usage and operation of the H-2A program, as well as the number of workers who applied and were adjusted to blue card and permanent resident status. Not later than 180 days after the date of enactment of this Act, the Secretary shall report to Congress regarding steps being taken to implement it.

Section 656. Effective Date.
The effective date of this Act is one year after the date of enactment.

SUBTITLE D – PROGRAMS TO ASSIST NONIMMIGRANT WORKERS

Sec. 661. Grants to Support Public Education and Community Training.
This section permits the Assistant Attorney General, Office of Justice Programs, to award grants to qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions of this Act and amendments made by this Act. The Assistant Attorney General shall ensure, to the extent possible, that the nonprofit community organizations receiving grants under this section serve geographically diverse and ethnically diverse locations. Authorizes the appropriation of sums as may be necessary to carry out this section.

Sec. 662. Grant Program to Assist Applicants for Naturalization.
Purpose. This section establishes a grant program within USCIS that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for naturalization.

Definitions. This section defines "community based organization" as a non-profit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or person applying for such statuses. "IEACA grant" is defined as Initial Entry, Adjustment, and Citizenship Assistance Grant.

Establishment of Initial Entry, Adjustment and Citizenship Assistance Grant Program. The Secretary, working through the Director of USCIS, may award IEACA grants to community-based organizations who may use the grants for the design and implementation of programs to provide the following services: (1) assistance and instruction, including legal assistance, to aliens making initial application for conditional nonimmigrant or conditional nonimmigrant dependent classification under section 601; (2) assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 602 of this Act or INA § 245; and (3) assistance and instruction to applicants on the rights and responsibilities of US citizenship, English as a second language, among others.

Duration and Renewal. Section 662 provides that each grant shall be awarded for a period not more than 3 years and may be renewed in 1-year increments. Section 642 provides that an organization applying for a grant under this section may not receive such a grant unless the organization is recognized by the BIA under section 292.2 of Title 8 of the Code of Federal Regulations or is otherwise directed by an attorney.

Geographic Distribution of Grants. Section 662 also provides that selection of grantees shall be on a competitive basis. At least 50% of the funding for grants under this section will be awarded to programs located in the 10 States with the highest percentage of residents who were born in foreign countries and at least 20% of the funding for grants under this section is awarded to programs not located in the 10 States with the highest percentage of residents who were born in foreign countries.

Reports to Congress. Section 662 requires the Secretary to submit a report to Congress no later than 180 days after the date of enactment of this Act (and in July of each subsequent year) reporting the status of the implementation of this section, the grants issued and the activities carried out with such grants.

Source of Grant Funds. The Secretary may use funds made available under section 601(g)(2)(A) of this Act and INA § 218A(b)(3) to carry out this section. Section 662 authorizes to be appropriated such additional sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section. Any amounts appropriated shall remain available until expended.

Distribution of Fees and Fines. Finally, Section 662 provides that 2% of the fees collected under INA § 218A shall be made available for grants under the IEACA Grant Program established under this section. Additionally, 2% of the fees and fines collected under section 601 shall be made available for grants under the IEACA Grant Program established under this section.

Sec. 663. Strengthening American Citizenship.

This section may be cited as the "Strengthening American Citizenship Act of 2007."

Definitions. Section 663 defines "legal resident" to mean a lawful permanent resident or lawfully admitted alien who, in order to adjust status to that of a lawful permanent resident, demonstrates a knowledge of the English language or satisfactory pursuit of a course of study to acquire such knowledge of the English language. "Oath of allegiance" is defined as the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the US, as prescribed in INA § 337(e).

English Fluency. This section provides that the Chief of the Office of Citizenship of the Department (referred to in this paragraph as the "Chief") shall establish a grant program to provide grants, in amounts not to exceed $500, to assist legal residents of the US who intend to apply for US citizenship to meet the requirements under INA § 312. The funds awarded must be directly paid to an accredited institution of higher education or other qualified educational institution for tuition, fees, books, and other educational resources required by a course on the English language. A legal resident desiring a grant shall submit an application to the Chief with the information that the Chief may reasonably require.

Faster Citizenship for English Fluency. This section amends 8 U.S.C. 1427 by adding a section providing that a lawful permanent resident of the U.S. who demonstrates English fluency will satisfy the residency requirement under section 643(a) upon the completion of 4 years of continuous legal residency in the U.S. Nothing in this section shall be construed to modify the English language requirements for naturalization under INA § 312(a)(1) or influence the naturalization test redesign process of the Office of Citizenship.

American Citizenship Grant Program. This section also requires the Secretary to establish the American Citizenship Grant Program which is a competitive grant program to provide financial assistance for efforts by entities certified by the Office of Citizenship to promote the patriotic integration of prospective citizens into the American way of life. Section 663 authorizes the appropriation of such sums as may be necessary to carry out Section 663(e).

Funding for the Office of Citizenship. This section provides that the Secretary, acting through the Director of USCIS, may establish the U.S. Citizenship Foundation (referred to in this section as "Foundation") exclusively for charitable and educational purposes to support the functions of the Office of Citizenship.

Restriction on Use of Funds. This section also provides that no appropriated funds may be used to organize individuals for the purpose of political activism or advocacy.

Reporting Requirement. The Chief of the Office of Citizenship shall submit an annual report to the Senate's Health, Education, Labor and Pensions committee and Judiciary committee and the House of Representatives' Education and Labor committee and Judiciary committee.

Establishment of New Citizens Award Program. This section establishes a new citizen's award program to recognize citizens who have made an outstanding contribution to the U.S. and were naturalized during the 10-year period ending on the date of such recognition. The

President is authorized to present a medal to not more than 10 citizens chosen to receive this award.

Naturalization Ceremonies. The Secretary, in consultation with the Director of the National Park Service, the Archivist of the U.S., and other Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies. The Secretary shall submit an annual report to Congress that includes the content of the strategy developed.

Sec. 664. Addressing Poverty in Mexico.

Findings. Congress finds that: (1) there is a strong correlation between economic freedom and economic prosperity; (2) trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom; (3) poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico; (4) strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration; and (5) advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

Grant Authorized. This section authorizes the Secretary of State to award a grant to a land grant university in the U.S. to establish a national program for a broad, university-based, Mexican rural poverty mitigation program. The program will: (1) match a land grant university in the U.S. with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico; (2) establish relationships and coordinate programmatic ties between universities in the U.S. and universities in Mexico to address the issue of rural poverty in Mexico; (3) establish and coordinate relationships with key leaders in the U.S. and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the U.S.; and (4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

Functions of Mexican Rural Poverty Mitigation Program. This section also provides that grant funds awarded under this section may be used for education, training, technical assistance, and any related expenses incurred by the grantee in implementing a program described and to establish an administrative structure for such program in the U.S.

Use of Funds. Section 664 provides that grant funds awarded under this section may not be used for activities, responsibilities or related costs incurred by entities in Mexico.

Finally, Section 664 authorizes the appropriation of such funds as may be necessary to carry out this section.

TITLE VII. MISCELLANEOUS

SUBTITLE A—INCREASING COURT PERSONNEL

Sec. 701. Additional Immigration Personnel.

This section directs the Secretary to increase by not less than 100, the number of positions for attorneys in the Office of General Counsel. Litigation Attorneys**:** The Attorney General shall increase by not less than 50, the number of attorneys in the Office of Immigration Litigation; United States Attorneys**:** The AG shall increase by not less than 50, the number of attorneys in the US Attorneys' office. Immigration Judges: The AG shall increase by not less than 20, the number of immigration judges and increase by not less than 80 the number support personnel to the judges. Staff Attorneys: The Attorney General shall increase by not less than 10, the number of full time staff attorneys and increase by not less than 10 the number of support personnel; Administrative Office of the U.S. Courts: The AO Director shall increase, by not less than 50, the number of attorneys in the Federal Defenders Program. All new positions shall be created each year subject to the availability of appropriations.

Sec. 702. Senior Judge Participation in the Selection of Magistrates.
This section amends the Federal Code to expand the number of judges who appoint magistrate judges to include retired judges in regular active service and any judge who retired from active regular service.

Sec. 703. Study on the Appellate Process for Immigration Appeals.
This section requires the Director of the Federal Judicial Center, within 180 days of enactment, to conduct a study to consider the possibility of consolidating all appeals from the BIA and habeas corpus petitions into one US Court of Appeals.

It lists six factors that must be taken into consideration: (1) the resources needed for each alternative, including judges, attorneys, and other support staff, case management techniques, technological requirements, physical infrastructure, and other procedural and logistical issues; (2) the impact of each alternative on various circuits, (3) the possibility of using case management techniques to reduce the impact of any consolidation option, such as requiring certificates of reviewability, similar to procedures used in habeas corpus proceedings and existing summary dismissal procedures in local rules of the Court of Appeals; (4) the effect of the reforms on the ability of the circuit courts to adjudicate such appeals; (5) potential impact on litigants; and (6) other reforms to improve adjudication of immigration matters, including appellate review of motions to reopen and consider, and attorney fee awards with respect to review of final orders of removal.

Sec. 704. Sense of Congress Regarding the Establishment of an Immigration Court System.
This section makes a finding that the U.S. is best served by an effective, fair and well staffed immigration court system that upholds the law.

SUBTITLE B—CITIZENSHIP ASSISTANCE FOR MEMBERS OF THE ARMED SERVICES

Sec. 711. Waiver of Requirement for Fingerprints for Members of the Armed Forces.
This section authorizes the Secretary to use the same fingerprints taken at the time of enlistment, for naturalization purposes if the individual is naturalized pursuant to sections 328 of the INA (relating to naturalization through service in the Armed Forces) or 329 of the INA (relating to those naturalization in the Armed Forces during a period of military hostilities); was properly fingerprinted when he or she enlisted; and submits the naturalization application within twelve months of enlistment.

Sec. 712. Noncitizen Membership in the Armed Forces.
This section amends Section 329 of the INA by clarifying that the applications of non-citizen servicemen and women to serve in the Armed Services shall not be denied on the basis that they are not citizens. If they become active duty members and their commanding officer approves, they shall be granted citizenship after serving at least 2 years of active duty. Citizenship shall be granted not later than 90 days after the requirements are met. Individuals must file an application for naturalization; demonstrate their proficiency in English, possess good moral character and take the oath.

Service men and women who are active members of the Armed Forces and noncitizens in a combat zone, shall be granted citizenship when service in the combat zone begins, as long as they file an application for citizenship and meet the procedures to be established by regulation.

Sec. 713. Provision of Information on Naturalization to Members of the Armed Forces.
This section requires a dedicated toll-free telephone service number related to naturalization for family members and members of the Armed Forces. The phone service must be operated and maintained by trained members of the Department who are physically located in the same unit that adjudicates naturalization applications. A quality control program must be implemented to monitor the accuracy and quality of information provided by the employees.

Sec. 714. Provision of Information on Naturalization to the Public.
This section requires the Secretary to update the application form, instructions, guidebook and Internet website maintained by the Secretary within 30 days after a modification is made.

Sec. 715. Reports.
This section requires the Comptroller General to submit a report on the entire process for the adjudication of a naturalization application within 120 days after the date of enactment of this bill, to include processing times, methods used to process and adjudicate the applications, and the effectiveness of the chain of authority, supervision and training. The Comptroller General must also conduct a study to improve the efficiency of the process for members of the Armed Forces. A report must be provided to the Committees on Armed Services and the Committee on the Judiciary in both the House and Senate.

SUBTITLE C—FAMILY HUMANITARIAN RELIEF

Sec. 721. Adjustment of Status for Certain Non-Immigrant Victims of Terrorism.
This section authorizes the adjustment of status of any noncitizen who applies not later than 2 years after the date the Secretary promulgates final regulations. Adjustment shall not be precluded under the INA as a result of (A) inadmissibility based on Section 212(a)(4), (relating to public charge requirements); 212(a)(5), (relating to labor certification requirements); 212(a)(6)(A), (relating to aliens present in the U.S. without permission); 212(a)(7)(A), (relating to documentation requirements); or 212(a)(9)(A), (relating to aliens previously removed); or (B) removability based on Section 241(a)(5) of the INA, (relating to reinstatement of removal). Waivers of inadmissibility may be granted under Section 212(a)(9)(A) and (C). Aliens who apply to adjust status are also eligible for to apply for work authorization.

Aliens who have been ordered excluded, deported, removed or ordered to depart voluntarily from the United States under any provision of the INA may apply to adjust status. Motions to reopen, reconsider or vacate such orders are not required. If the application is approved, the order of removal is canceled; if denied, the order is effective. Regulations will be promulgated to allow an alien subject to a final order of removal to seek a stay of removal based on the filing of an application to adjust. Aliens may not be ordered removed if an application to adjust is filed unless a final administrative determination has been made to deny the application.

This section applies to aliens who on 9/10/2001 were the spouses, children, dependents sons or daughters of aliens who were lawfully present in the US as nonimmigrants; who died as direct result of a specified terrorist activity; and who were deemed to be beneficiaries of the September 11th Victim Compensation Fund of 2001.

Sec. 722. Cancellation of Removal for Certain Immigrant Victims of Terrorism.
This section requires the Secretary to cancel the removal of and adjust an alien's status to an alien lawfully admitted for permanent status if the alien is eligible and applies to adjust. Applicants who apply for cancellation are eligible for employment authorization. Notwithstanding limitations based upon an aggravated felony conviction, motions to reopen removal proceedings may be filed for aliens who are eligible for cancellation. Such motions shall be filed not later than 60 days after the date of enactment of the Act. This section applies to aliens who on 9/10/2001 were the spouses, children, dependent sons or daughters of aliens who died as direct result of a specified terrorist activity and who were deemed to be beneficiaries of the September 11th Victim Compensation Fund of 2001.

Sec. 723. Exceptions.
This section specifies that relief shall not be available to aliens who are inadmissible or removable under the criminal and security grounds of the INA.

Sec. 724. Evidence of Death.
This section establishes standards to be used to determine whether the death of an individual occurred as a direct result of a specified terrorist activity.

Sec. 725. Definitions.
This section defines "specified terrorist activity."

SUBTITLE D—OTHER MATTERS

Sec. 731. Office of Internal Corruption Investigation.
This section establishes the Office of Internal Corruption Investigation to receive, process, administer and investigate criminal and non-criminal allegations of misconduct, corruption and fraud involving employees or contract workers of UCSIS. It lays out procedures to collect documentation, to issue subpoenas, to administer oaths, to investigate criminal allegations for non-criminal misconduct, and to acquire office and equipment to carry out its responsibilities.

It also creates the Office of Immigration Benefits Fraud Investigation charged with conducting investigations into immigration fraud benefits. Annual reports to the Judiciary Committees in both the House and Senate are required and must include the number of investigations begun and

completed and the types of allegations being investigated. The Office will have access to all USCIS documents that relate to this Act.

Sec. 732. Adjustment of Status for Certain Persecuted Religious Minorities.
This section requires the Secretary to adjust the status of certain persecuted religious minorities if the alien is a persecuted religious minority; is admissible as an immigrant; has an application for asylum pending on May 1, 2003; applies for such status and is physically present in the U.S. when the application was filed; and pays a fee. Section 212(a)(7) relating to documentation requirements shall not apply to applications filed under this section. The Secretary may waive any other provision of Section 212(a), (relating to classes of aliens who are ineligible for visas or admission) except for paragraphs (2), (relating to criminal grounds) and (3) (relating to security grounds), if compelling circumstances warrant an adjustment for humanitarian purposes, to ensure family unity or if it is otherwise in the public interest.

Sec. 733. Eligibility of Agricultural and Forestry Workers for Certain Legal Assistance.
Section 733 amends IRCA of 1986 to add forestry workers to those workers, in addition to agricultural workers, that can access legal assistance.

Sec. 734: State Court Interpreter Grants.
This section requires the Administrator of the Office of Justice Programs to make grants to State courts to develop and implement programs to help those individuals with limited English skills that prevent them from understanding the State court proceedings in which they are involved. $500,000 shall be allocated for a court interpreter technical assistance program. State courts may use the grants to assess regional language demands, develop interpreter programs for State courts; develop and administer language certification requirements and pay expenses for implementation of the program. Section 734 describes eligibility requirements for state court allotments, discretionary allotments and any other additional allotments. District of Columbia is to be treated as a state for these purposes. Appropriations will be authorized for each of the fiscal years 2008 through 2012.

Sec. 735. Adequate Notice for Alternate Country of Removal.
This section requires the Secretary to provide notice and an opportunity for a hearing before an immigration judge to request protection from removal if the Department of Homeland Security determines that an alien will be removed to a country other than is designated by the alien at the time of the removal hearing

Sec. 736. Standards for Biometric Documents.
This section requires that any visa issued by the Department of State and any immigration related document must comply with authentication and biometric standards, be machine readable and tamper resistant, use biometric identifiers, comply with the Enhanced Border Security and Visa Entry Reform Act of 2002 and comply with the standards established by the International Civil Aviation Organization and any other requirements deemed necessary by the Secretary of State and the DHS Secretary.

Sec. 737. State Impact Assistance Account.
This section creates the State Impact Assistance Account within the Treasury which will be funded through various fees collected under programs established in the Act. A State Impact Assistance Program will be established by the Secretary Health and Human Services in consultation with the Secretary of Education to award grants to States to provide health and education service to

noncitizens. Allocations will be made among States according to noncitizen populations and high growth rates of noncitizens, subject to appropriations by State legislatures. Grant funds received by States shall distribute not less than 30% of the grant funds, to local government units based on need and function. The funds shall be used to provide health, educational and related services to noncitizens within their jurisdiction directly or through contracts with eligible service providers, including health care providers, local educational agencies and charitable and religious organizations. States are defined to include the several states of the U.S., the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. States must certify the State's proposed use of those funds.

Sec. 738. New Worker Program and Conditional Nonimmigrant Fee Account.

This section amends Section 286 of the INA (relating to dispositions of moneys paid to the Service) and creates a New Worker Program and Conditional Nonimmigrant Fee Account. The funds are to be distributed as follows: 53% to the Secretary for adjudication and implementation of the New Worker Program and conditional immigrant program; 15% to DOL for the enforcement of labor standards; 15% to the Commissioner of Social Security for the creation and maintenance of the Electronic Employment Verification System; 15% to the Secretary of State to carry out the necessary provisions of the Act; and, 2% to the Secretary of Health and Human Services for the reimbursement of hospitals serving H-2C workers and conditional nonimmigrants under the Act.

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