SECTION-BY-SECTION SUMMARY OF S.744

Section 1. Short Title, Table of Contents.

This section provides that the legislation may be cited as the "Border Security, Economic Opportunity, and Immigration Modernization Act."

Section 2. Findings.

This section states, inter alia, that the United States has a right to maintain its sovereignty by protecting its borders and controlling the flow of immigration, which is a source of security and strength for our country.

Section 3. Effective Date Triggers.

This section sets forth definitions for the purpose of this title. The term "Commission" means the Southern Border Security Commission established pursuant to Section 3. The term "Comprehensive Southern Border Security Strategy" means the strategy established by the Secretary pursuant to Section 5(a) to achieve and maintain an effectiveness rate of 90 percent or higher in all border sectors. "Effective control" is defined as the ability to achieve and maintain persistent surveillance and an effectiveness rate of 90 percent or higher in a Border Patrol sector. The section defines "Effectiveness rate," in the case of a border sector, as the percentage calculated by dividing the number of apprehensions and "turn backs" in a given sector during a fiscal year by the total number of illegal entries in that sector during the fiscal year. The "Southern border" is defined as the international border between the United States and Mexico. The "Southern Border Fencing Strategy" is the strategy established by the Secretary of Homeland Security ("the Secretary") pursuant to Section 5(b) that identifies where fencing, including double-layer fencing, as well as infrastructure and technology, should be deployed along the Southern border. The Department of Homeland Security's (DHS) "Border Security Goal" is defined as a goal to achieve and maintain effective control in all border sectors of the Southern border.

This section also sets forth the "triggers" for the bill. It provides that no application for Registered Provisional Immigrant (RPI) status will be processed until the Secretary has submitted to Congress the Notice of Commencement for implementation of the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy.

Individuals who have been granted RPI status may not adjust their status to permanent resident (except for blue card recipients and DREAM Act beneficiaries) until the Comprehensive Southern Border Security Strategy is substantially deployed and substantially operational, the Southern Border Fencing Strategy has been implemented and substantially completed, a mandatory employment verification (E-Verify) system to be used by all employers has been implemented, and DHS is using an electronic exit system at air and sea ports of entry that operates by collecting machine-readable visa or passport information from air and vessel carriers.

A limited exception is made to allow the Secretary to permit RPIs to apply for adjustment of status after 10 years if litigation or *force majeure* has prevented one or more of the conditions precedent to adjustment of status from being implemented, or if any of the conditions precedent to adjustment of status has been declared unconstitutional.

The section provides authority for certain regulatory waivers to ensure expeditious construction of the physical border infrastructure, and provides for limited judicial review. The Secretary must provide notice and an explanation for the use of such waivers in the Federal Register, and any waiver that is used under this section expires when DHS certifies that the fencing strategy is substantially completed, or that the Southern Border Security Strategy is substantially deployed and operational – whichever is later.

Section 4. Southern Border Security Commission.

If, after five years, "effective control" of all Southern border sectors has not been achieved in at least one of the five years following the date of enactment, a Southern Border Security Commission will be established. The Commission will comprise experts in the field of border security and will be appointed by the President (two members), the President pro tempore of the Senate (two members, upon the recommendation of each party), the Speaker of the House of Representatives (two members, upon the recommendation of each party), and the Governors of each State along the Southern border, or their appointees (four members).

The Commission shall review the state of border security in all Southern border sectors, and make recommendations on policies to achieve persistent surveillance of the Southern border and to achieve and maintain an effectiveness rate of 90 percent or higher for all Southern border sectors. The Commission's report shall be submitted, no later than 180 days from the end of the five-year period described above, to the President, the Secretary, and Congress. The Comptroller General of the United States will also review the report and the feasibility of its recommendations.

Section 5. Comprehensive Southern Border Security Strategy and Southern Border Fencing Strategy.

Within 180 days of the enactment of this Act, the Secretary must submit a Comprehensive Southern Border Security Strategy to Congress and the Comptroller General of the United States. The Strategy will outline priorities to be met for achieving effective control of the Southern border and identify resources and capabilities needed to meet those priorities, including surveillance and detection capabilities used by Department of Defense (DOD), staffing requirements for Border Patrol Agents and Customs Officers, and fixed, mobile, and agent-portable surveillance systems and manned and unmanned aircraft. The Strategy shall also outline interim goals and milestones for successful implementation.

Also within 180 days of the enactment of this Act, the Secretary must submit a Southern Border Fencing Strategy to Congress and the U.S. Comptroller General to identify areas of the Southern border where fencing—including double-layer fencing, infrastructure, and technology**,** including at ports of entry—should be put in place. The Secretary is required to consult with appropriate Federal agencies and State and local public and private stakeholders in determining the proper location for placement of fencing.

The Comprehensive Southern Border Security Strategy shall be submitted specifically to the Committee on Homeland Security and Governmental Affairs, the Committee on Appropriations, and the Committee on the Judiciary of the Senate; and to the Committee on Homeland Security, the Committee on Appropriations, and the Committee on the Judiciary of the House of Representatives. Semiannual reports must also be submitted to these Committees.

For both of these strategies, the Secretary shall immediately begin to implement the strategy and provide notice of commencement of this implementation to Congress and the Government Accountability Office (GAO). After such notice, processing of applications for RPI status may commence. The Secretary must also report to Congress semiannually on the status of the implementation of the Comprehensive Southern Border Security Strategy. Finally, GAO shall conduct an annual review of the reports submitted by the Secretary to assess the status and progress of the Southern Border Security Strategy

Section 6. Comprehensive Immigration Reform Trust Fund.

To meet the trigger requirements, a Comprehensive Immigration Reform Trust Fund ("CIR Trust Fund") is created. The fund consists of two sources: first, $8,300,000,000, which shall be transferred from the Treasury to the fund; and second, fees, fines, and penalties on users of the immigration system in the future.

Of the $8,300,000,000 provided to the CIR Trust Fund to pay for the implementation of this law, $3,000,000,000 shall be made available to meet the requirements of the Comprehensive Southern Border Security Strategy; $2,000,000,000 shall be made available to the Secretary to carry out programs, projects, and activities recommended by the Southern Border Security Commission; $1,500,000,000 shall be made available to the Secretary to procure and deploy additional fencing, infrastructure, and technology in accordance with the Southern Border Fencing Strategy (provided that not less than $1,000,000,000 shall be used to deploy, repair, or replace fencing); $750,000,000 shall remain available for a six-year period to expand and implement the electronic employment verification system; $900,000,000 shall remain available for an eight-year period for the Secretary of State to implement this Act; and $150,000,000 shall be appropriated for startup costs for implementing this Act to be borne by the Secretary of Labor, the Secretary of Agriculture, and the Attorney General.

This section also provides that the first $8,300,000,000 of fees, fines, and penalties collected under this section shall be collected, deposited in the general fund of the Treasury, and used for Federal budget deficit reduction. This repays the $8,300,000,000 initially borrowed from the Treasury for startup implementation costs. Collections in excess of $8,300,000,000 shall be deposited into the CIR Trust Fund.

This section appropriates a total of $100,000,000 from the CIR Trust Fund each year from Fiscal Year 2014 through Fiscal Year 2018 for increased border prosecutions and for Operation Stonegarden ($50,000,000 per year, per program). The section authorizes appropriations from the CIR Trust Fund to carry out the operations and maintenance of border security and immigration enforcement programs contained in the bill. It requires the Secretary to provide an expenditure plan to Congress indicating how all of the monies appropriated in the Act will be spent. The section also establishes a Comprehensive Immigration Reform Startup Account consisting of $3,000,000,000 initially provided out of the Treasury, to fund the startup costs to be incurred by U.S. Citizenship and Immigration Services (USCIS) in registering the unauthorized population. These funds will be repaid to the Treasury by the unauthorized population through the application fees they will pay for the processing of their applications. The CIR Trust Fund account shall be audited annually by the Chief Financial Officer of DHS and the Inspector General of DHS, and this audit shall be made publicly available on a DHS website. This section contains an emergency designation for the purposes of complying with Section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

Section 7. References to the Immigration and Nationality Act.

This section clarifies that, except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (INA).

Section 8. Definitions.

This section specifies that in this Act, except as otherwise provided, the term "Department" means the Department of Homeland Security and the term "Secretary" means the Secretary of Homeland Security.

Section 9. Grant Accountability.

This section provides for waste, fraud, and abuse audits for grant programs that are administered by DHS and the National Science Foundation in this bill. A recipient of grant funds that is found to have an unresolved audit finding will be ineligible to receive grant funds for two years. Recipients may not keep funds in offshore accounts, nor use more than $25,000 for conferences without the approval of the awarding entity.

TITLE I - BORDER SECURITY

Section 1101. Definitions.

This section establishes certain key definitions for Title I, including providing that the "Northern border" means the international border between the United States and Canada; the "Southern border" means the international border between the United States and Mexico; and the "Southwest border region" means the area in the United States that is within 100 miles of the Southern border.

Section 1102. Additional U.S. Customs and Border Protection Officers.

By September 30, 2017, DHS must hire an additional 3,500 Customs and Border Protection (CBP) officers in order to reduce border-crossing and airport entry wait times and to enhance port security efforts. This section also raises the fee used by Visa Waiver Program travelers from $14 to $30 to pay for the increased number of CBP officers and permanently authorizes the Corporation for Travel Promotion created in the Travel Promotion Act of 2009.

Section 1103. National Guard Support to Secure the Southern Border.

A State's Governor, with the approval and logistical support of the Secretary of Defense, may order the State's National Guard to perform operations on the Southwest border in order to assist CBP operations. The National Guard may perform operations that include constructing fencing, increasing ground-based mobile surveillance systems, deploying unmanned and manned aircraft surveillance, providing radio capability for communication between CBP and local officials, and constructing checkpoints.

Section 1104. Enhancement of Existing Border Security Operations.

Subsection (a)—Border Crossing Prosecutions. This section provides that $50,000,000 per year for five years will be appropriated to increase the number of border crossing prosecutions in the Tucson Sector to up to 210 per day, through increased funding for attorneys, administrative support staff, pre-trial services, public defenders, and additional personnel, and to reimburse State, local, and tribal law enforcement for detention costs related to border crossing prosecutions.

Subsection (b)—Funding Operation Stonegarden. Additional funding shall also go to Operation Stonegarden for grants and reimbursement to law enforcement agencies in the Southwest border region States for costs related to illegal immigration and drug smuggling. This section also creates a competitive grant program to allocate funds to law enforcement agencies.

Subsection (c)—Infrastructure Improvements. The Department of Homeland Security must construct additional Border Patrol stations and additional permanent forward operating bases as needed, to provide full operational support in rural, high-trafficked areas. This section also provides for a new grant program to allow DHS and the Secretary of Transportation, in consultation with the Governors of Southern and Northern border States, to provide grants to construct transportation and supporting infrastructure improvements at existing and new international border crossing ports.

Subsection (d)—New District Courts. This section provides for eight new Federal district court judgeships in the four Southwest border States, to be funded by a $10 increase in filing fees. In addition, this section provides for whistleblower protection for employees of the judicial branch.

Section 1105. Border Security on Certain Federal Land.

Customs and Border Protection personnel are authorized to access Federal lands in the Southwest border region in Arizona for security activities, including routine motorized patrols and the deployment of communication, surveillance, and detection equipment. The Secretaries of the Interior and Agriculture must conduct a programmatic environmental impact statement to analyze the impact of the security activities, and advise the Secretary of Homeland Security.

Section 1106. Equipment and Technology.

In the Southwest border region, CBP will be required to deploy additional mobile, video, and agent-portable surveillance systems and unmanned aerial vehicles, which must be operated along the Southern border in a manner to achieve constant surveillance; deploy additional fixed-wing aircraft and helicopters; acquire new rotorcraft and make upgrades to the existing helicopter fleet; acquire maritime equipment; and increase horse patrols. Unarmed, unmanned aerial vehicles are allowed to operate only within three miles of the Southern border in the San Diego and El Centro Sectors, but this limitation does not apply to the maritime operations of Customs and Border Protection.

Section 1107. Access to Emergency Personnel.

With the consultation of border State Governors, DHS must establish a two-year grant program to improve emergency communication by providing satellite telephones for people living within the Southwest border region that are at greater risk of border violence due to lack of cellular service. Funding is available to DHS, the Department of Justice (DOJ), and the

Department of the Interior for five years to purchase P25-compliant radios for Federal, State, and local law enforcement agents working in the border regions supporting CBP, as well as to upgrade the communications network of the Department of Justice to ensure coverage and capacity in the border region.

Section 1108. Southwest Border Region Prosecution Initiative.

The Department of Justice must reimburse State, county, tribal, and municipal governments for costs associated with the prosecution and pre-trial detention of Federally-initiated criminal cases that local offices of the United States Attorneys declined to prosecute. These services shall include pre-trial services, clerical support, and public defenders' services. Reimbursement shall not be available if the Attorney General determines that there is reason to believe that the jurisdiction seeking reimbursement has engaged in unlawful conduct with respect to immigration-related apprehensions.

Section 1109. Interagency Collaboration.

The Department of Defense and DHS must collaborate to identify equipment used by DOD that could be used by CBP to improve border security.

Section 1110. State Criminal Alien Assistance Program (SCAAP) Reauthorization.

The State Criminal Alien Assistance Program is reauthorized through 2015. Reimbursements are expanded to include reimbursement to States and localities for the cost of detaining individuals who were charged with committing deportable offenses prior to their conviction.

Section 1111. Use of Force.

After consulting with the Department of Justice, DHS must issue policies regarding the use of force by its personnel, including a requirement that all uses of force be reported. The Department of Homeland Security must also create procedures for investigating complaints, reviewing all uses of force, and disciplining personnel who commit violations.

Section 1112. Training for Border Security and Immigration Enforcement Officers.

The Department of Homeland Security must ensure that all CBP, Border Patrol, and Immigration and Customs Enforcement (ICE) agents, as well as agriculture specialists within 100 miles of the border, receive appropriate training on individual rights, detecting fraudulent travel documents, the scope of enforcement authority, the use of force policies, immigration laws, social and cultural sensitivity toward border communities, the impact of border operations on communities, and environmental concerns to a particular area. Border community liaison officers must also receive training to better perform their duties. Not later than 90 days after enactment, DHS must establish standards to ensure the humane treatment of children in CBP custody, including adequate medical treatment and access to phone calls to family members.

Section 1113. Department of Homeland Security Border Oversight Task Force.

An independent task force, consisting of 22 members appointed by the President, will be established to review and make recommendations regarding immigration and border enforcement policies, procedures, strategies, and programs, taking into consideration their impact on border

communities. Members shall include law enforcement officials, members of the business community, local elected officials, private landowners, and representatives of faith and religious communities. The task force is empowered to take testimony, hold hearings, and request statistical information from Federal agencies. All recommendations made by the task force must receive a response from DHS within 180 days, describing how the Department will address the findings. Within two years of its first meeting, the task force must submit a final report to the President, Congress, and DHS regarding its findings.

Section 1114. Immigration Ombudsman.

An Ombudsman for Immigration Related Concerns will be appointed within DHS, and shall have the authority to receive complaints from individuals and employers, conduct inspections of facilities or contract facilities of the immigration components of the Department, assist individuals and families who have been the victims of crimes committed by aliens or violence near the border, to request the Inspector General of DHS to conduct inspections, investigations, and audits, and to make recommendations concerning CBP, ICE, and USCIS. The Ombudsman must have a background in immigration law as well as civil and human rights law.

Section 1115. Protection of Family Values in Apprehension Programs.

As soon as practicable after an individual is apprehended in a migration deterrence program, DHS and cooperating entities shall, for each such apprehended individual, inquire as to whether the person is a parent, legal guardian, or primary caregiver of a child or traveling with a spouse or child and ascertain whether repatriation of the individual presents any humanitarian concerns related to his or her physical safety. Due consideration must be given to the best interests of the child and to family unity. Rules must be promulgated within 120 days of enactment and training on these issues is mandatory.

Section 1116. Reports.

The Secretary of Homeland Security shall prepare a report detailing the effectiveness rate for each Border Sector, the number of miles along the Southern border that are under persistent surveillance, the monthly wait times per passenger for crossing the Southern and Northern borders, and the allocations of personnel at each port of entry along the Southern and Northern borders. The report shall be submitted to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, as well as the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives. A report shall also be submitted on interagency collaboration.

Section 1117. Severability and Delegation.

If any provision of this Act or any amendment to the Act, or any application thereof to any person or circumstance, is held to be unconstitutional, the remainder of the provisions shall not be affected. This section permits the Secretary of Homeland Security to delegate any authorities provided under this Act to other appropriate Federal agencies.

Section 1118. Prohibition on Land Border Crossing Fees.

This section prohibits the collection of any border crossing fees at land ports of entry along the Southern or Northern borders. It also prohibits any study relating to the imposition of a border crossing fee.

Section 1119: Human Trafficking Report.

This section adds human trafficking to the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting program. State and local governments receiving Edward Byrne Memorial Justice Assistance grants will be required to include human trafficking in their reporting of Part 1 Violent Crimes.

Section 1120. Rule of Construction.

Nothing in this Act may be construed to authorize the deployment, procurement, or construction of fencing along the Northern border.

Section 1121. Limitations on Dangerous Deportation Practices.

Within one year of enactment of this Act and every 180 days thereafter, DHS must submit written certification to Congress that DHS has only deported or removed migrants through an entry or exit point on the Southern border during daylight hours, unless there is a compelling Government interest, an applicable local arrangement for repatriating Mexican nationals, or if the alien is not a minor and is deported through the same point of entry as the place where the migrant was apprehended, or agrees to such deportation.

TITLE II - IMMIGRANT VISAS

SUBTITLE A – REGISTRATION AND ADJUSTMENT OF REGISTERED PROVISIONAL IMMIGRANTS.

Section 2101. Registered Provisional Immigrant Status.

This section establishes Registered Provisional Immigrant status. The Secretary, after conducting the requisite law enforcement and national security clearances, may grant RPI status to eligible aliens who apply within the application period and pay the fee, including any applicable penalties. To be eligible for RPI status, an alien must have been physically present in the United States on or before December 31, 2011, and have maintained a continuous presence since that date, except for certain limited absences. Other requirements, such as payment of taxes and national security and law enforcement clearances are described below.

Grounds for Ineligibility. Grounds for ineligibility for RPI status include the following: (1) conviction for a felony (other than a State or local offense for which an essential element was the alien's immigration status, or a violation of this Act); (2) conviction for an aggravated felony; (3) conviction for three or more misdemeanor offenses if the alien was convicted on different dates for each of the offenses (other than minor traffic offenses or a State or local offense for which an essential element was the alien's immigration status or a violation of this Act); (4) any foreign law offense, except for a purely political offense, that would render the alien inadmissible if it had been committed in the United States; (5) conviction for unlawful voting; (6) certain other grounds of inadmissibility set forth in INA Section 212(a); and (7) persons

whom the Secretary knows or has reasonable grounds to believe are engaged in or likely to engage in terrorist activity.

Individuals who at the date of introduction of the bill in the Senate are lawful permanent residents, refugees, or asylees, or are lawfully present in a nonimmigrant status, may not apply for RPI status.

The Secretary has limited authority to waive some grounds of ineligibility to account for individual circumstances, such as the bar for individuals convicted of three or more misdemeanors, for humanitarian purposes, to ensure family unity, or if such a waiver is in the public interest. Waivers are not available to aliens who are convicted of a felony or an aggravated felony, persecutors, human traffickers, money launderers, those inadmissible on security grounds, polygamists, child abductors, unlawful voters, citizenship renouncers, or those who lie on their RPI applications.

Dependent Spouses and Children. Spouses and unmarried children under 21 may be included on the application if the spouse or child was physically present in the United States on or before December 31, 2012, maintained continuous physical presence since that date except for certain limited absences, and he or she meets the eligibility requirements. Divorce, death, or separation because of domestic violence will not bar a spouse or unmarried child from re-applying for RPI status.

Applicable Taxes and Fees. In order to apply, an alien must have paid taxes assessed in accordance with Section 6203 of the Internal Revenue Code of 1986 and a $1000 penalty fee, which may be paid in installments. The application form shall anonymously collect certain demographic data about each immigrant, which shall be compiled in a report to Congress on immigration trends.

Application Period; Ability to Apply. The application period is for one year following publication of a final rule and can be extended for 18 months by the Secretary. Aliens who appear prima facie eligible and are apprehended during the application period should be given a reasonable opportunity to apply for RPI status and shall not be removed until a final determination has made concerning their application. An alien who departed from the United States subject to an order of removal and is outside the United States or illegally reentered the country after December 31, 2011, is not eligible to apply for RPI status. The Secretary has discretion to waive this bar in certain cases if the alien is the spouse or child of a U.S. citizen or lawful permanent resident; a parent of a child who is a U.S. citizen or lawful permanent resident; meets certain requirements set forth in the DREAM Act provisions; or is 16-years-old or older and was younger than 16 when he or she entered the United States and has been physically present in the United States for an aggregate period of three years within the preceding six years of the date of enactment.

If the Secretary is considering waiving the bar for RPI status in a circumstance described above and the applicant has been convicted of a crime, the Secretary shall consult with the convicting agency to identify any victims of that crime. If DHS identifies such a victim it shall make reasonable efforts to provide that victim with an opportunity to request consultation with DHS on the alien's application for a waiver, or provide notice regarding adjudication of the application. The Secretary may not make an adverse determination of inadmissibility or deportability based solely on information supplied during the identification of, notice to or consultation with a victim. The Secretary must submit an annual report to Congress detailing the identification and notice process described in this provision.

Suspension of Removal During Application Period. Aliens with RPI status shall not be detained or removed, unless the alien is or has become ineligible for RPI status or his or her RPI status had been revoked. Aliens in removal proceedings who are prima facie eligible for RPI status should be given an opportunity to apply for RPI status under certain circumstances. If an alien subject to a removal order is granted RPI status, he or she must file a motion to reopen removal proceedings.

Pending RPI Status. An alien who has a pending application for RPI status may receive advance parole if urgent humanitarian circumstances compel such travel. Such persons will not be considered unlawfully present or unauthorized to work under this Act. An employer who knows that an employee has applied or will apply for RPI status during the application period is not in violation of the law if he or she continues to employ that individual pending adjudication of the application.

National Security and Law Enforcement Clearances. Before any alien may be granted RPI status, all national security and law enforcement clearances must be completed and an applicant must submit biometric and biographic data in accordance with DHS procedures. The Department of Homeland Security, in consultation with the Secretary of State and other interagency partners, shall also conduct additional security screenings upon determining that an alien or an alien-dependent spouse or child is or was a citizen or long-term resident of a region or country known to pose a threat, or contain groups or organizations that pose a threat, to the national security of the United States.

Renewal of RPI Status After Six Years. Registered Permanent Immigrant status shall be granted for an initial period of six years and may be extended if the alien remains eligible, meets certain employment requirements, successfully passes all background checks, and has not had his or her status revoked. To be eligible, an RPI applicant must demonstrate that he or she has met the employment requirement by being regularly employed throughout the period of admission as an RPI (allowing for brief periods of unemployment lasting not more than 60 days), and is not likely to become a public charge; or an applicant must demonstrate an average income or resources that are not less than 100 percent of the Federal poverty level throughout the period of admission. Certain exemptions exist for applicants who are unable to work because of a disability, pursuit of education, or other limited personal circumstances. An extension of RPI status may only be granted if the applicant has satisfied applicable Federal tax liability and paid the penalty fee. An extension of RPI status can only be granted if an applicant submits to and passes another series of background checks that are also required at initial registration.

Processing Fee for RPI First-Time Applicants and RPI Renewals. All individuals applying for RPI status, or an extension of that status, who are 16-years-old or older will be charged a processing fee as determined by the Secretary to cover the full costs of processing an application, including any costs incurred to adjudicate, process biometrics, perform national security and background checks, prevent and investigate fraud, and administer the collection of a fee. Aliens who are 21-years-old or older shall pay an additional $1,000 penalty, unless they are a DREAMer. The Secretary shall deny an application where the applicant fails to submit requested evidence, including biometrics.

Evidence of RPI Status. The Secretary must issue documentary evidence of RPI status to each individual whose application is approved, which shall be machine-readable and meet other criteria, and can serve as a valid travel document and as evidence of employment authorization.

DACA Recipients. The Secretary may grant RPI status to an individual granted Deferred Action for Childhood Arrivals (DACA) pursuant to the Secretary's memorandum of June 15, 2012, if that individual has not engaged in any conduct since being granted DACA that would make him or her ineligible for RPI status, and renewed national security and law enforcement clearances have been completed.

Terms and Conditions of RPI Status. An alien granted RPI status is authorized to work, may travel outside the United States subject to certain specified conditions, and shall be considered admitted to and lawfully present in the United States.

Revocation of RPI Status. The Secretary may revoke RPI status if the alien is no longer eligible for such status, knowingly used RPI documentation for an unlawful or fraudulent purpose, or was absent from the United States for any single period longer than 180 days or for more than 180 days in the aggregate in any calendar year, unless the failure to return was due to extenuating circumstances. If RPI status is revoked, any documentation issued to the alien is automatically invalid.

Eligibility for Federal Benefits. An alien who is granted RPI status is not eligible for any Federal means-tested benefit. The Department of Health and Human Services (HHS) shall conduct regular audits to ensure that RPIs are not fraudulently receiving any such benefits. A person in RPI status is not entitled to the premium assistance tax credit authorized under Section 36B of the Internal Revenue Code of 1986 for his or her healthcare coverage and shall be subject to the rules applicable to persons not lawfully present that are set forth in section 1402(e) of the Patient Protection and Affordable Care Act and in section 5000A(d)(3) of the Internal Revenue Code of 1986. An alien granted RPI status may be issued a Social Security number.

Dissemination of Information Concerning RPI Program. The Secretary shall broadly disseminate information on the RPI program in the languages most commonly spoken by aliens who would qualify for such status.

Registration in the Armed Services. This section amends Federal law so that an alien who is granted RPI status may enlist in the Armed Services.

Section 2102. Adjustment of Status of Registered Provisional Immigrants.

This section gives the Secretary discretionary authority to adjust the status of a RPI to that of an alien lawfully admitted for permanent residence if the RPI meets the eligibility requirements. Aliens must establish their continued eligibility for RPI status, and show that they have not been outside the United States for more than 180 days in any calendar year unless it was due to extenuating circumstances beyond the applicant's control. If the Secretary has notified an alien of a pending revocation hearing, no adjustment of that alien's status may be made until a final determination has been made regarding that pending revocation. If the Secretary has notified the alien that he or she intends to revoke such status, the alien may not adjust his or her status until the Secretary makes a final determination not to revoke such status.

Adjustment Requirements. Registered Permanent Immigrants who apply for adjustment of status must demonstrate that they have satisfied any applicable Federal tax liability and pay a $1000 penalty fee. They must also meet the employment requirement set forth in the bill, by showing that he or she was regularly employed throughout the period of admission (allowing for brief periods of unemployment lasting not more than 60 days), and is not likely to become a public charge; or by demonstrating an average income or resources that are not less than 125 percent of the Federal poverty level throughout the period of admission. The alien may meet this

requirement by submitting records maintained by the Social Security Administration, Internal Revenue Service, or any other Federal, State, or local government agency that establish compliance by a preponderance of the evidence. In the absence of such records, the alien may submit at least two forms of alternative reliable documentation such as bank records, employer records, sworn affidavits from a non-relative with direct knowledge of the applicant's work or education, and any additional documentation the Secretary may require. Full-time attendance at certain educational institutions may satisfy some or all of the employment requirement. Certain exceptions exist to the employment requirement based on age, disability, pregnancy, or dependency of an RPI. If extreme hardship is demonstrated by an alien or his or her spouse, parent or child who is a U.S. citizen, or lawful permanent resident, the Secretary may waive the employment requirement.

An RPI may seek adjustment of status to lawful permanent residence only if he or she is over 16-years-old and meets the basic English proficiency requirement specified in this section. If an alien is subject to registration under the Military Selective Service Act on or after the date on which their application for RPI status is granted, proof of that registration is required.

"Back of the Line." The status of an RPI may not be adjusted until after the Secretary of State certifies that immigrant visas have become available for all approved employment and family based petitions filed before the date of enactment.

Interview; Security and Law Enforcement Clearances. The Secretary may interview applicants for adjustment of status under this section. The Secretary may not adjust the status of an RPI until renewed national security and law enforcement clearances have been completed.

Fees and Penalties. The Secretary shall charge applicants a processing fee, as determined by the Secretary to cover the full costs of processing an application to adjust status, including any costs incurred to adjudicate, process biometrics, perform national security and background checks, prevent and investigate fraud, and administer the collection of a fee. In addition to the processing fee established by the Secretary, individuals who were 21 years of age or older on the date of introduction of this Act shall pay a $1000 penalty to adjust, unless that individual meets the requirements under the DREAM Act set forth in section 245D(b). This penalty may be paid in installments.

Naturalization. A lawful permanent resident who was lawfully present in the United States and eligible for work authorization for not less than 10 years before becoming a lawful permanent resident may be naturalized in three years provided that he or she meets all requirements for naturalization, has resided continuously in the United States for at least three years after being lawfully admitted for permanent residence, and, during the three years immediately preceding the naturalization filing date, was physically present in the United States for fifty percent of the time.

Section 2103. The DREAM Act (Development, Relief, and Education for Alien Minors Act of 2013).

This section authorizes the Secretary to adjust the status of an RPI to that of a lawful permanent resident after five years (instead of the usual 10 years) if the RPI demonstrates that he or she was younger than 16 years of age on the date on which the alien initially entered the United States; has earned a high school diploma or certain equivalents (including a general education development certificate recognized under State law or a high school equivalency diploma); and has acquired a degree from an institution of higher education or has completed at

least two years, in good standing, of a program for a bachelor's degree or higher education degree in the United States or has served in the Uniformed Services for at least four years and, if discharged, received an honorable discharge. The applicant must also provide a list of each secondary school he or she attended while in the United States.

The Secretary has authority to waive the above requirements for aliens who can demonstrate compelling circumstances that have prevented them from satisfying the higher education or Uniformed Services requirement. In obtaining a status adjustment, an alien must demonstrate that he or she meets the requirements that apply at citizenship, unless a physical or developmental disability or mental impairment prevents that individual from meeting such requirements.

Aliens seeking adjustment of status must submit biometric and biographic information and complete national security and law enforcement background checks. The Secretary must notify an alien of his or her determination as to whether the alien meets, or does not meet, the requirements set forth in Section 1 (DREAM Act eligibility requirements).

DACA Recipients. The Secretary may adopt streamlined procedures for individuals granted relief under the DACA program to adjust to lawful permanent resident status.

Treatment for Purposes of Naturalization. An alien adjusted to lawful permanent resident status under this section shall be considered to have been lawfully admitted for permanent residence and to have been in the United States as a lawful permanent resident during the period of RPI status. An individual may not apply for naturalization while in RPI status, except for those applying for military naturalization under INA section 328 or 329.

Higher Education. Under this section, States have the option to determine residence for the purposes of higher education, such that a State may choose to grant in-state tuition to out-of-status immigrants. RPIs who initially entered the United States before reaching 16 years of age, and those eligible for blue card status, shall be eligible for certain assistance under Title IV of the Higher Education Act of 1965, including certain student loans and work-study programs.

Section 2104. Additional Requirements.

This section specifies that, while the Secretary may consider the information provided by an alien seeking RPI status or extension or adjustment when considering any immigration application from the alien, the Secretary may not otherwise disclose the information subject to certain required disclosures. The Secretary is required to disclose the information to law enforcement, intelligence, and national security agencies, components within DHS, and to a court or grand jury in connection with a criminal investigation or prosecution of a felony (not related to the applicant's immigration status), or for a national security investigation or prosecution, or to an official coroner for purposes of identifying a deceased person. The Secretary may audit information about applications for RPI status, extension of RPI status or adjustment for purposes of identifying fraud or fraud schemes. The Secretary may use evidence from audits and evaluations for purposes of investigating, prosecuting, referring for prosecution or denying or terminating immigration benefits.

This section protects employers in relation to the use of employment records submitted in connection with an application for RPI status or extension of RPI status.

The Secretary may establish or designate an administrative appeal process within DHS and allows for a single appeal for each administrative decision related to an application for RPI status, extension of RPI status, or adjustment under the RPI provisions or the DREAM Act

provisions, or for blue card status or adjustment for those in blue card status. An alien shall not be removed until a final decision is rendered establishing ineligibility for RPI status or extension or adjustment, and the alien shall not be considered unlawfully present during the appeals process.

If an alien's application for RPI status or adjustment under general RPI provisions or the DREAM Act, or for blue card status or adjustment under the blue card status provisions, is denied or revoked after the exhaustion of administrative review, that person may seek review of the decision in accordance with Chapter 7 of Title 5 of the United States Code, before the U.S. District Court for the district in which the person resides. Alternatively, for decisions related to applications for RPI status, adjustment under the general RPI provisions or adjustment under the DREAM Act, an alien may seek review in a United States court of appeals in conjunction with the judicial review of an order of removal, deportation, or exclusion if the validity of the denial has not been upheld in a prior judicial proceeding.

Judicial review of decisions related to applications for RPI status, adjustment under the general RPI provisions or adjustment under the DREAM Act shall be based upon the administrative record established at the time of the review. The reviewing court may remand a case for consideration of additional evidence if the court finds that the additional evidence is material and there were reasonable grounds for failure to adduce the additional evidence before the Secretary. The district courts shall have jurisdiction over any cause or claim arising from a pattern or practice of the Secretary in the operation or implementation of this Act that is arbitrary, capricious or otherwise contrary to law. This section speaks to the scope of relief available in the districts courts and specifies how challenges to the validity of the system are to be handled by the courts.

Section 2015. Criminal Penalties.

This section creates criminal penalties of not more than $10,000 for any person who knowingly uses, publishes, or permits the improper use of information on these applications.

Section 2106. Grant Program to Assist Eligible Applicants.

The Secretary may establish a program within U.S. Citizenship and Immigration Services to award grants, on a competitive basis, to eligible public or private nonprofit organizations that assist eligible applicants for Registered Provisional Immigrant status and blue card status.

The grant funds may be used for the design and implementation of programs that provide information to the public regarding the eligibility and benefits of RPI status; assistance to individuals submitting applications for Registered Provisional Immigrant status; assistance to individuals seeking to adjust their status to that of an alien admitted for permanent residence; and assistance to individuals on the rights and responsibilities of U.S. citizenship, civics and civics-based English as a second language, and in applying for U.S. citizenship.

Section 2107. Conforming Amendments to the Social Security Act.

This section allows those granted RPI status, or adjustment of status including under the DREAM Act provisions, to correct their Social Security records.

In addition, this section states that the removal of a parent from the United States or the involvement of a parent in an immigration proceeding shall constitute a compelling reason for a State not to file a petition to terminate parental rights, unless the parent is unfit or unwilling to be

a parent. The provision ensures that the immigration status of a relative caregiver alone shall not disqualify the caregiver, and that adult relatives should receive preference if he or she meets all relevant State child protection standards.

Section 2108. Government Contracting and Acquisition of Real Property Interest.

This section provides that the competition requirement under Section 253(a) of Title 41 of the United States Code (USC) may be waived or modified by a Federal agency for any procurement conducted to implement this title or the amendments made by this title if the senior procurement executive for the agency conducting the procurement determines that the waiver or modification is necessary, and submits an explanation for such determination to the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

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

The Secretary of Homeland Security may acquire a leasehold interest in real property, and may provide in a lease entered into for the construction or modification of any facility on the leased property.

Section 2109. Long-Term Legal Residents of the Commonwealth of the Northern Mariana Islands.

This section creates a mechanism to grant lawful permanent resident status to certain long-term legal residents of the a Commonwealth of the Northern Mariana Islands (CNMI) who, following the federalization of immigration law in the CNMI in 2008, were left without a long-term permanent status. These individuals include those who are lawfully present in the CNMI under the immigration laws of the United States, are otherwise admissible to the United States under the INA, and meet certain criteria relating to their presence in the CNMI. The presence criteria are that the individual either resided continuously and lawfully in the CNMI from November 28, 2009, through the date of enactment; was born in the Northern Mariana Islands between January 1, 1974, and January 9, 1978; has been a continual permanent resident of the CNMI since May 8, 2008; is the spouse or child of such an alien; is an immediate relative of a U.S. citizen since May 8, 2008; resided in the Northern Mariana Islands as a guest worker under CNMI immigration law for at least five years before May 8, 2008; or is the spouse or child of the alien guest worker. Beginning five years after the date of enactment, the individuals described above may apply to receive an immigrant visa or adjust status to that of lawful permanent residence.

Section 2110. Rulemaking.

Not later than one year after the date of enactment, the Secretary, the Attorney General, and the Secretary of State separately shall issue interim final regulations to implement this title and the amendments which shall take effect immediately upon publication in the Federal Register.

Section 2111. Statutory Construction.

Except as specifically provided, nothing in this title, or any amendment made by this title, may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SUBTITLE B – AGRICULTURAL JOB OPPORTUNITIES BENEFITS.
Section 2201. Short title.

Section 2202. Definitions.

This section defines "blue card status" as the status of an alien who has been lawfully admitted into the United States for temporary residence under Section 2211. The term "agricultural employment" is given the meaning that it carries in Section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, without regard to whether the specific service or activity is temporary or seasonal.

Section 2211. Blue Card Status Requirements.

This section provides that prospective blue card workers must be able to document working in U.S. agriculture for a minimum of 100 work days or 575 hours in the two years prior to December 31, 2012, in order to be eligible to adjust to blue card status. The spouse or child of such alien may be eligible if he or she was physically present in the United States on or before December 31, 2012, and has maintained continuous presence since then. Applicants must pass a security and a law enforcement background check in order to be eligible for the program, just like any other Registered Provisional Immigrant.

The Department of Homeland Security will accept applications for blue card status from aliens in the United States during the one-year period beginning on date when DHS publishes the final rule. The Secretary of Homeland Security can extend the application period for 18 months.

The Secretary of Homeland Security shall collect biometric and biographic information for blue card workers and their dependent spouses and children to conduct national security and law enforcement clearances.

Blue card status expires eight years after the date on which final blue card regulations are published. The Department of Homeland Security shall set a processing fee that is sufficient to cover the program application and administrative costs. Blue card workers must pay a $100 fine to the Department of Homeland Security. Blue card documents will be machine-readable and tamper-resistant and contain a digitized photograph. A worker granted blue card status is not eligible for public assistance or public benefits until five years after the date on which the alien adjusts to green card status, consistent with any other immigrant entering the United States.

Blue card status may be revoked at any time if the person is no longer eligible for blue card status. Blue card holders may convert to RPI status if DHS determines that they cannot meet the work requirements applicable to blue card holders.

Section 2212. Adjustment to Permanent Resident Status.

Blue card workers (and spouses and children who meet certain eligibility requirements) are eligible to apply for permanent resident status if they have fulfilled their work requirements in U.S. agriculture, show that they have paid all applicable taxes, comply with the same criminal

eligibility requirements used for determining RPI status, and pay a $400 fine. Fines are to be used to cover the costs of the program.

In order to be eligible, a worker must show that he or she performed at least five years of agricultural employment for at least 100 work days per year during the eight-year period beginning on the date of enactment or that he or she performed at least three years of agricultural employment for at least 150 work days per year during the five-year period beginning on the date of enactment. Certain credits may be given for extraordinary circumstances, though such credits cannot exceed 12 months of work.

If an employer or farm labor contractor has kept records of employment, the alien's burden of proof may be met by securing production of such records under regulations to be promulgated by the Secretary; otherwise, an applicant may meet the burden of proof by producing sufficient evidence to show the extent of his or her employment as a matter of just and reasonable inference. Penalties for making false statements in conjunction with blue card applications or adjustment to legal permanent resident status are punishable by up to five years in prison.

Legal services through the Legal Services Corporation may be made available for direct assistance to those applying for blue card status or adjustment, and to individuals granted blue card status.

Upon enactment, deportation of undocumented agricultural workers who are eligible for blue card status and sanctions against their employers shall be stayed until the blue card program is operational.

Spouses and minor children of blue card workers residing in the United States are eligible for derivative blue card status. Workers who successfully complete blue card requirements are eligible for lawful permanent residence and their spouses and children are eligible for such status as derivatives.

Section 2213. Use of Information.

Beginning on the first day of the blue card application period, DHS shall broadly disseminate information about the program.

Section 2214. Reports on Blue Cards.

Not later than September 30, 2013, and annually thereafter for the next eight years, the Secretary of Homeland Security shall submit a report to Congress concerning the blue card program, including the number of aliens who applied for and were granted blue card status, and the number of blue card holders who applied for and received adjustment of status to lawful permanent residence.

Section 2215. Authorization of Appropriations.

Congress will make appropriations as necessary to implement the program for Fiscal Years 2013 and 2014.

Section 2221. Correction of Social Security Records.

This section provides a safe harbor for blue card holders for past misstatements.

Section 2231. Nonimmigrant Classification for Nonimmigrant Agricultural Workers.

This section establishes a new temporary worker program to ensure an adequate agricultural workforce. Two visa programs are established: first, a portable, at-will employment based visa (W-3 visa) and second, a contract-based visa (W-2 visa) to replace the H-2A program. Regulations implementing the new program shall be issued within 12 months of enactment.

The H-2A program will sunset after the new visa programs are implemented and operational. The implementation of these programs is expected to be complete two years after the date of enactment.

Section 2232. Nonimmigrant Agricultural Worker Program.

A new Section 218A is created within the INA, establishing a nonimmigrant agricultural worker program for employment by contract and employment at will. Both contract and at-will visas will be valid for agricultural employment with Designated Agricultural Employers (DEAs), who have registered with the Department of Agriculture to employ guest workers (described further below). Various terms are defined, including agricultural employment, at-will agricultural worker, blue card, and electronic job registry. Initial employee eligibility would be based on an offer of employment from a Designated Agricultural Employer.

New Section 218A(c)—Numerical Limitation. For the first five years, the nonimmigrant visa program is capped at 112,333 per year. Visas shall be evenly distributed four times per calendar year. After the first year, the Secretary of Agriculture may modify disbursement of visas based on prior usage patterns. Unused visas can be rolled over to the next quarter but not to the next year.

During the first five years of the program, the Secretary of Agriculture has the authority to increase the cap to make additional visas available within a calendar year in response to a demonstrated labor shortage. The Secretary has the authority to reduce the cap within a fiscal year in response to the high unemployment rate of agricultural workers. The Secretary shall consider the evidence submitted by agricultural producers and farm worker organizations in making a determination to increase or decrease the cap.

The Secretary of Agriculture, in consultation with the Secretary of Labor, shall establish a new annual visa cap for each fiscal year after year six. To determine the cap for each fiscal year the Secretary shall consider appropriate factors, including but not limited to, demonstrated shortages of agricultural workers, the level of unemployment and underemployment of agricultural workers, the number of applications for the guest worker visa, the number of applications approved, the number of guest workers employers sought, and other factors. This cap is also subject to rules in case of emergency in case of labor shortages.

New Section 218A(d)—Nonimmigrant Worker Requirements. An alien is not eligible for the program if the alien has violated a material term of a previous admission as a non-immigrant agricultural worker; has failed to pass security and criminal background checks; or departed the United States subject to an order of exclusion, deportation or removal and is outside the United States or reentered the United States illegally after December 31, 2012 (subject to certain exceptions). Temporary workers are not eligible for means-tested federal benefits or assistance.

The visa term is for three years. The visa is portable for at-will workers, and for contract workers it ends upon fulfillment of contract term. A guest worker can renew his or her visa one time. After year six, guest worker must reside outside of the United States for three months

before obtaining another visa. A spouse or child is not eligible for derivative status on a nonimmigrant visa.

Contract agricultural workers may seek employment with other designated agricultural workers after the completion of the contract period. At-will agricultural workers may seek and accept employment with any other designated agricultural employer. At-will and contract agricultural workers are provided a 60 day grace period to find work in between employment or must depart the country. A visa issued under this section shall not specify the geographical area or limit the type of employment which a worker may seek.

New Section 218A(e)—Employer Requirements. Each employer seeking to employ guest workers shall submit to the U.S. Department of Agriculture (USDA), through the Farm Service Agency or electronically to the USDA, an application for Designated Agricultural Employer status. Such application shall include the employer's Employer Identification Number, the estimated number of nonimmigrant agricultural workers the employer will need each year, the anticipated periods during which the employer will need such workers, and a registration fee.
The USDA shall assign each employer that meets the criteria with a Designated Agricultural Employer registration number. Designated Agricultural Employer status is for three years. The Secretary may provide assistance to agricultural employers, including helping such entities to register to be a DAE, providing Internet access for the submission of applications, and providing resources about the program.

A petition shall be submitted by a DAE to the Department of Homeland Security no later than 45 days before a worker is needed. Such petition shall include an attestation to all the requisite criteria to ensure their compliance with the system.

Employers must provide housing or an allowance for at-will and contract workers.
Employers may provide a "reasonable housing allowance" instead of arranging for housing, but the employer shall upon request assist the employee in locating suitable housing. Such allowance must not be used for housing that is owned or maintained by the employer. The amount of allowance would be based upon HUD fair market rental rates for a two-bedroom dwelling occupied by four individuals. Contract workers may only get a housing allowance instead of housing if the State certifies that there is adequate housing available in the area of intended employment. The housing provisions do not apply to workers who live within normal commuting distance where the job site is within 50 miles of the U.S. border.

The contract visa program requires employers to provide daily worksite transportation or reimbursement for transportation. The at-will visa program does not require employers to provide transportation. The first employer pays for inbound travel to the United States for contract workers and at-will workers. Employers pay for outbound travel for contract workers who complete 27 months under their contracts with the same employer.

Nonimmigrant agricultural workers lose their status and must depart the United States if they were unemployed for more than 60 consecutive days. This requirement could be waived as necessary for workers who are injured or unable to work for extended periods of time through no fault of their own due to natural disasters such as crop freezes or droughts. A contract worker who breaches with his or her contract with an employer must depart the United States before accepting another job with a U.S. employer.

Employers must file job offers with their State workforce agencies no later than 60 days before such employer seeks to employ a nonimmigrant agricultural worker. These offers must be listed for 45 days. Employers shall keep records of all eligible, able, willing, and qualified U.S.

workers who apply for agricultural employment with the employer. An employer may not seek a foreign worker unless the employer offers such employment to each eligible, able, willing, and qualified U.S. worker who applies for such employment.

Guest workers shall be provided equal labor protections under the law as domestic agricultural workers. An employer cannot hire a nonimmigrant agricultural worker to replace an employee who is on strike or locked out. An employer may not displace U.S. workers to hire nonimmigrant agricultural workers. The three-quarters guarantee rule has required the employer under the H-2A program to guarantee the worker to receive 75 percent of the worker's wages under the contract period regardless of whether or not the work was completed (in other words, to guarantee 75 percent of the work, regardless of other circumstances). This rule is retained for employers who employ workers under the contract program, but this rule will not apply to an employer's workers who came to the United States in the at-will program.

Employers must provide worker's compensation to nonimmigrant agricultural workers. Employer must provide U.S. agricultural workers the same wages, benefits, and working conditions to their employees. Employers shall make only deductions from worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment.

New Section 218A(f)—Wages. If an employer pays on a piece-rate basis and requires a minimum productivity standard, the standard must be specified in the job offer and cannot be more than what has been normally required by other employers at the time of the employer's first application, unless the Secretary of Agriculture approves a higher rate. The wage rate from Fiscal Year 2014 through Fiscal Year 2016 shall be the higher of the local minimum wage or specific rates listed in the bill for these occupations. The Secretary of Agriculture is to index an increase in the required wage rate based on the movement of the Consumer Price Index ranging between 1.5 and 2.5 percent per year.

The Secretary of Agriculture shall determine the prevailing wage rate for the six categories of farm workers listed. The Adverse Effect Wage Rate (as in effect for the current H-2A program) will remain frozen while the new prevailing wage rate for the categories is being determined. A new prevailing wage shall be set by the Secretary of Agriculture by September 1, 2015. If a new prevailing wage rate is not established by September 1, 2015, the frozen AEWR shall be the prevailing wage for these job categories and adjusted for inflation in accordance with the Consumer Price Index.

New Section 218A(g)—Worker Protection. Nonimmigrant workers have the same rights and remedies under Federal, State, and local law as their U.S. counterparts. Workers are covered by the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and can pursue their grievances with employers covered under this act. In the event of a lawsuit between and employer and an employee, any party can request mediation of the complaint and mediation must be exhausted before the lawsuit may proceed.

The Secretary of Labor is given authority to establish a process to address worker grievances and complaints. The Secretary shall be able to impose administrative remedies and bar an employer from the program related to program violations and abuses. Employers are prohibited from discriminating against an employee who reports compliance violations or misconduct.

New Section 218A(i)—Special Procedure for Certain Occupations. Under the new agricultural visa program, the Secretary is authorized to continue the special procedures relating

to housing, pay and visa application requirements for sheepherders, goat herders, beekeepers and other industries subject to such procedures under the current H-2A regulations.

New Section 218A(j)—Monitoring and Miscellaneous. Upon the full implementation of the mandatory Employment Verification system, this bill will ensure that everyone working in agriculture is legally authorized to be employed in the United States. In addition, DHS will implement a new electronic monitoring system to ensure that those who are legally authorized to work are actually working with the employer that petitioned them. This is intended to not only cut down on fraud and abuse of the system, but also to ensure compliance with program requirements and that nonimmigrant agricultural workers leave when legally required to do so.

Section. 2234. Reports to Congress on Nonimmigrant Agricultural Workers.

The Department of Agriculture has to submit an annual report that provides information on W agricultural worker admissions. The Department of Homeland Security must submit an annual report on W agricultural workers violating the program rules who have not departed from the United States.

Section 2241. Rulemaking.

The Secretary, the Secretary of Agriculture, the Secretary of Labor and the Secretary of State shall regularly consult in promulgating regulations to implement this subtitle. Regulations shall be issued not later than six months from the date of enactment of this Act.

Section 2242. Reports to Congress.

Not later than 180 days after enactment, DHS and the Department of Agriculture shall jointly submit a report to Congress describing the implementation of this subtitle.

Section 2243. Benefits Integrity Programs.

This section requires the creation of a benefit fraud assessment program to monitor fraud in the RPI, blue card, DREAM, and U visa programs.

Section 2244. Effective Date.

This subtitle shall take effect on that date on which regulations required by Section 2241 are issued (six months following enactment).

SUBTITLE C – FUTURE IMMIGRATION.

Section 2301. Merit-Based Points Track One Immigrant Visas.

This section sets the worldwide level of merit-based immigrants equal to 120,000 for each fiscal year. The cap may increase annually by up to five percent per year if the following conditions are met, but the cap may not exceed 250,000 in any year: first, if the worldwide level of visas available is less than 75 percent of the number of applicants, then the worldwide level will increase by five percent in the next fiscal year; second, if the worldwide level of visas is equal to or more than 75 percent of the number of applicants, then the worldwide level will stay the same, minus any amount added for the recapture of unused visas; third, if the average unemployment level for the prior fiscal year is more than 8.5 percent, then worldwide level of merit-based visas may not increase; and the worldwide level will be increased by any unused numbers from the prior fiscal year.

Tiers One and Two. For the first four years, the 120,000 visas (subject to any increase) will be available to those with approved petitions in the 203(b)(3) category. Beginning in the fifth fiscal year after date of enactment, the Secretary will allocate 50 percent of the merit-based visas to Tier One and 50 percent to Tier Two. In each of the two tiers, the Secretary of Homeland Security will give preference to aliens in each of two tiers based upon a point allocation system, until the worldwide level is met. The first tier allows points to be earned based on education, employment experience, employment related education, entrepreneurship, employment in a high-demand occupation, civic involvement, English language proficiency, family relationships, age, and country of origin. The second tier allows points to be earned based on employment experience, special employment criteria, caregiver obligations, exceptional employment record, civic involvement, English language proficiency, family relationships, age, and country of origin. No one granted RPI status or those with pending or approved employment or family petitions may be granted a merit-based immigrant visa.

Unused numbers in Tier One will be recaptured in the following year, with two-thirds going to Tier One and one-third to either tier. Unused numbers in Tier Two will be recaptured in the following year with two-thirds going to Tier Two and one-third to either tier.

Modification of Points Allocated. The Secretary has authority to submit a proposal to Congress recommending a modification to the points allocated in each tier, and the proposal shall be consider by Congress under expedited procedures.

Study. The Comptroller General shall conduct a study of the new merit-based immigration system during the first seven years of the system. This study shall include the demographics of the population that utilizes the system.

Section 2302. Merit-Based Track Two.

This section allows the Secretary of State to allocate merit-based immigrant visas beginning on October 1, 2014 for: employment-based visas that have been pending for five years; family-sponsored petitions that were filed prior to enactment and have been pending for at least five years; family-sponsored petitions filed after the date of enactment that have been pending for at least five years for adult married children and siblings; long-term alien workers who have been present for not less than 10 years, and are not admitted on a W visa under section 101(a)(15)(W) of the Act. Beginning in 2028, long-term aliens must be present for at least 20 years to adjust to permanent residence under this section.

Between Fiscal Years 2015 and 2021, each year, the Secretary shall allocate a seventh of the total number of employment based visas that have been pending as of the date of enactment. Between Fiscal Years 2015 and 2021, the Secretary shall allocate a seventh of the total number of family-based visas that are pending as of the date of enactment, excluding petitions that are converted to the immediate relative category. Petitions for spouses and children of permanent residents who are accorded status under the INA are automatically converted to petitions to accord status as immediate relatives.

In Fiscal Year 2022, the Secretary of State shall allocate immigrant visas to 50 percent of the number of family based petitions approved after the date of enactment that were not issued as of October 2021. In Fiscal Year 2023, the Secretary shall allocate immigration visas to the remaining 50 percent of family based petitions filed after the date of enactment that were not issued by October 2021. Visas allocated for these family based petitions will be issued based on the order in which petitions were filed.

Registered Provisional Immigrants may apply for merit-based green cards under Merit-Based Track Two ten years after enactment of the bill.

The merit-based point system tracks will not be subject to per country limits.

Section 2303. Repeal of the Diversity Visa Program.

This section amends the INA to repeal the Diversity Visa Program. Immigrants who were or are selected for diversity immigrant visas for Fiscal Years 2013 or 2014 will be eligible to receive them. All unused green cards may be recaptured through the date of enactment.

Section 2304. Worldwide Levels and Recapture of Unused Immigrant Visas.

In FY 2015, unused employment-based green cards from Fiscal Years 1992 to 2013 will be added to the FY 2015 green card allocation. After FY 2015, unused employment-based green card numbers will roll over to the following fiscal year.

This section maintains the current worldwide level of family-sponsored immigrants for a fiscal year at 480,000 visas, minus the number of immigrant visas issued to immediate relatives, with a floor of 226,000. This allocation remains in place for 18 months after the date of enactment. This section allows unused visa from 1992 through 2011 to be included in the allocation of family-sponsored immigrant visas for Fiscal Year 2015.

Section 2305. Reclassification of Spouses and Minor Children of Lawful Permanent Residents as Immediate Relatives.

This section amends the definition of "immediate relative" to include a child or spouse of an alien admitted for lawful permanent residence. This allows for the automatic conversion to immediate relative designation for pending petitions filed on behalf of a spouse or child of a lawful permanent resident.

This section provides allocations for family-based immigrant visas for the period beginning on the date of enactment until 18 months after enactment. It caps unmarried sons or daughters of lawful permanent residents at 20 percent of the worldwide family-sponsored level; caps immigrant visas for married sons and daughters of U.S. citizens; and caps immigrant visas for brothers and sisters of U.S. citizens at 40 percent of the worldwide family-sponsored level.

Within 180 days of enactment, the Secretary of Homeland Security and the Secretary of State shall adopt a plan to broadly disseminate information to the public regarding termination of the registration of aliens who evidenced an intention to become lawful permanent residents but who fail to adjust status within a year of notification that an immigrant visa is available. Termination can be overturned with two years, if the individual establishes good cause.

The section provides for the retention of priority dates for family-based and employment-based petitions by establishing that the priority date for a petition is the earliest priority date based on any petition filed on an alien's behalf, regardless of the category of subsequent petitions. For children who turn 21 during the course of processing of the parent's visa such that the child is no longer eligible to adjust as a minor child, that child would have his or her petition automatically convert to a petition for an unmarried son or daughter of an LPR upon the parent's admission as a resident. The child would retain the priority date established by the original petition.

This section also provides that VAWA self-petitioners may receive work authorization within 180 days of filing an application, or on the date such status is approved, whichever is earlier. There are other technical and conforming amendments included in this section.

Section 2306. Numerical Limitations on Individual Foreign States.

This section eliminates the per-country limits for employment-based immigrants and increases the per-country limit for family-based immigrants from seven to 15 percent. It also applies special rules for countries at the ceiling to distribute visas in a proportional way across the family categories.

Section 2307. Allocation of Immigrant Visas.

Family-Sponsored Visas. Eighteen months from the date of enactment, the allocation of immigrant visas will be amended as follows: (1) the cap on immigrant visas to adult unmarried sons and daughters will be 35 percent of the worldwide family-sponsored level; (2) caps on immigrant visas for married sons and daughters of U.S. citizens who are 31 years of age and under at the time of filing will be 25 percent of the worldwide family-sponsored level; (3) caps on immigrant visas for unmarried sons and daughters of legal permanent residents will be 40 percent of the worldwide family-based level. This section strikes the availability of immigrant visas for siblings of U.S. citizens.

Employment-Based Visas. This section exempts the following categories from the annual numerical limits on employment-based immigrants: derivative beneficiaries of employment-based immigrants; immigrants of extraordinary ability in the sciences, arts, education, business or athletics; outstanding professors and researchers; multinational executives and managers; doctoral degree holders in STEM fields; physicians who have completed the foreign residency requirements or have received a waiver; and immigrants who have earned a master's degree or higher in a field of STEM from an accredited U.S. institution of higher education and have an offer of employment in a related field, if the qualifying degree was earned in the five years immediately before the petition was filed.

EB-2 Visas. This section allocates 40 percent of the worldwide level of employment-based visas to members of the professions holding advanced degrees or their equivalent whose services are sought in the sciences, arts, professions, or business by an employer in the United States (including certain aliens with foreign medical degrees). The Secretary may waive the job offer requirement if it is in the national interest, and shall waive the requirement for physicians serving patients who reside in a shortage area if the alien's work is in the public interest. These physicians must meet certain requirements before their status can be adjusted to lawful permanent residence. This section eliminates labor certification requirement for hiring advanced degree holders in STEM fields from a U.S. university who are applying under the EB-2 category.

EB-3, EB-4, and EB-5 Visas. This section increases the percentage of employment visas for skilled workers, professionals, and other professionals to 40 percent (the EB-3 category), increases the percentage of employment visas for certain special immigrants to 10 percent (the EB-4 category), and increases visas for those who foster employment creation to 10 percent (raising the EB-5 cap from 10,000 to 14,000). The numbers may roll down among those categories.

Naturalization of Employees of Certain National Security Facilities. Under this section, a person who is employed in a research capacity at a Federal national security, science and

technology laboratory or agency for one year longer may be naturalized without regard to typical residency requirements, if other background investigation and other requirements are met.

Section 2308. Inclusion of Communities Adversely Affected by a Recommendation of the Defense Base Closure and Realignment Commission as Targeted Employment Areas.

This section provides that a Targeted Employment Area for the purpose of the EB-5 visa includes "any community adversely affected by a recommendation of the Defense Base Closure and Realignment Commission."

Section 2309. V Nonimmigrant Visa.

This section amends the V nonimmigrant visa status to be available to: those with approved petitions as the unmarried son or daughter of a U.S. citizen or of a lawful permanent resident, and to the married son or daughter of a U.S. citizen who is 31 years of age or under; or the sibling of a U.S. citizen or the married son or daughter of a U.S. citizen who is over 31 years of age. The Secretary may issue work authorization to those admitted under a V visa based on a pending family sponsored petition. A V visa terminates 30 days after the visa petition or adjustment of status is denied. Siblings and married sons and daughters of U.S. citizens over 31 years of age may not be authorized to work after being admitted on a V visa and may only be admitted for up to 90 days. This change is effective on the first day of the first fiscal year beginning after the date of enactment. V visas are subject to the public charge requirement. They do not have access to subsidies and they are not subject to the mandate under the Affordable Care Act.

Section 2310. Fiancé Child Status Protection.

This section amends K visa eligibility to include the fiancés of lawful permanent residents. It also clarifies that children who are adjusting with their parents from a fiancé visa to a family visa are included and provides certain age-out protections for the children of those being admitted as a fiancé. It provides that for purposes of both the visa petition and the adjustment application, the age of the dependent child is determined at the time the petition is filed.

Section 2311. Equal Treatment for All Step Children.

This section harmonizes the definition of stepchildren with other children under the Immigration and Nationality Act by including the definition of stepchildren as those who are 21 years of age and younger.

Section 2312. International Adoption Harmonization.

This section amends the adoption age requirements to allow children under the age of 18 to be adopted. It also harmonizes adoptions between Hague Convention and Non-Hague Convention countries.

Section 2313. Relief for Orphans, Widows, and Widowers.

This section allows aliens who were excluded, deported, removed, or departed voluntarily before enactment based solely upon their lack of classification as an immediate relative due to the death of such citizen or resident to be eligible to apply for parole into the United States

pursuant to the Secretary's discretionary authority. This section allows spouses of deceased U.S. citizens to apply for naturalization after three years of lawful permanent residences status.

This section allows for the adjudication of an immigrant visa application as if the death had not occurred for a widow or orphan of a qualifying relative who died before the completion of the immigrant visa processing. This section also preserves the eligibility of these individuals for any waivers based on their relationship to the qualifying relative as if the death had not occurred and recognizes that the death of the qualifying relative is the functional equivalent to hardship. It removes the physical presence requirement under 204(l).

Section 2314. Discretionary Authority with Respect to Removal, Deportation or Inadmissibility of Citizen and Resident Immediate Family Members.

This section grants immigration judges discretion to terminate removal proceedings or waive inadmissibility with respect to a request for admission in cases where the judge or officer determines that removal or a finding of inadmissibility is against the public interest, would result in hardship to the alien's U.S. citizen or permanent resident parent, spouse, or child, or the judge determines the alien is prima facie eligible for naturalization. This waiver is not available to individuals who are subject to removal or who are inadmissible based on certain criminal and national security grounds.

Section 2315. Waivers of Inadmissibility.

This section makes inapplicable the unlawful presence inadmissibility grounds at 212 (a)(9)(B) to individuals who are the beneficiaries of an approved H nonimmigrant visa petition; initially entered the United States prior to age 16; and have earned a bachelor's degree or higher from a U.S. institution.

This section allows those who are parents of U.S. citizens or lawful permanent residents to be eligible to apply for a waiver for unlawful presence and strikes "extreme" from the hardship standard.

This section requires false claims to citizenship to be "knowing" and exempts children and individuals who are incapable of making a "knowing" claim due to mental disabilities. This section creates a waiver for misrepresentations and false claims to citizenship based on extreme hardship to the alien or the alien's citizens or legal permanent resident parent, spouse, son, or daughter. It also creates a waiver for VAWA self-petitioners if waivers would result in significant hardship to the alien or a parent or child of the alien.

Section 2316. Continuous Presence.

This section states that any period of continuous residence or continuous physical presence shall be deemed to end on the date that a notice to appear is filed with the Executive Office for Immigration Review (EOIR).

Section 2317. Global Health Care Cooperation.

This section requires the Secretary of Homeland Security to allow lawful permanent residents who are physicians or health workers to reside in a candidate country as designated by the Secretary of State and be considered physically present and continuously resident in a State in the United States, for purposes of meeting the naturalization requirements.

An individual who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the individual submits to the Secretary of Homeland Security or the Secretary of State an attestation that he or she is not seeking to enter the United States for such purpose during any period in which the individual has an outstanding obligation to the government of the individual's country of origin or residence. The Secretary of Homeland Security can waive a finding of inadmissibility subject to certain constraints.

Section 2318. Extension and Improvement of the Iraqi Special Immigrant Visa Program.

This section extends and improves the Iraqi Special Immigrant Visa program. It provides that any unused balance of principal SIVs available in Fiscal Years 2008 through 2012 may be carried forward and provided through the end of Fiscal Year 2018; and that employment "by or on behalf of the U.S. Government in Iraq" includes employment by a media or nongovernmental organization headquartered in the United States or an organization or entity closely associated with the U.S. mission in Iraq that has received U.S. Government funding through an official and documented contract, award, grant, or cooperative agreement. It further requires improvement in the processing of Iraqi SIV applications so that a determination is made within six months from the date of application; and it provides a review process for Iraqis whose visa applications are denied.

Section 2319. Extension and Improvement of the Afghan Special Immigrant Visa Program.

This section extends and improves the Afghan Special Immigration Visa program. It increases the number of principal Afghan SIVs from 1,500 to 5,000 for Fiscal Years 2014 through 2018, giving the Afghan program parity with the Iraqi SIV program. It further provides that any unused balance of principal SIVs available in Fiscal Years 2009 through 2013 may be carried forward and provided through the end of Fiscal Year 2019. The section provides SIVs for parents and siblings of principal applicants who are in danger, and requires improvement in the processing of Afghan SIV applications so that a determination is made within six months from the date of application. It also provides a review process for Afghans whose visa applications are denied.

Section 2320. Elimination of Sunsets for Certain Visa Programs.

This section eliminates sunsets for the Special Immigrant Nonminister Religious Worker Program, and the EB-5 Regional Center Program.

Section 2321. Special Immigrant Status for Certain Surviving Spouses and Children

This section creates a new special immigrant provision for surviving spouses and children of an employee of the U.S. Government who is killed abroad in the line of duty if the employee had performed faithful services for a total of 15 years or more, and the principal officer of the Foreign Service establishment in his or her discretion recommends granting special immigrant status and the Secretary of State approves his recommendation. This section takes effect beginning on January 31, 2013, and is retroactive.

Section 2322. Reunification of Certain Families of Filipino Veterans of World War II.

This section allows individuals who are the sons or daughter of a U.S. citizen and whose parents were naturalized under Section 405 of the Immigration Act of 1990 or Section 1001 of the Second War Powers Act to receive green cards without regard to the numerical limits governing immigrant visas.

SUBTITLE D – CONRAD STATE 30 PROGRAM.

Section 2401. Conrad State 30 Program

This section eliminates the sunset clause for the Conrad State 30 Program.

Section 2402. Retaining Physicians Who Have Practiced in Medically Underserved Communities.

This section exempts alien physicians who have completed service requirements in underserved areas from the annual numeric limits on employment-based immigrant visas. It also exempts the physicians' spouses and children from these limits.

Section 2403. Employment Protections for Physicians.

This section creates certain employment protections for alien physicians working in underserved areas who agree to work under certain conditions after having completed graduate medical training in the United States on J-1 visas. Employment contracts for alien physicians must specify the maximum number of on-call hours per week; indicate whether the contracting facility or organization will pay for the alien's malpractice insurance premiums; describe all of the individual's work locations; and may not include a non-compete provision.

This section also allows physicians who are denied a Conrad 30 J-1 waiver because the program has been filled to get an extension of J-1 status for up to six months to pursue another waiver. Work authorization is available once the new J-1 waiver application is submitted. This provision also permits dual intent for J-1 doctors.

Section 2404. Allotment of Conrad 30 Waivers.

This section allots an increase to 35 waivers for any state that uses 90 percent of the waivers available to it in a given fiscal year, as long as at least five waivers were used in the previous fiscal year. All states are allotted an additional five waivers for each subsequent fiscal year if the same conditions are met. Any increase in allotments shall be maintained indefinitely, subject to constraints.

Section 2405. Amendments to the Procedures, Definitions, and Other Provisions Related to Physician Immigration.

This section establishes dual intent is established for physicians seeking graduate medical training and allowable visa status is created for physicians fulfilling waiver requirements in medically underserved areas. This section clarifies national interest waivers with respect to practice, geographic area, and the five-year service requirement. Short-term work authorization is allowed for physicians completing their residencies.

SUBTITLE E - INTEGRATION

Section 2501. Definitions.

This section defines key terms used in this subtitle.

Section 2511. Office of Citizenship and New Americans.

This section renames the Office of Citizenship in USCIS to "Office of Citizenship and New Americans." The office shall be headed by the "Chief of the Office of Citizenship and New Americans." The Office's new responsibilities include providing general leadership, consultation, and coordination of immigrant integration programs across the Federal Government and with State and local entities; setting goals and indicators and measuring progress; and engaging government and non-governmental stakeholders. The functions of the new Office shall take effect one year after the date of enactment of this Act.

Section 2521. Task Force on New Americans.

The Secretary shall establish a Task Force on New Americans, which shall be fully functional not later than 18 months after the date of the enactment of this Act.

Section 2522. Purpose.

This section stipulates that the Task Force will coordinate Federal program and policy response to integration issues and advise and assist the Secretary of Homeland Security in integration policy.

Section 2523. Membership.

The Task Force shall be comprised of 13 Federal agency officials or their designees and shall be chaired by the Secretary of Homeland Security. Members include the Secretary of the Treasury, the Attorney General, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Education, the Director of the Office of Management and Budget, the Administrator of the Small Business Administration, the Director of the Domestic Policy Council and the Director of the National Economic Council.

Section 2524. Functions.

This section establishes that the Task Force shall meet at the call of the Chair, provide a coordinated Federal response to integration issues, liaise with their respective agencies, and provide recommendations no later than 18 months after Task Force is established.

Section 2531. Establishment of a United States Citizenship Foundation.

This section authorizes the Secretary of Homeland Security to establish a nonprofit corporation, called the "United States Citizenship Foundation."

Section 2532. Funding.

This section authorizes the United States Citizen Foundation ("Foundation") to solicit, accept, and make gifts of money and other property.

Section 2533. Purposes.

The purpose of the Foundation is to expand citizenship preparation programs for permanent residents; to provide direct assistance for aliens seeking provisional immigrant status, legal permanent resident status, or naturalization as a U.S. citizen; and to coordinate immigrant integration with State and local entities.

Section 2534. Authorized Activities.

This section defines the authorized activities of the Foundation to include making United States citizenship instructions and naturalization application services accessible to low-income and other underserved permanent resident populations.

Section 2535. Council of Directors.

This section establishes Council of Directors to be comprised of the Director of USCIS, the Chief of the Office of Citizenship and New Americans, and 10 Directors from national community-based organizations. Authorizes the Council to appoint an Executive Director to manage day-to-day operations.

Section 2536. Powers.

This section defines the authorized powers of the Executive Director.

Section 2537. Initial Entry, Adjustment, and Citizenship Assistance Grant Program.

This section authorizes the Secretary of Homeland Security through the Director of USCIS to award Initial Entry, Adjustment, and Citizenship Assistance (IEACA) grants to eligible public or private, nonprofit organizations. It defines the use of funds to include the design and implementation of programs that provide direct assistance to aliens who are preparing an initial application for Registered Provisional Immigrant status or agricultural card status, aliens seeking to adjust their status to Legal Permanent Resident (LPR), and legal permanent residents seeking to naturalize. Grant programs should assist applicants in the application process, rights and responsibilities of U.S. citizenship, English as a second language, and civics.

Section 2538. Pilot Program to Promote Immigrant Integration at State and Local Levels.

This section provides that the Chief of the Office of Citizenship and New Americans may award grants on a competitive basis to States and local governments or other qualifying entities to carry out programs to integrate new immigrants. A State or local government or other qualifying entity must submit an application including a proposal to meet integration objectives set forth in this Subtitle, the number of new immigrants in the applicant's jurisdiction; and a description of the challenges in introducing and integrating new immigrants into the State or local community. Priority will be given to entities who use matching funds from non-Federal sources; demonstrate collaboration with public and private entities; and are one of the 10 States with the highest rate of foreign-born residents or that have experienced a large increase in the population of immigrants during the most recent 10-year period.

The section defines activities as those used to introduce and integrate new immigrants into the State, including improving English language skills, improving access to workforce training program, teaching U.S. history and civics, teaching financial literacy, and engaging receiving communities. Each grant recipient shall submit an annual report to the Office of

Citizenship and New Americans. The Chief shall also conduct an annual evaluation of each grant program.

Section 2539. Naturalization Ceremonies.

This section mandates that the Chief implement a strategy to enhance the public awareness of naturalization ceremonies.

Section 2541. Authorization of Appropriations.

This section authorizes the appropriation of $10,000,000 for the five-year period ending on September 30, 2018, in addition to any amounts otherwise made available to the Office. It further authorizes the appropriation of $100,000,000 for the five-year period ending on September 30, 2018, for the two grant programs and to implement the naturalization ceremony strategy.

Section 2551. Waiver of English Requirement for Senior New Americans.

This section adds a provision to waive the English language and civics and history requirements under INA Section 312(a) for any person older than 65 years of age who has been living in the United States for periods totaling at least five years after being lawfully admitted for permanent residence. It also waives the English language requirement for certain other persons aged 50 years and older who have been living in the United States for extensive periods of 15 to 20 years, and permits the Secretary, on a case-by-case basis, to waive the civics and history requirement for a person over 60 years of age who has been living in the United States for periods totaling at least 10 years after being lawfully admitted for permanent residence.

Section 2552. Filing of Applications Not Requiring Regular Internet Access.

This section prohibits the Secretary of Homeland Security from requiring an applicant or petitioner for permanent residence or citizenship to file any application electronically, or requiring access to a customer account. This provision ceases to be effective on October 1, 2020, after which DHS must notify the Committees on the Judiciary in the House and Senate of such intention.

Section 2553 Permissible Use of Assisted Housing by Battered Immigrants.

This section makes public housing available to certain qualified battered immigrants.

TITLE III - INTERIOR ENFORCEMENT

Section 3101. Unlawful Employment of Aliens (setting up the mandatory E-Verify system).

<u>New Sec.274A(a)–Making Employment of Unauthorized Aliens Unlawful.</u> This title amends existing law that provides for the limited use of E-Verify, modernizing the system and eventually making its use mandatory for all U.S. employers. It provides that it is unlawful for an employer to hire, recruit, or refer for a fee an alien knowing that the alien is unauthorized to work in the United States, or to continue to employ such an alien. It will now also be unlawful for an employer to hire, recruit, or refer for a fee an alien without complying with the new E-Verify program, as set forth in (c) and (d) of this section. (Penalties – both civil and criminal – appear later in this Title.) This includes the employment of an alien who is hired through a

contract, subcontract, or an exchange when the employer knew the alien to be unauthorized for work. An employer may rely on a State employment agency's referral of an employee when the agency has certified its compliance with E-Verify.

Good faith defense. A good faith defense is available when an employer, person, or entity can establish good faith compliance with the requirements set forth in subsection (c)(1)-(4) and those set forth in subsection (d) (see below). Generally, an employer is considered to have complied with a requirement under this subsection, notwithstanding a technical or procedural failure to meet such requirement, if there was a good faith attempt to comply with the requirement. After the date on which an employer is required to use E-Verify, the employer will be presumed to have acted with knowledge in hiring an alien who lacks work authorization if such employer failed to use E-Verify.

Workforce and labor protections. All rights and remedies required under Federal, State, or local law relating to workplace rights, including back pay, are available to an alien despite the employee's unauthorized status or the employer or employee's failure to comply with E-Verify's requirements. Reinstatement is available to individuals who are authorized to work in the United States at the time relief is ordered or effectuated, or who lost employment-authorized status due to the unlawful acts of the employer.

New Section 274A(b)—Definitions. Key terms are defined. An "employer" includes any person or entity, including Federal, State and local governments, an agent or a System service provider acting on behalf of an employer, that hires, employs, recruits, or refers for a fee an individual for employment that is not casual, sporadic, irregular, or intermittent employment as defined by the Secretary.

New Section 274A(c)—Document Verification Requirements. Employers must examine designated documents in order to ascertain the identity and employment authorization of new hires, and must attest (under oath) that they have in fact examined such documents. Forms for this attestation will be available by paper, by telephone, and electronically. The Secretary of DHS shall make public on the USCIS website the documents, and pictures of the documents, that must be used for employment verification. An employer is in compliance with these provisions if the employer has followed applicable regulations in good faith, and a reasonable person could conclude that the documentation presented is genuine and reflects the identity of the applicant.

Acceptable documents. An employee must present one of the following to establish identity and employment-authorized status: a U.S. passport or passport card, a document that is issued to an alien lawfully admitted for permanent residence, or a valid document showing work-authorized status with a photograph of the bearer and security features, an enhanced driver's license that meets the requirements of REAL ID and is certified for use by the Secretary, or a foreign passport accompanied by a form indicating work authorization status (this list is set forth in subparagraph 274A (c)(1)(C)).

Alternatively, an employee may present one form of identification showing identity (a complying driver's license not described above, a voter registration card, a document that complies with the requirements of the Intelligence Reform and Terrorism Prevention Act of 2004, or alternatives established by the Secretary for those under 18 years of age such as an attestation by a parent or guardian) (subparagraph (c)(1)(D)); and one form of identification showing employment authorization (a Social Security Account Number card, other than one that is not valid for work authorization, or any other document identified by the Secretary and

published in the Federal Register that evidences employment authorized status, if such documentation contains security features) (subparagraph (c)(1)(E)).

Identity authentication mechanism. In addition to verifying the documents described above, the employer must also use an identity authentication mechanism, after it becomes available, to verify the identity of each individual the employer seeks to hire. There are two such mechanisms: the photo tool, which will allow an employer to match the photo on certain Government-issued documents with a photo maintained by USCIS in an electronic database (subclause (c)(1)(F)(iii)); or additional security measures to adequately verify the identity of an individual, which the Secretary shall develop to incorporate the most up-to-date technological advances (subclause (c)(1)(F)(iv)).

Individual attestation. Upon commencing employment, an individual must attest under penalty of perjury that he or she is authorized to work in the United States, on a form prescribed by DHS, and must provide his or her Social Security Account Number.

Retention of verification records. An employer must save authorization records for three years after hiring an individual or one year after termination, whichever is later. These forms may be retained electronically. The Secretary may promulgate regulations concerning the copying and retention of such documents.

Penalties. An employer who fails to comply with requirements may be penalized as set forth in Subsection 274A(e), below.

Civil rights protections. Nothing in this section may be construed to diminish existing civil rights protected by Federal law. An employer shall use the E-Verify system without regard to race, color, religion, sex, national origin or, unless specifically permitted in this section, to citizenship status.

No national identification cards. Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

New Section 274A(d)—Employment Verification System. This subsection provides for the creation of the Employment Verification System. The Department of Homeland Security, in consultation with the Commissioner of Social Security, must establish the System, and create processes to monitor the use and misuse of the system, including error rates, speed, and misuse of the system for discriminatory purposes.

Notification and direct access for individuals. The Department of Homeland Security shall create a process so that individuals can have direct access to their own case histories in E-Verify, shall develop protocols to notify individuals when their names have been processed through E-Verify, and shall establish a process for individuals to notify the Secretary of potential fraud.

Employer participation requirements. Different categories of employer must participate as follows:

(A) Federal Government employers. Federal Government employers who are not already participating in the system shall participate in E-Verify beginning 90 days after the enactment of this law.

(B) Federal contractors. Federal contractors shall participate as provided in the final rule that currently requires their participation, or any modification of it.

(C) Critical infrastructure. Beginning one year after regulations are implemented, the Secretary may direct certain critical-infrastructure related employers to use E-Verify to the extent

necessary to protect the infrastructure (pursuant to regulations). These employers will be provided with 90 days notice.

(D) Employers with more than 5,000 employees. Not later than two years after regulations are published that implement E-Verify, employers with more than 5,000 employees shall use the System for new hires and those with expiring employment authorization documents.

(E) Employers with more than 500 employees. Not later than three years after regulations are published to implement E-Verify, employers with more than 500 employees shall use the System for new hires and those with expiring employment authorization documents.

(F) Agricultural Employment. Not later than four years after regulations are published to implement E-Verify, employers of employees performing agricultural employment shall use the System for new hires and those with expiring authorization documents.

(G) All employers. Not later than four years after regulations are published that implement E-Verify, all other employers must use the System for new hires and those with expiring employment authorization documents.

(H) Tribal government employers. Rule-making on E-Verify should consider the effects of the program on federally recognized Indian tribes and tribal members and consult with Indian tribes. These employers shall be required to use the System to verify new hires and those with expiring employment authorization documents no later than five years after the general regulations are published to implement E-Verify.

(I) Immigration law violators. An employer who has been found to have violated this law may be required to participate in the System if it is not otherwise required. An employer who is found to have committed pattern and practice violations may be required to use E-Verify for existing hires as well.

Voluntary participation in E-Verify is permitted. Failure to participate in the system when participation is legally required shall constitute a civil violation.

Procedures for participants in the System. Employers will be required to register with E-Verify before using it. The Secretary may require employers to undergo training, which shall be made available electronically on the USCIS website if practicable. The employer shall notify employees that it is using E-Verify and that information may be used for immigration enforcement purposes and may not be used to discriminate or take adverse action against the individual. The employer shall also obtain and record in a manner specified by DHS the employee's Social Security Number, proof of citizenship or noncitizen nationality, and other information that DHS might require.

Seeking confirmation—timing and limitations. An employer shall use the system to confirm the identity and status of any individual beginning on the date that an offer is accepted, and no later than three business days after the date on which employment begins, or in a time established by the Department of Homeland Security. An employer may not make employment or training contingent on E-Verify confirmation. If an individual has a limited period of employment authorized status, reverification of the person's status must be completed no more than three business days after the last day of such period.

Notification of confirmation, nonconfirmation, or a further action notice. The Department of Homeland Security shall provide employers with notice of confirmation, nonconfirmation, or a "further action notice" (notice that further action is required to verify the identity or work eligibility of an individual). DHS shall directly notify the individual and the employer of a nonconfirmation or further action notice by email, mail, text message, phone, or other direct

communication. It shall also provide the applicant with information about filing an administrative appeal.

Confirmation of an individual's identity and work authorization shall be provided at the time of the inquiry, or not later than three days after the inquiry. The confirmation shall be recorded in a manner specified by the Department of Homeland Security.

In the event of a further action notice, the employer shall notify the employee of the notice and any procedures specified by DHS for addressing the notice not later than three business days after receipt of the notice, or during a reasonable time that DHS may establish. The individual shall affirmatively acknowledge in writing receipt of the notice. If the individual refuses to acknowledge the notice or acknowledges that he or she will not contest the further action notice, the employer shall notify the Department of Homeland Security.

Contesting a further action notice. Not later than 10 business days after receiving a further action notice, the individual shall contact the appropriate Federal agency and, if DHS requires, appear in person to verify his or her identity and employment eligibility using a secondary identification procedure. If a further action notice is not contested or not acknowledged within the time period specified by DHS, a nonconfirmation shall be issued, and the employer shall record the nonconfirmation and terminate the individual's employment. Unless an extension is granted by DHS, after considering the impact on the employer and the need of the individual to provide additional evidence, E-Verify shall provide a confirmation or nonconfirmation not later than 10 business days after the individual contests the further action notice. The Department of Homeland Security may establish procedures for reexamining confirmations or nonconfirmations in the event that subsequent information is received.

An employer may not terminate or take adverse action against an individual solely because of a failure of an individual to have his or her identity and employment eligibility confirmed, until (1) a final nonconfirmation has been issued; (2) if a further action notice was contested, the period to appeal has expired; or (3) if an appeal before an administrative law judge has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

Nonconfirmations and appeals. Not later than three business days after an employer receives a nonconfirmation notice, the employer must notify the applicant and provide information about appeals and a hearing and attest (through the E-Verify system) that notification has been made. The individual must acknowledge receipt of the notice in a manner prescribed by the Department of Homeland Security.

Consequences of nonconfirmation. If an employer has received a nonconfirmation for an employee, employment shall be terminated when the time has expired for filing an administrative appeal and for requesting a hearing before an administrative law judge. If the employer does not terminate the employee, a rebuttable presumption is created that the employer hired an alien knowing that he or she was not authorized to work. This presumption does not apply to criminal prosecutions. If an individual does file an administrative appeal or seeks review by an administrative law judge, the employer shall not terminate the individual prior to resolution of the appeal unless DHS terminates the stay of the nonconfirmation. The Director of USCIS shall submit a weekly report to the Assistant Secretary of ICE that includes the name and information of employees who received a final nonconfirmation and the contact information of their current employer.

Obligations to respond to queries and provide additional information. Employers are obligated to respond to inquiries by the Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) within the time frame during which records are required to be maintained, if the inquiry relates to the functioning, accuracy, or possible misuse of the System. Failure to comply constitutes a violation of the employer's obligation to comply with the requirements governing the E-Verify system. Individuals may also be required to take further action to address questions identified by DHS regarding the documents relied on for verification. If the Secretary or Commissioner submits questions regarding an individual, the employer has three business days to notify the individual and must record the date and manner of the notification and receive acknowledgement of receipt from the individual.

Rulemaking. DHS shall implement regulations to implement and clarify use of the system, and to prevent misuse, discrimination, fraud, identity theft, or threats to confidentiality.

Designated agents. DHS shall certify, on an annual basis, third-party vendors to perform verification queries on behalf of employers under certain circumstances.

Requirement to provide information. This section establishes a multi-agency campaign to provide and distribute information about E-Verify. It authorizes $40 million for each Fiscal Year 2014 through 2016 for this program.

Authority to modify the information requirements of the E-Verify system. DHS, in consultation with the Social Security Administration (SSA) Commissioner, may, through notice and comment rulemaking, modify the information requirements for both employee and employers, and procedures to be followed.

Self-verification. DHS, in consultation with the Commissioner of the Social Security Administration, shall establish procedures for self-verification in a secure manner, and for employees to update their information.

Employer Protection from liability. An employer shall not be liable for any employment-related action taken with respect to a job applicant or employee on good-faith reliance on information provided by the System.

Administrative appeals, stays, and review for error. An individual who is notified of a nonconfirmation has 10 business days to file an administrative appeal of such nonconfirmation with the SSA (if the appeal is based on records maintained by the Commissioner), or with the Department of Homeland Security. An individual who fails to timely contest a further action notice shall be denied review. An individual who files an administrative appeal shall receive a stay, unless the appeal is frivolous, filed for the purposes of delay, or time has run out. The Department of Homeland Security and the SSA Commissioner shall develop procedures for assessing evidence, which shall be filed within 10 business days of the date the appeal is filed. Appeals shall be resolved within 20 business days after the evidence and argument have been submitted. Filing deadlines may be extended for good cause in order to ensure accurate resolution of an appeal. Appeals shall be based on a preponderance of the evidence standard, and no damages, fees, or costs may be awarded in this process.

Review by Administrative Law Judge and remedies. Not later than 30 days after an administrative review is rendered, an individual may file for a review of the decision with an administrative law judge (ALJ) within the Department of Justice. This shall result in an automatic stay of the nonconfirmation. The Department of Homeland Security shall promulgate regulations for appeals, and the ALJ shall have the power to terminate a stay of nonconfirmation

if the appeal is frivolous or dilatory, take evidence, subpoena witnesses and evidence, and enter a decision. The respondent to a complaint filed under this paragraph is either the Secretary or the Commissioner of Social Security, but the complaint must also be served on the Attorney General.

An order by an ALJ may be appealed, as detailed below. The order shall uphold or reverse the final determination and may order lost wages or other appropriate remedies. The employer may be ordered to pay the individual lost wages and reasonable costs and fees if the nonconfirmation was due to the employer's gross negligence or intentional misconduct. If the cause was government negligence, lost wages and costs and fees may be awarded.

Lost wages shall be calculated based on wage rate and work schedule and determined by the amount of time since employment was terminated, minus mitigation stemming from other employment or reinstatement. No lost wages will be awarded for any time spent out of employment-authorized status. An ALJ determination may be appealed by an individual who is adversely affected by an order within 45 days of entry of the order to the U.S. Court of Appeals for the circuit in which the violation allegedly occurred.

Management of the E-Verify system. The Department of Homeland Security shall establish, manage, and modify the System. The System shall be designed to maximize reliability, ease of use, accuracy, privacy and security. The E-Verify system shall also be subject to audits for misuse, fraud, anomalies, accuracy, and privacy. The Department of Homeland Security shall conduct interviews to audit the system. Accuracy audits shall be conducted each year and the error rate shall be reported. In any year the system has an error rate higher than 0.3 percent, the civil penalty for certain first-time violations by an employer may not exceed $1,000.

Any person, including a private third-party vendor, who retains document verification or system data as required by law, shall implement a security program to protect such data, which shall be accessible only to authorized personnel. Third-party vendors who retain document verification must also provide for backup and recovery of records and provide for employee training. Authorized personnel must be registered with the E-Verify system.

Available facilities. The Department of Homeland Security shall make appropriate arrangements for employers and employees, including remote hires, who are unable to access the System to use other electronic and telephonic formats and/or Federal Government facilities or public facilities to use E-Verify.

Responsibilities of the Secretary. The Department of Homeland Security shall maintain a reliable method for verifying identification, document validity, authorization status, and all information that is necessary to the system. The Department of Homeland Security shall establish and develop a photo tool system for authenticating digital photographs (as described above). Audits shall be authorized and used to administer and enforce the immigration laws.

Identity fraud protection. To prevent identity fraud, DHS and the SSA shall establish a program to provide a reliable, secure method for an individual to suspend or limit the use of his or her Social Security Number or other identifying information by E-Verify. This shall include procedures for identifying and protecting against multiple or suspicious use. A monitoring and compliance unit will help to administer this program. The Department of Homeland Security and SSA shall establish a program by which parents can suspend or limit the use of a Social Security Number or other information of a minor under their care. The Department of Homeland Security and SSA shall also establish procedures for identifying Social Security Account Numbers that

are subject to unusual multiple use or are otherwise suspected or determined to have been compromised by identity fraud.

Civil rights and civil liberties assessment. The Department of Homeland Security shall conduct regular assessments of the System, and employers and other entities shall respond to such assessments. The Officer for Civil Rights and Civil Liberties of the Department of Justice shall review the result and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

Grants to States. This section authorizes $250 million to help States to develop and share driver's license information in a manner that complies with the E-Verify photo tool.

Passports. The Secretary of State shall provide DHS access to passport and visa information as needed to confirm an employee's identity through E-Verify. The Commissioner, the Secretary and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide for prompt correction of erroneous information.

Limitation on use of the System. Records and data assembled for E-Verify may not be used for any purpose other than for employment verification or to ensure appropriate use of the System.

Annual report by DHS. Not later than 18 months after the publication of regulations that implement E-Verify, DHS shall issue a report on accuracy of responses, challenges to small employers, the rate of employer noncompliance in various categories of use of E-Verify, and the use of the appeals process by employees. The assessment shall also include the rate of employee noncompliance and document fraud, and an assessment of the amount of time taken for various stages of the E-Verify process.

Annual GAO study and report. Not later than 18 months after the publication of implementing regulations, the Comptroller General shall undertake a study to evaluate the security, accuracy, and privacy of E-Verify. This report shall take into account the impact of E-Verify on employees and employers.

New 274A(e)—Compliance Provisions. The Department of Homeland Security shall establish procedures for the filing of complaints and conducting of investigations for potential violations of the prohibition against the knowing hire of aliens who are unauthorized to work, and against employers who illegally require employees to post employment bonds (see below). The Office of Special Counsel (OSC) shall be notified of such violations. Immigration officers may conduct investigations under this section, and compel evidence and witnesses by subpoena. The Department of Homeland Security, in cooperation with the Commissioner and the Attorney General, shall establish a Joint Employment Fraud Task Force.

If there is reasonable cause to believe there has been a civil violation of this section, DHS shall issue a written notice of its intention to issue a claim for a monetary fine or other penalty. The notice shall describe the violation and the material facts supporting it, and give the employer a reasonable opportunity to respond. The employer's response is due within 60 days, and the employer may also request a hearing before an ALJ. If no hearing is requested, the order shall be final and not subject to appeal.

Civil penalties. An employer who hires an alien whom he or she knows to be unauthorized, or fails to comply with the requirements of E-Verify, shall pay a civil penalty of between $3,500 and $7,500 for each violation. Second-time offenders shall pay between $5,000 and $15,000 for each violation; subsequent offenders shall pay between $10,000 and $25,000 for each violation. The Department of Homeland Security may establish enhanced penalties after the

E-Verify system is fully established for failures to query E-Verify and for violations of wages, hours, and workplace health and safety. Violations that constitute failure to comply with the System, other than a minor or inadvertent failure, shall result in civil penalties of not less than $500 nor more than $2,000 for each violation; between $1,000 and $4,000 for second-time offenses; and $2,000 to $8,000 for subsequent violators. The Department of Homeland Security may impose additional penalties, including cease and desist orders and compliance plans. Criminal penalties are set forth in new 274A(k) and (l), described below.

The employer's compliance history, the existence of a compliance program, the size and sophistication of the employer, and the voluntary disclosure of violations may be considered by both DHS and administrative law judges, where applicable, to reduce penalties. Penalties may only be dropped below the statutory minimum where there has been no previous penalty. Penalties assessed under the antidiscrimination part of the INA that are for actions that are also a violation of E-Verify shall mitigate penalties under this section.

If DHS has reasonable cause to believe that an employer has failed to comply with this section, DHS may require that an employer certify compliance or institute a compliance program, through methods established by The Department of Homeland Security. This shall not apply until DHS has certified to Congress that E-Verify is established and made mandatory for all employers.

Review of final determinations. A petition for review must be filed within 30 days with the judicial circuit for the employer's principal place of business at the time of the final penalty determination. The Department of Homeland Security and the Attorney General must be served in such a proceeding. The Court of Appeals shall conduct a de novo review of the administrative record on which the final determination was based. Any administrative remedies established by regulation must first be exhausted. The Attorney General, upon request by DHS, may bring a civil action to enforce penalties and compliance upon the employer once a final determination has been issued.

If any employer liable for a fee or penalty fails to fulfill his obligation as to liability, a lien may be filed on all property.

The Attorney General shall have jurisdiction to adjudicate administration proceedings under this subsection (e) in accordance with Administrative Procedure Act requirements.

New 274A(f)—Penalties for requiring indemnity bond. This subsection prohibits an employer from requiring an individual to post an indemnity bond for any liability arising from this section relating to the hiring of an individual. Employers shall be subject to a $10,000 penalty for each such violation.

New 274A(g)—Penalties for government contractors. An employer who is a Federal contractor shall be subject to debarment (of up to three years) if he or she is shown to have violated the criminal provisions of this section (through conviction) or has committed more than three civil violations. An administrative determination of liability shall not be reviewable in a debarment proceeding. Inadvertent violations of recordkeeping or verification requirements shall not be counted towards determining whether an employer is a repeat violator of this section. Contractors may also continue to be subject to contractual liability related to use of E-Verify.

New 274A(h)—Preemption. This section preempts State or local laws and ordinances relating to the hiring, continued employment, or status verification of unauthorized aliens, creating a consistent framework for all employers. There is an exception for States and localities

to exercise their authority over business licensing and similar laws to penalize businesses that fail to use the System.

New 274A(i)—Deposit of amounts received. Civil penalties shall be deposited into the Comprehensive Immigration Reform Trust Fund.

New 274A(j)—Challenges to the validity of the system. Challenges shall be brought in the U.S. District Court for the District of Columbia and shall be limited to this section's constitutionality, and the compliance of DHS with the Administrative Procedures Act with regard to regulations. All such challenges must be brought within 180 days of the effective date of the challenged section or regulation.

New 274A(k)—Criminal penalties and injunctions for pattern and practice violations. An employer who engages in a pattern and practice of hiring a worker knowing that the worker is unauthorized to work, or who fails to comply with the System, shall be fined no more than $10,000 per unauthorized worker, imprisoned for not more than two years, or both. The maximum term for any offense that is a criminal violation of the U.S. Code shall be enhanced by five years if it is part of a pattern and practice of violation involving the aforesaid conduct. The Department of Homeland Security may bring an action requesting a temporary or permanent injunction of such activity.

New 274A(l)—Criminal penalties for unlawful and abusive employment. Any employer who knowingly employs 10 or more aliens who are not authorized to work in a 12-month period, and violates certain labor and employment conditions, shall be fined and/or imprisoned not more than 10 years. Any person who attempts or conspires to commit these offenses will be punished in the same manner as a person who commits the offense.

Section 3101(b)—Report on the Use of E-Verify in the Agriculture Industry.

Not later than 18 months after date of enactment, DHS shall submit to Congress a report that fully assesses the functionality of E-Verify with respect to the agriculture industry.

Section 3101(c)—Report on the Impact of the System on Employers.

Not later than 18 months after date of enactment, DHS shall submit to Congress a report on the impact of E-Verify on small business and on business in general.

Section 3101(d)—GAO Study of Impact on Employees and Employers.

The Government and Accountability Office (GAO) shall conduct a broad report on the effects of the E-Verify system and submit the report to Congress no later than four years after date of enactment.

Section 3101(e)—Repeal of Pilot Program.

The E-Verify pilot program is repealed.

Section 3102. Increasing Security and Integrity of Social Security Cards.

The SSA Commissioner shall begin work to issue fraud-resistant, wear-resistance, and identify theft-resistant Social Security cards no later than 180 days after enactment, and complete this work no later than five years after enactment.

Replacement cards shall be limited to three per year and 10 for the life of the individual, subject to reasonable exceptions for compelling circumstances established by the Department of

Homeland Security. Any person who knowingly possesses or uses a Social Security Account Number or card, knowing that the number on the card was fraudulently or falsely obtained from the SSA; knowingly and falsely represents someone else's Social Security Number to be his; knowingly buys or sells a Social Security Number or card; knowingly alters, counterfeits, or forges a card or number; or knowingly uses, distributes, or transfers a Social Security Number or card, knowing it to be forged or altered, shall be punished by up to five years in prison.

Under proper circumstances, records from the Social Security Administration may be disclosed to Federal law enforcement agencies.

Section 3103. Increasing Security and Integrity of Immigration Documents.

The Department of Homeland Security shall submit to Congress no later than one year after enactment a report on the feasibility, advantages, and disadvantages of including biometric information, in addition to a photograph, on each employment authorization document it issues.

Section 3104. Responsibilities of the Social Security Administration.

The Social Security Administration shall have the responsibilities of establishing a reliable and secure way to identify users of E-Verify and of running a secure system. Social Security information shall not be relayed to employers.

Section 3105. Improved Prohibition on Discrimination Based on National Origin or Citizenship Status.

This section amends the current anti-discrimination provisions in the INA that make it an unfair immigration-related employment practice to discriminate based on national origin or citizenship status with respect to hiring, verification under E-Verify, and discharging. Certain exceptions are maintained for preference based on citizenship that is otherwise required by law. This section specifically defines an unfair immigration-related employment practice to include, in addition to discrimination based on nationality and citizenship status, the use of E-Verify to illegally discharge an employee, the use of E-Verify for an unauthorized purpose, the use of E-Verify to deny employment benefits, the requirement of self-verification as a condition of employment, the failure to provide notice under E-Verify as required by law, and the granting of access to the system by an unauthorized individual. It is also an unfair immigration-related employment practice to threaten, coerce, or retaliate against an individual for exercising their rights under this section or because an individual plans to file a charge.

An employer's request for additional documents other than those required by law, or refusal to honor documents, is also an unfair employment practice. It is also an unfair employment practice for an employer, if required to by law, to fail to provide employment documentation, including wages and hours, to an employee upon request. Additionally, an individual who is authorized to be employed in the United States may not be denied a professional, commercial, or business license on the basis of immigration status.

The U.S. Equal Employment Opportunity Commission (EEOC) may refer all matters alleging immigration-related unfair employment practices, including those added by this law, to the Special Counsel for Immigration-Related Unfair Employment Practices at the U.S. Department of Justice ("OSC").

An authorization of $40 million for each Fiscal Year 2014 through 2016 is provided. This section also increases applicable fines. For discriminatory practices, fines range from $2,000 to

$5,000 for each violation, $4,000 to $10,000 for second-time offenders, and $8,000 to $25,000 for multiple-time offenders. For unfair employment practices related to the misuse of E-Verify, the use and abuse of document verification, and retaliation and intimidation, the fines range from $500 to $2,000.

Section 3106. Rulemaking.

Not later than one year after the date of enactment, DHS and the Attorney General shall publish interim regulations pursuant to their obligations. Within a reasonable time after publication of the interim regulations, DHS and the Attorney General shall publish final regulations.

Section 3107. Office of the Small Business and Employee Advocate.

The Department of Homeland Security shall establish within USCIS an Office of the Small Business and Employee Advocate (OSBEA) to assist small businesses comply with I-9 and E-Verify requirements. The office will inform small businesses about the verification practices required by INA Section 274A, assist in dealing with nonconfirmation notices, advise on penalties for violations, and propose changes to the administrative process. The OSBEA shall also make recommendations to Congress. OSBEA may also issue assistance orders if a small business or individual is suffering significant hardship as a result of employment verification laws or meets other requirements set forth in regulations. Assistance orders may require the Secretary to determine if an employee is authorized to work or to abate any penalty that OSBEA determines is arbitrary, capricious, or disproportionate to the underlying defense.

SUBTITLE B – PROTECTING UNITED STATES WORKERS.

Section 3201. Protections for Victims of Serious Violations of Labor and Employment Law or Crime.

This section expands U visa eligibility for victims of serious labor violations. To qualify for a U visa, a worker must have suffered physical or mental abuse, or be a victim of criminal activity described below or of a covered violation. The alien must be helpful, or have been helpful, to a prosecutor or designated agency investigating certain criminal activity including stalking, child abuse of a minor, elder abuse, sexual exploitation, fraud in foreign labor contracting, or serious work place abuse, exploitation, or violation of whistleblower protections.

An alien may work in the United States if he or she has filed an application for a U visa or is a material witness to a bona fide claim or proceeding resulting from a covered violation.

Anyone who makes a false claim under this section is subject to a fine of up to $1,000.

When a workplace claim, as defined in this subsection, results in an enforcement action, any aliens arrested or detained and who are necessary to an investigation shall not be removed until the agency has an opportunity to interview the aliens.

Section 3202. Employment Verification System Education Account.

Penalties under this title shall be deposited in the Comprehensive Immigration Reform Trust Fund and made available to DHS for employer and employee education.

Section 3203. Directive to the U.S. Sentencing Commission.

The U.S. Sentencing Commission is directed to amend existing penalties for crimes that involve this Title, and related crimes if they also involve violations of the INA, the Fair Labor Standards Act, or similar criminal conduct.

SUBTITLE C – OTHER PROVISIONS.

Section 3301. Funding.

This section appropriates $1 billion to set up the new E-Verify system. Such appropriations will be used in the first five years to increase the number of ICE agents to administer the system. The money shall also be used for all improvements to the system, including those used to guard against identity fraud, misuse of the system, and the security and privacy of the system. Money is also authorized to be used by the Social Security Administration.

Section 3302. Effective date.

Except as otherwise indicated, the effective date for the provisions of this section and amendments thereto is the date of enactment.

Section 3303. Mandatory Exit System.

The Department of Homeland Security shall fully implement an interoperable database to provide for current and immediate access to information in law enforcement systems to determine whether to issue a visa. All databases that process information on aliens shall be integrated and provided to ICE, CBP, USCIS, DOJ, and the Department of State. Machine-readable passports, visas, and other travel documents shall be mandatory no later than December 31, 2015.

Biometric exit data program. No later than two years after the date of enactment, DHS will establish a mandatory biometric exit data system at the 10 highest volume airports in the United States, and will issue a report in three years analyzing its effectiveness. Absent intervening Congressional action, in six years DHS shall establish a biometric exit system at all Core 30 international airports in the United States. In six years, DHS shall submit a plan to Congress for the expansion of the biometric exit system to major sea and land ports based on the performance of the program described above and projected costs.

Integration and Interoperability. The Department of Homeland Security shall fully integrate all data on aliens, which are maintained by ICE, CBP, USCIS, DOJ Executive Office of Immigration Review, and DOS Bureau of Consular Affairs. The Department of Homeland Security shall implement an interoperable electronic data system to provide access to information that is relevant to whether to issue a visa or the admissibility or deportability of an alien to Federal law enforcement agencies and the intelligence community.

Information Sharing. The Department of Homeland Security shall report to the appropriate Federal law enforcement agency, intelligence agency, national security agency, or component of DHS any alien who has not departed the country when he or she was legally required to do so.

Section 3304. Identity-theft Resistant Manifest on Departing Aircraft and Vessels.

This section provides that an appropriate official for each commercial aircraft or vessel departing from the United States for international travel shall ensure transmission to CBP of identity-theft resistant departure manifest information covering alien passengers. This information shall be transmitted to a data center. Exceptions are made for military personnel traveling as passengers aboard chartered aircraft. Carriers may not themselves use this system. There shall be appropriated $500,000,000 to reimburse carriers for their reasonable actual expenses in carrying out their duties under this section.

Section 3305 Profiling.

In making law enforcement decisions, covered DHS personnel may not consider race or ethnicity unless a specific suspect description exists. However, in conducting activities in connection with a specific investigation, Federal law enforcement officers may consider race and ethnicity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization. In addition, DHS must conduct a study on law enforcement activity which will inform the promulgation of relevant regulations.

Section 3306. Enhanced Penalties for Certain Drug Offenses on Federal Lands.

This section enhances penalties for certain drug offenses that take place on Federal property, including the cultivation of controlled or hazardous substances, destruction of land resources, use of booby traps, and use of firearms. It also establishes the aggravated penalty of cultivating marijuana on Federal lands (not to exceed 10 years in prison) and mandates that these penalties be served consecutively with any term of imprisonment for the underlying offense of manufacturing and distributing a controlled substance.

SUBTITLE D – ASYLUM AND REFUGEE PROTECTIONS.

Section 3401. Time limits and Efficient Adjudication of Genuine Asylum Claims.

This section eliminates the one-year deadline for filing an asylum claim, helping to reduce needless litigation. All asylum seekers will still need to meet the criteria for proving a genuine and meritorious asylum claim.

Section 3402 Refugee Family Protections.

Under current law, spouses and children of refugees and asylees may accompany or join the principal applicant. This section provides similar protections for the children of children and accompanying spouses. This prevents refugees and asylees from having to choose between family members, and accounts for children who are the product of child rape in refugee camps.

Section 3403. Clarification on Designation of Certain Refugees.

This section terminates the processing of Amerasian refugee claims after the passage of the bill. Additionally, in order to process groups of refugees in cases of humanitarian emergencies, this section clarifies that the President, in consultation with the Secretary of State, may designate certain high-need groups as refugees and adopt efficient processes for adjudicating their claims. Each individual applicant would still need to qualify and pass the necessary security checks and be subject to the annual limit on refugees. This section

incorporates those who have been protected under the Lautenberg Amendment, inter alia, Jewish and evangelical Christian individuals from the former Soviet Union and religious minorities from Iran.

Section 3404. Asylum Determination Efficiency.

This section gives expert, trained asylum officers initial jurisdiction over an asylum claim after credible fear is shown rather than automatically referring asylum seekers to a judge for lengthy and costly court proceedings. After conducting the necessary review, the asylum officer could grant asylum or refer the case to an immigration judge for removal proceedings.

Section 3405. Stateless Persons in the United States.

This section would allow the small number of individuals in the United States, who have no nationality through no fault of their own, to apply for lawful status if they are not inadmissible under criminal or security grounds.

Section 3406. U Visa Accessibility.

The current U visa cap is raised from 10,000 to 18,000, with no more than 3,000 to be made available for victims of a covered violation described in Section 3201, above.

Section 3407. Work Authorization while Applications for U and T Visas are Pending.

This section grants U and T visa applicants the right to an employment authorization document (EAD) if no decision on their case is made within 180 days.

Section 3408. Representation at Overseas Refugee Interviews.

This section permits refugee applicants overseas to be represented by attorneys or accredited representatives. It also gives additional rights to applicants to have their case reviewed and imposes additional requirements on reviewing officers to document the basis for a decision.

Section 3409. Law Enforcement and National Security Checks.

This section requires a mandatory background check, including biographic and biometric data, for those seeking refugee or asylum status.

Section 3410. Tibetan Refugee Assistance.

This section, which creates the "Tibetan Refugee Act of 2013," grants 5,000 immigrant visas per year for three years beginning on October 1, 2013, to natives of Tibet (including their children and grandchildren) who have been continuously residing in India or Nepal since before the date of enactment. Preference is given to those not resettled in India or Nepal who are most likely to be resettled successfully in the United States.

Section 3411 Termination of Asylum of Refugee Status.

Any alien who is granted asylum or refugee status under the INA, who, without good cause as determined by the Secretary, returns to the country of persecution or feared persecution, shall have his or her refugee or asylum status terminated. The Secretary also has authority to waive this basis for termination if the alien establishes good cause for the return. Cubans are exempted.

Section 3412. Asylum Clock.

This section ensures that applicants for asylum are granted employment authorization 180 days after applying for asylum.

SUBTITLE E – SHORTAGE OF IMMIGRATION COURT RESOURCES FOR REMOVAL PROCEEDINGS.

Section 3501 Shortage of Immigration Court Personnel for Removal Proceedings.

This section increases the number of immigration court judges to address the significant backlog of cases before our immigration courts. The number of immigration court judges is increased by 75 per year for the next three fiscal years, and the number of Board of Immigration Appeals personnel is increased by 30 per year for next three fiscal years.

Section 3502. Improving Immigration Court Efficiency and Reducing Costs by Increasing Access to Legal Information.

This section clarifies that the Attorney General has authority to appoint counsel in certain removal proceedings to help ensure that these proceedings are more expeditious and cost-effective. This section helps ensure that incompetent and particularly vulnerable individuals – including unaccompanied alien children and those with serious mental disabilities – will have some legal assistance, thereby reducing frivolous appeals and claims.

Aliens shall have the right to receive a complete copy of all relevant documents in possession of DHS (known as their "A-file.").

Section 3503. Office of Access to Legal Program.

This section codifies the existing Legal Orientation Program (LOP) for immigration detainees, which was established by the Department of Justice's Executive Office for Immigration Review in 2002. The LOP provides detainees with basic information about their rights and responsibilities, helping to make immigration proceedings more efficient and cost effective.

Section 3504. Codifying Existing Board of Immigration Appeals and Right to Appeal.

This section codifies the Board of Immigration Appeals (BIA), which is the reviewing body for immigration judge decisions but has never been codified under the law. The section emphasizes the importance of thorough reviews and written opinions that provide guidance to immigration judges and help reduce the number of further appeals.

Section 3505. Improved Training for Immigration Judges and Board Members.

This section ensures that immigration judges have appropriate training and continuing education programs. Funding for these programs shall be appropriated from the CIR Trust Fund.

Section 3506. Improved Resources and Technology for the Immigration Courts and Board of Immigration Appeals.

This section helps ensure that immigration judges are provided with updated reference materials, practice manuals, sufficient recording systems, transcription services, and adequate interpreters. Funding shall be appropriated from the CIR Trust Fund.

Section 3507. Transfer of Responsibility for Trafficking Protections.

This section requires leftover funds from HHS and its Office of Refugee Resettlement (ORR) under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to be transferred to the Department of Justice to carry out functions set forth in that bill.

SUBTITLE F – PREVENTION OF TRAFFICKING IN PERSONS AND ABUSES INVOLVING WORKERS RECRUITED ABROAD.

Section 3601. Definitions.

This section defines foreign labor contractor and foreign labor contracting activity.

Section 3602. Disclosure.

Any person who engages in foreign labor contracting shall make certain disclosures to workers in English as well as the workers' languages, including but not limited to the identity and addresses of employers, assurances and terms of conditions, and the visas' length, type, cost, the terms and conditions under which the visas may be renewed, and a clear statement of any expenses associated with securing or renewing the visas. This section requires labor contractors to explain to a worker that no significant additional requirements or changes may be made to the original contract signed by the worker without at least 24 hours to consider such changes and the specific consent of the worker, obtained voluntarily and without threat of penalty, and any significant changes made to the original contract that do not comply with this section shall be a violation of the law.

Section 3603. Prohibition on Discrimination.

This section establishes that an employer or a foreign labor contractor cannot discriminate based on a worker's race, color, creed, sex, national origin, religion, age, or disability. The standards of existing Federal law shall apply.

Section 3604. Recruitment Fees.

This section prohibits any foreign contractor from charging fees (including visa fees, processing fees, transportation fees, legal expenses, placement fees, and other costs) to a worker for any foreign labor contracting activity.

Section 3605. Registration.

This section authorizes Department of Labor regulations to certify foreign labor contractors for creation of a national registry that is publicly available and current. Further, this section requires registration of all foreign labor contractors and their employees. All employers must notify DOL of the foreign labor contractors that they use, a description of the services used, whether the contractor will receive any compensation, and if so, who is paying for the services It also exempts employers who directly hire their own foreign employees. The Department of Labor shall promulgate regulations to establish electronic processing for the investigation and approval of applications for a certificate of registration of foreign labor.

Section 3606. Bonding Requirement.

Foreign labor contractors must post a bond in an amount sufficient to ensure the ability of the foreign labor contractor to discharge its responsibilities under the visa program and ensure protection of workers, including workers' wages.

Section 3607. Maintenance of Lists.

The Secretary shall maintain lists of foreign labor contractors registered under this section, along with information about their location, recruitment, and visa usage.

Section 3608. Amendment to Immigration and Nationality Act.

Certain types of visas cannot be issued until the consular officer has provided to the applicant a copy of the pamphlet required by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, in the applicant's language.

Section 3609. Responsibilities of the Secretary of State.

The Secretary of State shall make sure that each diplomatic mission has a person who is responsible for receiving information about violations and share that information with DOJ, DOL, or any other relevant federal agency. Certain non-personally identifiable information about visa users shall be made public by the Secretary.

Section 3610. Enforcement Provisions.

This section provides for a DOL complaint and enforcement process to be developed through regulations, a safe harbor for employers using DOL-registered foreign labor contractors, and civil actions by DOL to seek remedial action and/or damages for workers.

It also expands liability for abuses against foreign workers beyond foreign labor contractors to cover their ultimate employers as well. This section also provides workers with a right of action against an employer. Complaints must be filed within three years after the date on which the violation occurred or the employee became aware of the violation.

Section 3611. Detecting and Preventing Child Trafficking.

The Department of Homeland Security shall mandate the live training of all CBP personnel who are likely to come in to contact with unaccompanied alien children. Such training shall incorporate the services of independent child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills to assist CBP in screening children attempting to enter the United States.

Section 3612. Protecting Child Trafficking Victims.

This section requires all unaccompanied alien children in immigration proceedings to be transported and placed in the physical custody of the Office of Refugee Resettlement, generally within 72 hours after their apprehension (absent exceptional circumstances). Female officers must be continuously present during the transfer of female detainees.

The Department of Homeland Security must hire child welfare professionals in at least seven of the CBP stations with the largest number of unaccompanied alien children. Those professionals shall develop guidelines for treatment of unaccompanied alien children in DHS custody, conduct screenings of those children, notify DHS and ORR of children meeting the

notification and transfer requirements, interview adult relatives accompanying unaccompanied alien children and provide an initial family relationship and trafficking assessment and recommendations to Office of Refugee Resettlement. They must also ensure each child receives emergency medical care when necessary; is properly clothed; and is provided with hygiene products, linens, nutrition, a safe and sanitary living environment, access to recreational programs if held for longer than 24 hours, access to legal services, and access to phone calls to family members.

The ORR shall submit final determinations on family relationships to DHS which shall consider such adult relatives for community-based support alternatives to detention. The Department of Homeland Security must submit an annual report on unaccompanied minors beginning 18 months after bill enactment.

The Department of Homeland Security must notify ORR of an unaccompanied child within 48 hours after encountering the child and must ensure that such children are provided an interview with a child welfare professional, an orientation, and notice of their rights under immigration law, including the right to relief from removal, the right to counsel, and relevant complaint mechanisms to report abuse. The Department of Homeland Security shall ensure that the orientation and notice be provided in the five most common languages spoken by unaccompanied children.

The Administrator of the U.S. Agency for International Development (USAID), in conjunction with DHS, HHS, DOJ, international organizations and nongovernmental organizations in the United States, shall develop a multi-year program to develop and implement best practices and sustainable program in the United States and within the country of return to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children (UAC). Annual reports on this process must be provided to the Judiciary Committees. Appropriations as necessary will be made.

Section 3613. Rule of Construction.

Nothing in this subtitle shall be construed to preempt or alter any other rights or remedies, including causes of action, available under any other Federal or State law.

Section 3614. Regulations.

The Secretary, in consultation with the Secretary of Labor, shall prescribe regulations to implement this subtitle and to develop policies and procedures on protections against trafficking in the recruitment of workers abroad.

SUBTITLE G – INTERIOR ENFORCEMENT.

Section 3701. Criminal Street Gangs.

This section renders inadmissible and deportable any alien convicted of an offense for which an element was active participation in a street gang (as defined in 18 USC 512(a)), including individuals applying for RPI status. The section also renders inadmissible any alien who is applying for RPI status, or any alien who is outside the United States, and is applying for an immigration benefit, whom DHS determines has since the age of 18 knowingly and willingly participated in a criminal street gang. The section further provides for a waiver in cases where the alien was not convicted of gang-related offenses, if DHS determines that the alien renounced

any association with the gang, is otherwise admissible, and is not a threat to the security of the United States.

Section 3702. Banning Habitual Drunk Drivers from the United States.

This section renders inadmissible and deportable any alien convicted of three offenses occurring on separate dates related to driving under the influence or driving while intoxicated. For deportation, at least one of the convictions must occur post-enactment. Further, the section makes conviction for a third drunk driving offense an aggravated felony. The provision takes effect on the date of enactment of the bill. It applies only if one of the convictions takes place after enactment of the bill.

Section 3703. Sexual Abuse of a Minor.

This section expands the evidence that can be considered regarding the age of the victim in establishing "sexual abuse of a minor" to include "credible evidence extrinsic to the record of conviction." The section contains a prospective effective date, applying only to convictions on or after the date of enactment.

Section 3704. Illegal Entry.

This section modifies the INA's illegal entry provision by providing higher maximum penalties for aliens convicted of illegal entry who have a serious criminal record. It provides for increased civil penalties for aliens over the age of 18 who are apprehended illegally entering or attempting to enter the United States.

Section 3705. Reentry of Removed Alien.

This section provides higher maximum penalties for aliens convicted of illegal reentry who have a sufficiently serious criminal record. In addition, this section provides that an alien who illegally reenters must generally serve the remainder of any criminal sentence pending against him at the time of deportation, with no reduction for parole or supervised release unless the defendant affirmatively establishes that DHS has expressly consented to his reentry or that he is prima facie eligible for protection from removal. This section also contains an exception from aiding and abetting crimes for legitimate emergency humanitarian assistance.

Section 3706. Penalties Related to Removal.

This section increases monetary penalties for owners and operators of vessels and aircraft for failing to detain known alien stowaways or permitting such aliens to land in the United States except where authorized by the Secretary of Homeland Security. However, it contains exceptions for instances where the owner or operator acts without compensation to provide humanitarian assistance to the stowaway.

Section 3707. Reform of Passport, Visa, and Immigration 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 in passports (i.e., knowingly forging, counterfeiting, altering, or falsely making three 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 U.S. passport); (3)

schemes to defraud aliens (i.e., knowingly executing a scheme, in connection with any matter that is authorized by federal immigration laws to defraud any person); (4) misuse or attempts to misuse a passport (i.e., knowingly using any passport issued or designed for the use of another); (5) immigration and visa fraud (i.e., knowingly and without lawful authority producing, issuing or transferring three or more immigration documents). The section adds enhanced penalties if the crime was committed to facilitate an act of terrorism or drug trafficking.

Section 3708. Combating Schemes to Defraud Aliens.

This section requires the Secretary of Homeland Security and the Attorney General to promulgate rules to identify persons assisting aliens (other than immediate family) who submit written materials related to immigration benefits. It also requires any person who receives compensation in providing such assistance to sign a form as a preparer and provide identifying information.

The section authorizes the Attorney General to commence a civil action to enjoin any fraudulent immigration service provider from continuing to provide services that substantially interfere with the proper administration of the immigration laws or from continuing to willfully misrepresent his legal authority to provide representation. An immigration service provider is a non-attorney who is compensated for assisting aliens under the immigration laws.

Section 3709. Inadmissibility and Removal for Passport and Immigration Fraud Offenses.

This section renders inadmissible and removable any alien convicted of a passport or visa violation under Chapter 75 of Title 18. Section 209(c) provides that these amendments apply to conduct occurring on or after the date of enactment. It also states that nothing contained within the chapter will be construed to prohibit any lawfully authorized investigative, protective, or intelligence activity, or any activity under Title V of the Organized Crime Control Act.

Section 3710. Directives Related to Passport and Document Fraud.

This section directs the United States Sentencing Commission to promulgate or amend the sentencing guidelines related to passport fraud offenses where appropriate, including for newly created offenses under this Act, to reflect the serious nature of such offenses. It also directs the Attorney General to write prosecution guidelines for individuals eligible for certain forms of immigration relief.

Section 3711. Inadmissible Aliens.

This section closes a loophole allowing aliens to avoid the bar on reentry by aliens ordered removed by unlawfully remaining in the United States. Specifically, Section 212(a) provides that the bar on admissibility applies to aliens who seek admission “not later than” five years (or 10, or 20, as the case may be) after the date of removal, in contrast to the current law’s bar on admissibility for aliens who seek admission “within” five years (or 10, or 20, as the case may be) of the date of removal. Section 212(b) renders ineligible for future discretionary relief any alien who absconds after receiving a final order of removal. The bar applies until the alien leaves the United States and for 10 years after. However, Section 212(b) also clarifies that such an alien remains eligible for a motion to reopen to seek withholding of removal under certain circumstances.

The section also renders inadmissible any alien convicted of a crime of domestic violence, stalking, child abuse, child neglect, or child abandonment who served at least one year imprisonment or any alien who was convicted of more than one such crime not arising out of a single scheme of criminal misconduct. It further renders inadmissible any alien whom a court determines engaged in criminal contempt of a protection order issued for the purposes of preventing domestic violence. It also contains an effective date on or after the date of enactment of the Act.

Section 3712. Organized and Abusive Human Smuggling Activities.

This section prohibits anyone acting for financial gain from directing or participating in an effort to bring five or more persons unlawfully into the United States. It provides for enhanced penalties in more extreme cases such as violations that result in serious bodily injury, death, bribery, corruption, or which involve 10 or more persons.

The section also makes it a crime to transmit to another person the location, movement, or activities of law enforcement agents while intending to further a federal crime relating to U.S. immigration; to destroy, alter, or damage any physical or electronic device the Federal Government employs to control the border or any port of entry; or to construct any device intending to defeat, circumvent, or evade any such device. The section provides for an enhanced penalty if the person uses or carries a firearm in furtherance of the crime. It also prohibits the carrying or use of a firearm during and in relation to any alien smuggling crime.

Section 3713. Preventing Criminals from Renouncing Citizenship during Wartime.

This section strikes language allowing for U.S. citizens to renounce their citizenship during times of war.

Section 3714. Diplomatic Security Service.

This section authorizes Special Agents of the State Department and the Foreign Service to investigate identity theft, document fraud, peonage, slavery, and Federal offenses committed within the special maritime and territorial jurisdiction of the United States, except where it relates to military bases.

Section 3715. Secure Alternative Programs.

This section directs the Secretary of Homeland Security to establish secure alternatives programs in each Field Office to ensure appearances at immigration proceedings and for the public safety. It also requires the Secretary to contract with nongovernmental community-based organizations to coordinate a continuum or supervision mechanisms and options to be applied on a case-by-case basis. With exceptions, the Secretary may use secure alternative programs to maintain custody over any alien detained under the INA, except for aliens detained under section 236A (aliens who pose a threat to national security).

Section 3716. Oversight of Detention Facilities.

This section requires the Secretary to conduct regular inspections of Federal, State, and local facilities used to hold individuals under the authority of ICE for compliance with applicable detention standards. It also provides for additional routine oversight and requires the Secretary to seek input from nongovernmental organizations on detention facilities.

The section requires that compliance with DHS standards be deemed a material term in any new contract or agreement executed with detention facilities. It also requires the same for any contract or agreement that will not be renegotiated within 180 days of the effective date of the Act, and imposes meaningful financial penalties upon facilities that fail to comply with applicable detention standards issued by the Secretary.

The Secretary shall report to Congress no later than June 30 of each year on inspection and oversight of detention facilities.

Section 3717. Procedures for Bond Hearings and Filing of Notices to Appear.

This section modifies the procedures for custody hearings by requiring the Secretary to serve the relevant charging document upon the immigration court and the alien within 72 hours and by requiring the Secretary to immediately decide whether the alien will be released or retained in custody and to serve the alien notice of the decision within 72 hours. For certain aliens, the immigration judge will review the custody determination de novo and order continued detention if reasonable alternatives will not assure the appearance of the alien at further proceedings and if the safety of any other person and the community may be at risk. The Attorney General must provide review every 90 days if the alien remains in custody.

Solitary confinement shall be limited to situations in which such confinement is necessary to control a threat to detainees, staff, or the security of a facility; to discipline an alien for a serious disciplinary infraction; or for good order during the last 24 hours before an alien is released. Solitary confinement is limited to the briefest term and under the least restrictive conditions practicable and consistent with the rationale for placement and with the progress achieved by the alien. Children may not be held in solitary confinement. Individuals placed in solitary for reason of mental incapacity or for their own protection may not be detained involuntarily in solitary confinement for more than 15 days unless DHS determines that any less restrictive alternative is more likely than not to cause greater harm to the individual. The Department of Homeland Security may not rely solely on an individual's age, physical disability, sexual orientation, gender identity, race, or religion in determining whether to use solitary confinement. Persons in solitary confinement shall receive three or more doctors' visits per week. Those detained for long periods of time shall have their cases reviewed in a timely manner. Disciplinary segregation is limited.

Section 3718. Sanctions for Countries that Delay or Prevent Repatriation of their Nationals.

The Secretary of State, upon notification from the Secretary of Homeland Security, shall order consular officers in foreign countries to discontinue granting visas to foreign representatives under Section 101(a)(15)(G) of the INA when the Secretary of Homeland Security determines that the government of a foreign country denies or unreasonably delays accepting the return of their citizens, subjects, nationals, or residents.

Section 3719. Gross Violations of Human Rights.

This section provides that any alien who planned, ordered, assisted, aided and abetted, committed, or otherwise participated, in the commission of torture, extrajudicial killing under color of law of any foreign nation, a war crime, or a widespread or systematic attack directed against a civilian population, as well as related activity, shall be inadmissible. Those who have committed a widespread or systematic attack on civilians or genocide are also denied admission.

Section 3720. Reporting and Record Keeping Requirements Relating to the Detention of Aliens.

The Department of Homeland Security shall maintain information on detention mandated by this section and shall submit reports to Congress. The Department of Homeland Security, EOIR, the Director of ICE, and the Director of USCIS shall develop a shared database, or other system that allows for the databases of ICE, EOIR, and USCIS to develop a shared database relating to detained aliens. Until the database is operational, DHS shall track the case outcomes of each detainee.

The database shall maintain the basis in law for the alien's detention, the place where the alien was apprehended, the location where ICE detains the alien until the alien is removed from custody, the gender and age of each detained alien in the custody of ICE, the number of days the alien is detained, the immigration charges being pursued, the status of the alien's removal proceedings, and each date on which the proceedings progress between stages and the events that have occurred after the alien received a final administrative or order of removal. It shall also include internal custody determinations of ICE, the risk assessment results, and the reason for the alien's release. The Department of Homeland Security shall provide similar information about detained individuals awaiting removal.

Section 3721. Powers of Immigration Officers and Employees at Sensitive Locations.

This section applies to enforcement actions by officers and agents of ICE and CBP at sensitive locations including hospitals and clinics; schools; organizations assisting victims of crime or abuse; organizations assisting children, pregnant women, victims of crime or abuse, or individuals with mental or physical disabilities; houses of worship; or other places DHS specifies. Enforcement actions may not take place at a "sensitive location" except under exigent circumstances and if prior approval is obtained from a supervisor. Officers in such cases must act discretely and make every effort to limit the time at the location. This does not apply to apprehensions at or near a land or sea border where an individual is being transferred to a hospital or healthcare provider.

Immigration and Customs Enforcement and CBP must ensure that employees receive annual training on compliance with this section. Annual reports must be provided regarding enforcement actions at sensitive locations.

SUBTITLE H–PROTECTION OF CHILDREN AFFECTED BY IMMIGRATION ENFORCEMENT
Section 3801 Short Title.

This section establishes the "Humane Enforcement and Legal Protections for Separated Children Act."

Section 3802. Definitions.

This section defines key terms, including "children" as individuals under 18 years of age and "parents" as a biological or adoptive parent whose rights have not been relinquished or terminated. It defines a "detention facility" to include any Federal, State or local facility or privately owned detention facility, including facilities that hold individuals under a contract with Immigration and Customs Enforcement.

Section 3803. Apprehension Procedures for Immigration Related Activities.

In any enforcement action, DHS shall as soon as possible, but generally not later than two hours after an enforcement action, inquire whether an individual is a parent or primary caregiver of a child in the United States and provide such individuals with the opportunity to make a minimum of two phone calls to arrange for the care of such child. The Department of Homeland Security shall also provide contract information for child welfare agencies and family courts in the child's area, as well as consulates, attorneys, and legal service providers who may provide help. The Department of Homeland Security shall notify child welfare agencies if the caregiver is unable to make care arrangements or the child is in imminent risk of serious harm. The Department of Homeland Security shall ensure that its personnel do not compel or request children to interpret or translate for interviews of their parents as part of an immigration enforcement action. The Department of Homeland Security shall ensure that any parent of a child in the United States is not transferred from his or her area of apprehension until the person has made arrangements for the care of the child or, if such arrangements can't be made, is informed of the care arrangements for the child. The parent should be placed in a detention facility proximate either to the location of apprehension or to the individual's habitual place of residence.

Section 3804. Access to Children, State and Local Courts, Child Welfare Agencies and Consular Officials.

At all detention facilities, DHS shall prominently post information on the protections of this subtitle and information on potential eligibility for parole or release. The Department of Homeland Security shall ensure that individuals who are detained by DHS and are the parents of children in the United States are permitted regular phone calls and contact visits with their children. Such individuals shall also be provided with contact information for and granted telephone calls to child welfare agencies and family courts and shall also be permitted to participate fully in all family court proceedings impacting their right to custody of their children. The Department of Homeland Security shall ensure individuals are able to fully comply with all family court or child welfare agency orders impacting custody of their children. The Department of Homeland Security shall also provide access to U.S. passport applications for the purpose of obtaining travel documents for such individuals' children. Such individuals shall be afforded timely access to notary public services to help children apply for passports or for executing guardianship or other agreements to ensure the safety of their children and granted enough time before removal to obtain documents on behalf of their children if the children will accompany them on their return to their country of origin. Where it would not impact public safety or national security, DHS shall facilitate the ability of parents and caregivers to share information regarding travel arrangements with their consulate, children, welfare agencies, or other caregivers prior to the person's departure from the United States.

Section 3805. Mandatory Training.

The Department of Homeland Security and other agencies shall develop training on the protections provided by the sections above to all DHS personnel, cooperating entities, detention facilities, and others who are likely to come into contact with individuals who are parents or primary caregivers of children in the United States.

Section 3806. Rulemaking.

Not later than 180 days after the enactment of this Act, the Secretary shall promulgate regulations to implement the two previous sections of this Act.

Section 3807. Severability.

TITLE IV - REFORMS TO NONIMMIGRANT WORKER PROGRAMS

SUBTITLE A – EMPLOYMENT-BASED NONIMMIGRANT VISAS.

Section 4101. Market-based H-1B Visa Limits.

This section amends INA Section 214(g) by creating a new H-1B cap of 115,000 for the first fiscal year beginning after the date of enactment. That base number may fluctuate between 115,000 and 180,000 depending on market conditions.

The cap may increase under the following circumstances: if the cap is hit before day 45, then 20,000 more slots will be made available beginning on day 46; if the cap is hit between day 46 and day 60, then 15,000 slots will be made available beginning on day 61; if the cap is hit between day 61 and day 90, then 10,000 slots will be made available beginning on day 91; if the cap is hit between day 91 and day 275, then 5,000 slots will be made available beginning on day 276.

The cap may decrease under the following circumstances: if the number of approved petitions is between 5,000 and 9,999 fewer than the base allocation for that fiscal year, then the base will decrease for the next year by 5,000; if the number of approved petitions is between 10,000 and 14,999 fewer than the base allocation for that fiscal year, then the base will decrease for the next year by 10,000; if the number of approved petitions is between 15,000 and 19,999 fewer than the base allocation for that fiscal year, then the base will decrease for the next year by 15,000; if the number of approved petitions is more than 20,000 fewer than the base allocation for that fiscal year, then the base will decrease for the next year by 20,000.

The cap cannot increase when the unemployment rate in the "Management, Professional, and Related Occupations" sector, as published by the Bureau of Labor Statistics each month, averages 4.5 percent or greater in the prior year.

The current additional allocation of 20,000 visas for advanced degree recipients from U.S. universities is changed to apply solely to STEM advanced degree graduates from U.S. universities, and is increased from 20,000 to 25,000.

The Secretary of Homeland Security must publish data on the Internet that summarizes petition adjudication information for each fiscal year and must publish the annual limit in the Federal Register no later than March 2 prior to the start of the fiscal year.

Section 4102. Employment Authorization for Dependents of Employment-based Nonimmigrants.

This section amends INA Section 214(c) to permit spouses of L-visa and H-1B holders to work. The Secretary of Homeland Security may deny work authorizations to spouses of H-1B holders if they are nationals of a foreign country that does not permit reciprocal employment of spouses of U.S. workers.

Section 4103. Eliminating Impediments to Worker Mobility.

Section 4103(a) codifies policy that a prior approval for an H-1B or L-1 nonimmigrant petition involving the same employer and foreign national should be given deference in the context of an extension request, absent: (1) material error with regard to the previous petition approval; (2) a substantial change in circumstances; or (3) new information that adversely impacts the eligibility of the petitioner or the beneficiary. The Secretary of Homeland Security continues to have discretion to deny an extension.

Section 4103(b) amends INA Section 214(n) by providing that, in the event of early termination of an employment relationship of an H-1B nonimmigrant, there is a 60 day grace period in which the individual is regarded as in lawful H-1B status in order to find new employment. If an unemployed H-1B nonimmigrant finds new employment during this 60-day period, he or she will remain in lawful status during such time as his or her petition is pending to extend, change, or adjust their status to reflect this new employment.

Section 4103(c) amends INA Section 222(c) by explicitly allowing visa revalidation in the United States to be permitted for aliens admitted under INA Sections 101(a)(15)(A), (E), (G), (H), (I), (L), (N), (O), (P), (R), or (W) if the alien is otherwise eligible for such status and qualifies for an interview waiver pursuant to Section 222(h)(1) of the INA and Section 4103(d) of this bill. Section 4103(d) amends INA Section 222(h)(1) to provide for waiver of consular interviews for low-risk applicants.

Section 4104. STEM Education and Training.

Section 4104(a) amends INA Section 212(a)(5)(A) by establishing a new $1,000 fee to be submitted with permanent labor certification applications for employment-based green cards. Fees collected under this section will be deposited into a newly-created STEM Education and Training Account contained in INA Section 286(w). A set percentage of this money shall be available for low-income students enrolled in STEM programs of study, directed through programs that serve minorities, women, and other underrepresented populations in the STEM fields. Money shall also be made available for veterans workforce investment and the establishment of "American Dream" accounts.

The section also amends the existing STEM education account in INA Section 286(s) to permit funds to be used for loan forgiveness and to fund STEM programs for low-income students, minority students, and women.

Section 4105. H-1B and L Visa Fees.

This section requires the collection of an additional fee for an H-1B or L visa petition, of $1,250 for employers with 25 or fewer employees, and $2,500 for employers with more than 25 employees. Those fees are to be placed into the CIR Trust Fund to fund the cost of this Act.

SUBTITLE B – H-1B VISA FRAUD AND ABUSE PROVISIONS.

Section 4211. Modification of Application Requirements.

Wage requirements. Section 4211(a)(1) provides that "H-1B dependent employers" must pay each H-1B worker at least a Level 2 wage (an "H-1B dependent employer" is defined in subsection 4211(e) based on the percentage of H-1B nonimmigrants in their workforce). The Department of Labor is required to create a three-tiered wage system to be used in such determinations (Section 4211(a)(2)). The first level constitutes the mean wage of the lowest two-

thirds of wages surveyed, but in no case less than 80 percent of the mean of the wages surveyed. The second level constitutes the mean of the wages surveyed. The third level constitutes the mean of the highest two-thirds of wages surveyed. The Department of Labor is required to provide a four-level wage survey for educational, nonprofit, research, and governmental entities. When a professional athlete is paid according to league rules or regulations, the wages paid are not considered as adversely affecting similarly-employed U.S. workers.

H-2B nonimmigrants must be paid either the actual wage paid to similarly-employed U.S. workers or the prevailing wage for the occupation in the area of employment, whichever is higher. The prevailing wage is determined by the best information available which may include a collective bargaining agreement (CBA); if a CBA is not applicable, data from the Bureau of Labor Statistics (BLS); or, if BLS data is unavailable, a private survey.

Internet job posting requirement. Section 4211(b) provides that employers who intend to file an H-1B petition must first advertise the job opening on a new Department of Labor jobs website. The job description must include the wage ranges; terms of employment; minimum qualification requirements; how to apply; the title and description of the position, including the location where the work will be performed; and the name, city, and zip code of the employer. The advertisement must run for 30 calendar days.

Non-displacement. Section 4211(c) provides that an "H-1B skilled worker dependent employer" must demonstrate that they did not displace and would not displace a U.S. worker within the period of 90 days before or after the filing of a visa petition (an "H-1B skilled worker dependent employer" is defined as an employer for which H-1B nonimmigrants comprise more than 15 percent of their workforce in O*Net Job Zones 4 and 5). An "H-1B dependent employer" must demonstrate that they did not displace and would not displace a U.S. worker within the period of 180 days before or 180 days after the filing of an H-1B visa petition. In addition, no public employer may displace a Federal, State, or local employee, or a public school K-12 teacher with an H-1B nonimmigrant. No employer of any type may displace an American worker with the intent to hire an H-1B worker to replace that American worker.

Recruitment. Section 4211(c)(2) requires that all employers must take good faith steps to recruit U.S. workers for the occupational classification for which the nonimmigrant is sought, using procedures that meet industry-wide standards and offering compensation that is at least as great as that offered to H-1B nonimmigrants. All employers must advertise on an Internet website maintained by the Department of Labor. An H-1B skilled worker dependent employer has further requirements, and must hire an equally or better qualified American who applies for the job.

Outplacement. All employers that are not H-1B dependent must pay a $500 fee to place an H-1B nonimmigrant employee at the site of another employer. H-1B dependent employers are prohibited from placing an H-1B nonimmigrant at the site of a third-party and from outsourcing, leasing, or otherwise contracting for the services or placement of an H–1B nonimmigrant employee. An H-1B dependent employer is exempt from the prohibition on outplacement if the employer is a nonprofit institution of higher education, a nonprofit research organization, or primarily a health care business and is petitioning for a physician, nurse, or a physical therapist. Such employer must also pay the $500 fee. Those fees are to be placed into the CIR Trust Fund Account to fund the cost of this Act.

Intending Immigrants Not Counted Towards H-1B or L-Visa Dependency. Intending immigrants are not counted as H-1B or L nonimmigrants for the purposes of determining

whether an employer is an H-1B dependent company or a L visa dependent company. Intending immigrants are defined as persons for whom their employer has started the green card process, including those for whom an Immigrant Petition for Alien Worker (Form I-140) or Application to Register Permanent Residence or Adjust Status (Form I-485) has been filed. However, employers may only take advantage of this counting rule if the employer has actually filed immigrant status petitions for not less than 90 percent of current employees for whom the company filed labor certifications in the previous year.

Section 4212. Requirements for Admission of Nonimmigrant Nurses in Health Professional Shortage Areas.

This section reinstates and permanently authorizes the H-1C nonimmigrant category for foreign nurses who will work in medically under-served areas, which had expired in 2009. H-1C nurses may be admitted for three years and may extend their status once for an additional three-year period. No more than 300 H-1C nurses may be admitted per fiscal year.

Section 4213. New Application Requirements.

Employers may not hire an H-1B nonimmigrant if they advertise for the position in a way that appears to seek only H-1B nonimmigrant workers or those working pursuant to Optional Practical Training at the expense of U.S. workers.

Under a new Section 212(n)(1)(I), employers with 50 or more employees in the United States are not able to petition for new or additional H-1B or L workers if their U.S. workforce was comprised of more than 75 percent H-1B or L workers in Fiscal Year 2015, 65 percent in Fiscal Year 2016, or 50 percent H-1B or L workers in Fiscal Years 2017 and thereafter. The workforce calculation does not include H-1B and L workers who are "intending immigrants," as described above. The provision does not include employers who are nonprofit institutions of higher education or nonprofit research organizations described in Internal Revenue Code Section 501(c)(3).

Employers are required to submit annual reports to the IRS that include Form W-2 Wage and Tax Statements for each H-1B nonimmigrant employed for the previous year, under a new INA Section 212(n)(1)(J).

Section 4214. Application Review Requirements.

The Department of Labor has expanded authority to review labor condition applications (LCAs) for fraud, misrepresentation, or obvious inaccuracies rather than "only for completeness," and has up to 14 days to certify an LCA, increased from the current seven-day period.

Section 4221. General Modification of Procedures for Investigation and Disposition.

This section extends the statute of limitations for investigations of H-1B violations from 12 months to 24 months from the time an alleged incident takes place. It also removes the requirement that investigations may be initiated only if there is "reasonable cause to believe" that a violation exists. The section creates a dedicated toll-free number and Internet website for the submission of H-1B complaints.

The Secretary of Labor is directed to conduct annual compliance audits of each employer with more than 100 employees in the United States if their workforces are composed of more

than 15 percent H-1B non-immigrants, and may conduct voluntary surveys of employer compliance and audits of H-1B employers. Findings shall be made available to the public.

Section 4222. Investigation, Working Conditions, and Penalties.

This section generally expands the circumstances in which fines may be issued for new provisions such as the rule barring participation in the H-1B or L visa program by certain employers based on the percentages of their H-1B workers, the prohibition of advertisements targeting H-1B/Optional Practical Training (OPT) workers, and the W-2 IRS filing requirements. Fines of up to $2,000 (increased from $1,000) may be imposed for substantial failures to meet conditions, and fines of up to $10,000 (increased from $5,000) may be imposed for willful failures to meet conditions or for a willful misrepresentation of facts. In all instances, employers are liable to employees harmed by the violation for back wages and benefits.

Section 4223. Initiation of Investigations.

This section amends provisions authorizing the Secretary of Labor to investigate compliance with H-1B requirements, including by eliminating the need for there to be "reasonable cause" to suspect non-compliance before the Secretary commences the investigation. The section permits complaints from anonymous sources, and allows DOL employees themselves to file complaints. The provision provides that a complaint must be filed within 24 months of an alleged incident, up from the current 12 month timeframe.

Section 4224. Information Sharing.

U.S. Citizenship and Immigration Services must provide any information disclosed in its adjudication process that reveals that an employer is not complying with H-1B visa program requirements. The Department of Labor may initiate and conduct an investigation based on this information.

To notify American workers of potential job openings, this section requires DOL to facilitate the posting of job advertisements from H-1B employers on the Internet website of the State labor or workforce agency for the State in which the position will be primarily located.

Section 4225. Transparency of High-Skilled Immigration Programs.

The new Bureau of Immigration and Labor Market Research shall submit an annual report to Congress providing data on H-1B beneficiaries and employers. This includes data on which employers are dependent employers and the qualifications of immigrants hired on H-1B visas. A similar report on L-1s is to be prepared annually. An additional annual report is to be prepared describing the methods employers are using to meet the good faith recruiting requirements.

Section 4231. Posting Available Positions through the Department of Labor.

Within 90 days of enactment, the Secretary of Labor must establish a searchable website for posting positions as required for H-1B advertisements, and provide notice when the site is operational. The advertising requirement does not take effect until 30 days after the date the website becomes operational.

Section 4232. Requirements for Information for H-1B and L Nonimmigrants.

Individuals receiving H-1B or L-1 visas or immigration benefits must be provided with a brochure outlining employer obligations and employee rights.

Section 4233. Filing Fee for H-1B Dependent Employers.

This section provides that for each fiscal year beginning in Fiscal Year 2015, a fee of $5,000 is imposed for companies employing more than 50 workers in the United States if between 30 and 50 percent of their workforces are H-1B or L-1 nonimmigrants. From 2015 to 2017, the fee is $10,000 for similarly-sized companies where between 50 and 75 percent of their workforces are H-1B or L-1 nonimmigrants. The provision exempts "intending immigrants" from the calculation (i.e., does not include them in the numerator of the equation).

Section 4234. Providing Premium Processing of Employment-Based Petitions.

This section requires availability of premium processing for employment-based immigrant petitions and related administrative appeals.

Section 4235. Technical Correction.

This section corrects a typographical error created by the "Irish Peace Process Cultural and Training Program Act of 1998."

Section 4236. Application.

This section clarifies that Subtitle B is applicable to applications filed on or after the date of enactment and shall not apply to existing employees of employers who file petitions for renewals or extension. It further provides that the non-displacement and recruitment requirements set forth in Section 4211(c) shall not apply to any application or petition filed by an employer on behalf of an existing employee.

Section 4237. Portability for Beneficiaries of Immigrant Petitions.

This section changes the adjustment portability rules. Regardless of whether an employer withdraws a green card petition, the petition shall remain valid with respect to a new job if the beneficiary changes jobs or employers after the petition is approved and the new job is the same or a similar occupation for which the petition was approved. Current law requires the petition to be pending 180 days before portability kicks in. The employer's legal obligation with respect to the petition terminates at the time the beneficiary changes jobs or employers.

In addition, aliens who have H-1B status, and their spouses, are eligible for an employment authorization document permitting work with any employer if an application for adjustment of status is pending on their behalf or if they have filed their own petition for adjustment of status.

SUBTITLE C – L VISA FRAUD AND ABUSE PROTECTIONS.

Section 4301. Prohibition on Outplacement of L Nonimmigrants.

This section prohibits outplacement of L-1 nonimmigrants to another employer unless the nonimmigrant is supervised and controlled by the petitioning employer, not placed in what is essentially an arrangement for hire, and pays a $500 fee. An L-1 dependent employer (more than

15 percent of its employees on L-1 visas) may not outplace at all. The $500 fee shall go to the STEM Education and Training Account established under Section 286(w).

Section 4302. L Employer Petition Requirements for Employment at New Offices.

This section limits the approval of a new office L-1 petition to 12 months, and adds a new requirement that the petition can be approved only if the beneficiary of the application has not been the beneficiary of two or more new office L-1 petitions during the preceding two years. In addition, for approval of the petition, the petitioner must show an adequate business plan, sufficient physical premises to carry out the business, and sufficient financial ability to commence doing business immediately upon approval of the petition. This section also creates a detailed list of evidence that must be provided to obtain approval of an extension of a new office L-1 petition. Finally, this section provides the Secretary of Homeland Security with the discretionary authority to grant approval of a new office L-1 petition without all of the required evidence if justified by extraordinary circumstances.

Section 4303. Cooperation with the Secretary of State.

The Secretary of Homeland Security must work cooperatively with the Secretary of State to verify the continued existence of a company.

Section 4304. Limitation on Employment of L Nonimmigrants.

This section amends INA Section 214(c)(2), providing that employers with 50 or more employees in the United States are not able to petition for new or additional H-1B or L workers if their workforce is comprised of more than 75 percent H-1B or L workers in Fiscal Year 2015, 65 percent in Fiscal Year 2016, or 50 percent H-1B or L workers in Fiscal Years 2017 and thereafter. The workforce calculation does not include H-1B and L visa holders who are intending immigrants. The provision does not include in the definition of employers nonprofit institutions of higher education or nonprofit research organizations described in IRC Section 501(c)(3).

Section 4305. Filing Fee for L Nonimmigrants.

This section provides that for each fiscal year beginning in 2014, a fee of $5,000 per petition shall be imposed on companies hiring L nonimmigrants if they employ more than 50 workers in the United States and between 30 and 50 percent of their workforces are H-1B or L nonimmigrants. From 2015 to 2017, the fee is $10,000 for similarly-sized companies for whom between 50 and 75 percent of their workforces are H-1B or L nonimmigrants. The provision exempts “intending immigrants” from the calculation (i.e., does not include them in the numerator of the equation). The provision does not include nonprofit institutions of higher education or nonprofit research organizations described in IRC Section 501(c)(3) in the definition of employers.

Section 4306. Investigation and Disposition of Complaints against L Nonimmigrant Employers.

This section provides the Secretary of Homeland Security with the authority to conduct compliance investigations of L-1 employers. The Secretary can withhold the identity of the party providing information regarding potential violations, and is required to create a system to receive complaints regarding noncompliance. This section sets a requirement that complaints must be

received within 24 months of the alleged violation in order to conduct an investigation. Prior to commencing an investigation, the Secretary must inform the L-1 employer of the intent to conduct an investigation and permit the employer to respond to the allegations. If a violation is found, the employer is permitted to have a hearing on the finding of a violation within 120 days of the finding, and a decision on the violation must be made within 120 days of the hearing. Penalties can be assessed in accordance with Section 4307 if there is a finding of a violation, and there is no judicial review of the finding of a violation.

This section also requires the Secretary of Homeland Security to conduct annual compliance audits of employers with more than 100 employees who employ more than 15 percent of their employees in L-1 status. The Secretary must also make available to the public a report describing the general findings of the audits under this section.

Section 4307. Penalties.

The Department of Homeland Security shall impose administrative remedies, including civil monetary penalties up to $2000 per violation and one-year program debarment, if a violation is found. If the violation constitutes a material misrepresentation or a willful failure to comply, the fine can be up to $10,000 and the period of program debarment is at least two years.

Section 4308. Prohibition on Retaliation against L Nonimmigrants.

This section prohibits any retaliatory action against a job applicant, current employee or former employee for reporting what is reasonably believed to be a violation of L-1 provisions.

Section 4309. Reports on L Nonimmigrants.

This section requires reports to the Judiciary Committees of the House and Senate with data on petitions filed, approved, denied, withdrawn and awaiting action.

Section 4310. Application.

All amendments made by this subtitle shall apply to applications filed on or after the date of enactment.

Section 4311 Report on L Blanket Petition Process.

Not later than six months after the date of enactment, the Inspector General of the Department of Homeland Security is required to submit a report to listed committees in Congress on the efficiency and reliability of the process for reviewing blanket petitions, including whether the process includes adequate safeguards against fraud and abuse.

SUBTITLE D – OTHER NONIMMIGRANT VISAS.

Section 4401. Nonimmigrant Visas for Students.

This section amends INA Section 214(b) to allow for dual intent for F-1 students and dependents where the principal is engaged in a full course of study at an established academic institution approved by the Department of Homeland Security. F-1 students living in Canada and Mexico commuting into the United States are also covered. This section also extends dual intent to the following nonimmigrant visa categories: E, F-1, F-2, H-1B, H-1C, L, O, P, V, and W. This section will not take effect until real-time transmission of data from the Student and Exchange Visitor Information System (SEVIS) to databases used by CBP is effective. The Department of

Homeland Security will have 120 days after enactment to achieve this. The Secretary of Homeland Security is also prohibited from issuing F and M visas until this certification of real-time transmission of data has been issued.

Section 4402. Classification for Specialty Occupation Workers from Free Trade Countries.

This section includes bilateral investment treaties and free trade agreements along with treaties of commerce and navigation. It allows specialty occupation workers to enter the United States pursuant to a free trade agreement provided that Department of Labor wage and related attestations are met, with a limit of 5,000 per fiscal year for each country.

In addition, a new E-6 nonimmigrant visa is created for people coming from sub-Saharan African countries under Section 104 of the African Growth and Opportunity Act or countries designated under the Caribbean Basin Economic Recovery Act. Individuals are eligible if they are coming to perform services as employees and have at least a high school education or its equivalent. There is an annual cap of 10,500 for all nationalities covered under the E-6 program.

Section 4403. E Visa Reform.

This section amends Section 101(a)(15)(E)(iii) to create 10,500 annual visas for individuals who are nationals of the Republic of Ireland if they have at least a high school education or have, within five years, at least two years of work experience in an occupation requiring two years of training and experience. This section also provides nonimmigrant visa waiver grounds for Irish nationals seeking these E-3 visas.

Section 4404. Other Changes to Nonimmigrant Visas.

This section expands employment portability under INA Section 214(n) to holders of O-1 visas (i.e., visas issued to temporary foreign workers of extraordinary ability). This section allows O-1 visa holders to accept new employment upon the filing of a new petition by the prospective employer. It also amends INA Section 214(c)(3) to waive the consultation requirement for O-1 visa holders seeking entry for motion picture or television production who seek readmission within three years after date of consultation issued in connection with previous admission, so long as previous consultations were favorable or raised no objection.

Section 4405. Treatment of Nonimmigrants during Adjudication of Application.

This section provides that nonimmigrants granted employment authorization pursuant to subsections A (foreign government officials), E (treaty traders and investors), G (foreign government officials at international organizations), H (temporary workers), I (foreign media representatives), J (exchange visitors), L (intracompany transferees), O (workers of extraordinary ability), P (athletes and entertainers), Q (international cultural exchange visitors) and R (religious workers) of INA Section 101(a)(15), or under INA Section 214(e) (Trade NAFTA (TN) workers from Canada and Mexico), and under any other sections the Secretary of Homeland Security may prescribe by regulation, are authorized to continue employment with the same employer while the employer's or authorizing agent's application or petition for an extension of stay remains pending.

Section 4406. Nonimmigrant Elementary and Secondary Students.

This section deletes the requirement that elementary and secondary public school students on F-1 student visas may only attend a public secondary school for a period not exceeding 12 months. Such students are required to reimburse the local educational agency under existing law.

Section 4407. J-1 Visa Exchange Visitor Program Fee.

A $500 fee must be paid by the employer to the State Department for each nonimmigrant admitted under the Summer Work Travel Program. This fee shall be deposited in the CIR Trust Fund established by the bill.

Section 4408. J Visa Eligibility for Speakers of Certain Foreign Languages.

This section creates a new J-1 category for persons coming to the United States to perform any type of work involving specialized knowledge or skill, including teaching on a full-time or part-time basis, that requires proficiency in a language spoken as a native language in countries of which fewer than 5,000 nationals were lawfully admitted for permanent residence in the United States in the previous year. The Department of State must publish a list of the eligible countries annually.

Section 4409. F-1 Visa Fee.

A $100 fee is imposed on each F-1 student admitted. This fee is deposited in the CIR Trust Fund established by the bill.

Section 4410. Pilot Program for Remote Nonimmigrant Visa Interviews.

This section requires the Department of State to establish a pilot program for processing visitor visas using secure remote videoconferencing technology as a method for conducting any required in-person interview of applicants. Within 90 days of the termination of the pilot program, the State Department shall submit a written report to Congress that describes the results of the program and recommendations for whether the program should be continued, including based on security concerns.

Section 4411. Providing Consular Officers With Access to All Terrorist Databases and Requiring Heightened Scrutiny of Applications for Admission from Persons Listed on Terrorist Databases.

Under this section, consular offices have access to all terrorism records and databases maintained by any agency or department to determine whether an applicant for admission poses a security threat to the United States. The head of such an agency may withhold such records if necessary to prevent the unauthorized disclosure of information that clearly identifies or might permit the identification of intelligence or sensitive law enforcement sources, methods, or activities.

The Department of State shall require every alien applying for admission to submit to biographic and biometric screening to determine whether the alien’s name or biometric information is listed in any terror watch list or database maintained by any agency or department of the United States.

No person shall be granted a visa if the alien's name is listed on any watch list unless screening of the application against screening systems reveals no potentially pertinent links to terrorism; the consular officer submits the application for further review to the Secretary of State; and the heads of other relevant agencies (including DHS), and the Secretary of State in consultation with DHS, certifies the alien is admissible to the United States.

Section 4412. Visa Revocation Information.

If the Department of State or DHS revokes a visa, the fact of the revocation must be immediately provided to relevant consular officers, law enforcement, and terrorist screening bases and a notice of the revocation shall be posted to all DHS port inspectors and to all consular officers.

Section 4413. Status for Certain Battered Spouses and Children.

This section creates a new INA Section 106 entitled "Relief for Abused Derivative Aliens." An "abused derivative alien" is a person who is the spouse or child admitted under a blue card status in this bill who has been subjected to battery or extreme cruelty by such principal alien. The Department of Homeland Security can grant or extend status for an abused derivative alien for the period for which the principal alien was initially admitted or a period of three years. The Department of Homeland Security may also grant extensions, employment authorization, and adjust to permanent residency if DHS determines the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest and the status under which the principal alien was admitted would have potentially allowed for eventual adjustment of status.

Termination of the relationship with the principal alien does not affect the status of an abused derivative alien.

Section 4414. Nonimmigrant Crewmen Landing Temporarily in Hawaii.

This section allows a nonimmigrant crewman to land temporarily in Hawaii and return to Hawaii, Guam, or the Commonwealth of the Northern Mariana Islands after having departed such port, even if the ship has not stopped at a foreign port.

Section 4415. Treatment of Compact of Free Association Migrants

This section makes citizens of the Compact of Free Association States (COFA), lawfully residing in the United States, eligible for Medicaid.

SUBTITLE E – JOLT ACT.

Section 4501. Short Title.

The subtitle may be cited as the "Jobs Originated through Launching Travel Act of 2013" or the "JOLT Act of 2013."

Section 4502. Premium Processing.

This section provides that the Secretary of State shall establish a pilot premium processing program for visa interview appointments. Fees collected (which are in addition to normal application fees) are nonrefundable and shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. The

Secretary of State must submit a report to Congress about the pilot program no later than 18 months after enactment of the JOLT Act.

Section 4503. Encouraging Canadian Tourism to the United States.

This section allows admission as a visitor under INA Section 101(a)(15)(B) for certain Canadian retirees and their spouses for a period not to exceed 240 days during any single 365-day period. To be eligible, the applicant must be a Canadian citizen at least 55 years of age; maintain a residence in Canada; not be inadmissible under INA Section 212; not be described in any ground of deportability under INA Section 237; not be engaged in employment or labor for hire in the United States; and not seek any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)). Maintenance of a residence in the United States shall not be considered evidence of intent by the alien to abandon the alien's residence in Canada.

Section 4504. Retiree Visa.

This section creates a new "Z" visa for retirees and their spouses and children, if the retiree uses at least $500,000 in cash to purchase one or more residences in the United States, which each sold for more than 100 percent of the most recent appraised value of such residence, as determined by the property assessor in the city or county in which the residence is located; maintains ownership of residential property in the United States worth at least $500,000 during the entire period the alien remains in the United States; and resides for more than 180 days per year in a residence in the United States that is worth at least $250,000.

Applicant must be at least 55-years-old; possess health insurance coverage; not be inadmissible under INA Section 212; reside in a qualifying residence in the United States for more than 180 days per year; and not engage in employment in the United States (except for employment that is directly related to the management of the person's qualifying residential property in the United States). Applicants are not eligible for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).

Section 4505. Incentives for Foreign Visitors Visiting the United States during Low Peak Seasons.

This section requires the Secretary of State to make publically available data regarding the availability of visa appointments for each visa processing post so that applicants can identify periods of low demand, when wait times tend to be lower.

Section 4506. Visa Waiver Program Enhanced Security and Reform.

This section allows the Secretary of Homeland Security, in consultation with the Secretary of State, to designate any country as part of the Visa Waiver Program, so long as the country provides machine-readable passports and the visa refusal rate and overstay rate for nationals of that country were both under three percent in the previous fiscal year. The Secretary of Homeland Security, in consultation with the Secretary of State, also has the authority to waive the three percent threshold requirements if the country meets all of the other requirements, presents a low security risk, has a general downward trend in visa refusal rates, participates in

counterterrorism efforts with the United States, and has a visa refusal rate of less than ten percent.

This section also allows the Secretary of Homeland Security to designate a visa waiver country into a period of probationary status, after which time that country can be removed from the Visa Waiver Program.

Hong Kong may participate in this program if it meets the requirements of the program.

Section 4507. Expediting Entry for Priority Visitors.

This section allows the Secretary of Homeland Security to include in trusted traveler programs individuals employed by international organizations, selected by the Secretary, which maintain strong working relationships with the United States. Citizens of countries that are state sponsors of terrorism cannot participate in such trusted traveler programs.

Section 4508. Visa Processing.

This section directs the Secretary of State to set a goal for U.S. Consulates worldwide of interviewing 80 percent of all nonimmigrant visa applicants within three weeks of receipt of application, and to expand resources in China and Brazil to keep visa appointment wait times under 15 days. This section also requires a semi-annual report to Congress of the progress toward reaching and maintaining these goals.

Section 4509. B-Visa Fee

This section adds a $5 fee for all B-1 and B-2 visas. This fee shall be deposited into the Immigration Trust Fund Account.

SUBTITLE F – REFORMS TO THE H-2B PROGRAM.

Section 4601. Extension of Returning Worker Exemption to H-2B Numerical Limitation.

This section expands the definition of "returning worker" who is not subject to the H-2B quota to include any worker who has been an H-2B nonimmigrant during Fiscal Year 2013. This provision shall expire after five years. The section also expands the definitions of aliens who can obtain a P visa to include ski instructors and snowboard instructors.

Section 4602. Other Requirements for H-2B.

This section requires H-2B employers to attest that they will not displace a United States worker in the same metropolitan statistical area where the H-2B worker will be hired within the period beginning 90 days before the start date and ending on the end date of the H-2B employment. H-2B employers are also required to pay reasonable travel costs for the H-2B worker to travel from the place of recruitment to the place of employment and from the place of employment to the H-2B worker's site of permanent residence or a subsequent worksite. In addition, this section imposes a $500 fee for H-2B temporary labor certifications, and requires that employers pay that fee without reimbursement or deduction from wages of the H-2B worker to pay the fee.

Section 4603. Executives and Managers.

This section modifies the business visitor rules to allow admission of multinational executives and managers coming to the United States for 90 days or less to oversee operations of

the U.S. company. In addition, employees of multinational companies can be admitted as visitors for up to 180 days to participate in leadership and development activities, even if those activities will include productive work. Such employees cannot receive remuneration from a U.S. source.

Section 4604. Honoraria.

This section permits distinguished business visitors and entertainment personnel to receive honoraria payments.

Section 4605. Nonimmigrants Participating in Relief Operations.

An alien coming as a nonimmigrant to participate in critical infrastructure repairs or improvements may be admitted under the B visa program for no more than 90 days, if the nonimmigrant has been employed in a foreign country by one employer for not less than one year prior to the date of admission.

Section 4606. Nonimmigrants Performing Maintenance on Common Carriers.

This section permits nonimmigrants who have specialized knowledge and who come in the United States to perform maintenance on common carriers for not more than 90 days, to come on B visas if the nonimmigrant has been employed by one employer for not less than one year in a foreign country. A fee of $500 shall be charged.

SUBTITLE G – MARKET RESEARCH AND STATISTICS.

Section 4701. Bureau of Immigration and Labor Market Research.

This section establishes an independent statistical agency called the Bureau of Immigration and Labor Market Research (the "Bureau") headed by a Commissioner that will be placed within USCIS in the Department of Homeland Security. The Commissioner shall be appointed by the President with the advice and consent of the Senate.

The Bureau will devise a methodology to determine the annual change to the cap for W nonimmigrants; supplement the recruitment methods employers use to attract W nonimmigrants; devise and publish a methodology to designate shortage occupations by job zone (in O*Net Job Zones 1, 2, and 3); conduct a survey every three months of the unemployment rate of construction workers and the impact on such workers; study and report to Congress on employment-based and immigrant and nonimmigrant visa programs; make annual recommendations to improve such programs; and carry out any functions necessary to accomplish the abovementioned duties.

The Commissioner shall establish a methodology to designate shortage occupations and the methodology will allow an employer to ask the Commissioner if a particular occupation in a particular area is a shortage occupation.

The employees of the Bureau shall have the expertise to identify U.S. labor shortages in the United States and make recommendations to the Commissioner on the impact of immigrant and nonimmigrant aliens on U.S. labor markets.

At the request of the Commissioner, the Secretary of Commerce, the Director of the Bureau of the Census, the Secretary of Labor, and the Commissioner of the Bureau of Labor Statistics shall provide data to the Commissioner, conduct appropriate surveys, and assist the Commissioner in preparing recommendations.

The Director of USCIS shall submit a budget to Congress that the Bureau will need to carry out its duties and the U.S. Comptroller General shall submit to Congress an audit of the budget.

The Bureau is established by a $20 million appropriation from the Treasury. Fees collected from those employers participating in this program shall also be used to establish and fund the Bureau. The Secretary may also establish other fees related to the hiring of alien workers and use such fees to fund the Bureau.

The new Bureau serves four main functions: (1) play a role in determining the numbers for the annual cap of the new worker visa; (2) declare shortage occupations; (3) expand the list of real-world recruitment methods registered employers may use in order to ensure the choices provided employers do not become outdated; and (4) report on every aspect of the employment immigration system and make yearly recommendations and reports to Congress on how to reform these programs to make them work best for the American economy.

Section 4702. Nonimmigrant Classification for W Nonimmigrants.

This section creates a new nonimmigrant classification under INA Section 101(a)(15)(W)(i) (8 U.S.C. 1101(a)(15)(W)(i)). The W visa holder is an alien having a foreign residence who will come to the United States temporarily to perform services or labor for a registered employer in a registered position. The spouse and minor children of the W visa holder are allowed to accompany or to join and the spouse will be given work authorization for the same period of admission as the principal W nonimmigrant is allowed.

Section 4703. Admission of W Nonimmigrant Workers.

A certified alien is eligible to be admitted to the United States as a W nonimmigrant if hired by a registered employer for employment in a registered position in a location that is not in an excluded geographic location. The spouse and minor children of the W visa holder may be admitted to the United States for the same period of time and the spouse will be given work authorization. The W nonimmigrant will apply to the Secretary of State at a U.S. embassy or consulate in a foreign country to be a certified alien. To be eligible, he or she cannot be inadmissible; has to pass a criminal background check; must agree to accept employment in the United States only if it is in a registered position; and meet any other criteria as established by the Secretary. He or she shall report to his or her initial employment no later than 14 days after first admitted to the United States.

A certified alien may be granted W nonimmigrant status for an initial period of three years and may renew his or her status for additional three year periods. He or she may not be unemployed for more than 60 consecutive days and must depart the United States if he or she is unable to obtain employment. W visa holders can travel outside the United States and be readmitted to the United States but cannot be readmitted for longer than the initial period of admission.

An employer seeking to be a registered employer shall submit an application to the Secretary with appropriate documentation to demonstrate it is a bona fide employer with the estimated number of W nonimmigrants it will seek to employ each year, anticipated dates of employment, and a description of the type of work to be performed. The Secretary may refer an employer's application to the Secretary of Labor for potential investigation if there is evidence of fraud. The Secretary of Labor may audit any of these applications.

No employer may be approved to be a registered employer if the Secretary determines after notice and an opportunity for a hearing, that the employer has knowingly misrepresented a material fact, knowingly made a fraudulent statement, or knowingly failed to comply with the terms of such attestations; or failed to cooperate in the audit process in accordance with the regulations promulgated by the Secretary.

No employer may be approved to become a registered employer if within three years prior to the date of application, it has committed any hazardous occupation orders violations resulting in injury or death under the child labor provisions contained in Section 12; been assessed a civil money penalty for any repeated or willful violation of the minimum wage provisions of section six; or been assessed a civil money penalty for any repeated or willful violation of the overtime provisions of section seven (other than a repeated violation that is self-reported) of the Fair Labor Standards Act of 1938 and any applicable regulation.

No employer may be approved to become a registered employer if within three years prior to the date of application, it received a citation for a willful violation or repeated serious violation involving injury or death of section five of the Occupational Safety and Health Act of 1970 (OSHA).

An employer described above will be ineligible to be a registered employer for a period determined by the Secretary but no more than three years. An employer that has been convicted of any offense involving human trafficking or a violation of Chapter 77 of Title 18 of the United States Code shall be permanently ineligible to become a registered employer.

The Secretary shall approve applications to become registered employers for a term of three years. An employer may submit an application to renew its status as a registered employer for additional three year periods. At the time an employer's application is approved, such employer shall pay a fee in an amount determined by the Secretary to be sufficient to cover the costs of the registry of such employers. Each registered employer shall submit to the Secretary an annual report that demonstrates that the employer has provided the wages and working conditions that the registered employer agreed to provide its employees.

Each registered employer shall submit to the Secretary an application to designate a position for which the employer is seeking a W nonimmigrant as a registered position. Each application will describe each such position and include an attestation of the following: the number of employees of the employer; the occupational category, as classified by the Secretary of Labor, for which the registered position is sought; and whether the occupation is a shortage occupation.

A secondary registry is also created for employers who want to hire W visa holders who are already in the United States. This secondary registry still requires registration of the position as required above, but if they can prove they cannot hire an American worker, they may hire a W visa holder.

Employers must attempt to hire W visa holders inside the United States before bringing in workers located in other countries.

The wages to be paid will be either the actual wage paid by the employer to other employees with similar experience and qualification or the prevailing wage level for the occupational classification in the geographic area/metropolitan statistical area of the employment, whichever is higher. This must be included in the employer attestation.

The attestation will also attest that the working conditions will not adversely affect the working conditions of other workers employed in similar positions and that the employer has

carried out the required recruiting activities and there is no qualified U.S. worker who has applied for the position who is ready, willing, and able to fill such position pursuant to the requirements outlined here.

The employer must also attest that there is not a strike, lockout, or work stoppage or labor dispute in the area where the W nonimmigrant will be employed. The employer also has to attest that he or she has not laid off and will not lay off a U.S. worker during the period beginning 90 days prior to and ending 90 days after the date the employer designates the registered position for which the W visa holder is sought unless the employer has notified such U.S. worker of the position and documented the legitimate reasons that such U.S. worker is not qualified or available for the position.

The Secretary shall provide each registered employer whose application is approved with a permit that includes the number and description of such employer's approved registered positions. The approval of a registered position is for a term that begins on the date of such approval and ends the earlier of either the date the employer's status as a registered employer is terminated or three years after the date of such approval or upon proper termination of the registered position by the employer.

Recruitment. Each registered position shall be for a position in an eligible occupation. A position may not be registered unless the registered employer advertises the position for 30 days, including the wage, range, location and proposed start date; on the Internet website maintained by the Secretary of Labor, and with the workforce agency of the State where the position will be located, and carries out not less than three of the additional recruiting activities described in this section or any other recruitment activities determined to be appropriate as added by the Commissioner.

Eligible and Ineligible Occupations. An occupation is an eligible occupation if it is a Zone One, Two, or Three occupation as defined in this section. An occupation may be ineligible to be considered as a registered position if it requires a bachelor's degree or higher or is an occupation that requires the W nonimmigrant to perform work as a computer operator, programmer, or repairer. The Secretary of Labor shall publish the eligible occupations an on-going basis on a publically available website.

If a W nonimmigrant terminates employment in a registered position or is terminated from such employment by the registered employer, such employer may fill the vacancy by hiring a certified alien, a W nonimmigrant, a U.S. worker or an alien who has filed a petition for a visa.

Except as described below, a registered position shall be approved by the Secretary for three years. A registered position shall continue to be a registered position at the end of three years if the W nonimmigrant hired for such position has a pending petition for immigrant status filed by the registered employer or remains with the same employer. Such registered positions will terminate either on the date the petition is approved or denied or on the date of the W employee's termination of employment with the registered employer.

Employer Fees. The employer will pay a registration fee to be determined by the Secretary when the employer's application for the registered position is approved. The fees collected will be used to carry out this program. A registered employer will pay an additional fee for each approved registered position measured by a specific formula that considers the size of the business and the proportion of non-U.S. workers in the registered employee positions. These fees will be used to fund the operations of the new Bureau of Immigration and Labor Market Research described above.

Registered employers may not be required to pay an additional fee if they are a small business with 25 or fewer employees. No registered positions will be approved for employers who are not small businesses and where 30 percent or more of the employees are not U.S. workers.

Unemployment Rate. No W nonimmigrants may be hired for an eligible occupation in a metropolitan statistical area that has an unemployment rate that is more than 8.5 percent unless the Commissioner identifies the occupation as a shortage occupation or the Secretary approves the position under the safety valve described below.

Two Six-month Segments. Beginning April 1, 2015, unless the Secretary of Homeland Security extends the start date, the cap for W visas will be split into two six-month segments in a year. The annual cap on the maximum number of registered positions that may be approved each year are limited for the first four years: 20,000 for the first year; 35,000 the second year; 55,000 the third year and 75,000 the fourth year. For each year after the fourth year, the annual cap will be calculated according to a statistical formula that takes the following four factors into consideration: the rate of change in the number of new job openings in the economy; the inverse rate of change in the number of unemployed U.S. workers; the percentage change the Bureau recommends the annual cap should increase or decrease; and the percentage difference between the number of W visas requested in the prior fiscal year compared to the cap in the prior fiscal year.

Shortage Occupations. In addition to the number of registered positions made available for a given year, the Commissioner may make available an additional number of registered positions for shortage occupations in a particular geographical area. The Bureau's recommendations for determining annual cap recommendations will be subject to notice and comment and formal rulemaking.

Replacement Workers. In addition, certain positions that are re-filled after a W nonimmigrant leaves and which are filled by another W nonimmigrant will not count against the W cap. Such registered employers who seek to fill these positions must have tried to recruit available W nonimmigrants who are not initial W nonimmigrants. Three recruiting steps (as opposed to seven, see below) must be used to hire these workers. W nonimmigrants who are not "initial" W workers will be paid the wages applicable to the rest of the program.

Additional Positions. The Secretary has the authority to make additional registered positions available for a specific registered employer if the annual cap for registered positions has been reached and none remain available for allocation. The Secretary may also make additional positions available if that registered employer is located in a metropolitan statistical area that has an unemployment rate greater than eight and a half percent (in other words, is banned from using the regular numbers) or if the registered employer has carried out no less than seven of the described recruiting activities and posts the position for no less than 30 days on the Secretary of Labor's Internet website and with the State workforce agency where the position will be located.

A W nonimmigrant hired to perform an eligible occupation pursuant to a special allocation of registered positions may not be paid less than the greater amount of either the level four wage set in the Foreign Labor Certification Data Center Online Wage Library or the mean of the highest two-thirds of wages surveyed for such occupation in that metropolitan statistical area.

A registered position made available for a year under this paragraph shall require the deduction of a visa number available under the regular W visa cap in the subsequent year or the earliest possible year for which a visa becomes available again under the cap.

Half of the total number of registered positions will be made available during the first six months of the year. The rest will be used during the second six-month period.

For the first month of each six-month period, a registered position may not be created in an occupation that is not a shortage occupation unless the Commissioner has not designated any shortage occupations that year. During the second, third, and fourth months of each six-month period, one-third of the number of registered positions allocated for such period shall be approved only for a registered employer that is a small business. Any remaining registered positions not allocated to small businesses will be made available for any registered employer during the last two months of each six-month period.

No more than 33 percent of the registered positions available per year may be granted to perform work in a construction occupation. The number of registered positions granted to construction occupations may not exceed 15,000 per year or 7,500 for any six-month period under any circumstances. A registered employer may not hire a certified alien for a registered position to perform work in a construction occupation if the unemployment rate for construction occupations in the corresponding occupational job zone in the corresponding metropolitan statistical areas is more than eight and a half percent. The unemployment rate will be determined by using the most recent survey taken by the Bureau or if no survey is available, by a recent, legitimate privately-conducted survey.

Portability and Promotion. A W nonimmigrant who is admitted to the United States by a registered employer may terminate such employment for any reason and seek and accept employment with another registered employer in any other registered position within the terms and conditions of the W nonimmigrant visa. A registered employer who has applied for a registered position may promote the W nonimmigrant if such employee has been employed with that employer for no less than twelve months. Such a promotion will not increase the number of registered positions for that employer.

Prohibitions on Outplacement. A registered employer may not place, outsource, lease, or otherwise contract for the services or placement of a W nonimmigrant employee with another employer if more than 15 percent of the employees of the registered employer are W nonimmigrants.

Waiver of Rights Prohibited. A W nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a U.S. worker employed in a similar position with the employer because of the alien's status as a W nonimmigrant. A W nonimmigrant may not be required to waive any rights or protections under this Act.

Prohibition on Treatment as Independent Contractors. A W nonimmigrant is prohibited from being treated as an independent contractor under any Federal or State law and no person including an employer or labor contractor and any affiliated persons may treat the W nonimmigrant as an independent contractor. However, registered employers who operate as independent contractors may hire W nonimmigrants.

Use of Fees. A fee related to the hiring of a W nonimmigrant required to be paid by an employer under this Act shall be paid by the employer and may not be deducted from the wages or other compensation paid to a W nonimmigrant. The employer is not responsible for the W

nonimmigrant's cost of round trip transportation from a certified alien's home to the location of the registered position and the cost of obtaining a foreign passport. An employer shall comply with all applicable Federal, State, and local tax laws with respect to each W nonimmigrant employed by the employer. Fees collected in this section shall be used to carry out the W nonimmigrant program and to fund the Bureau if any funds remain.

Whistleblower Protections. It is unlawful for an employer of a W nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner discriminate against an employee or former employee because the employee or former employee discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this section or cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this section.

Process and Enforcement. The Secretary shall establish a process for the receipt, investigation, and disposition of complaints with respect to the failure of a registered employer to meet a condition of this section or the layoff or non-hiring of a U.S. worker. The Secretary shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved W nonimmigrant respecting a violation of this section. No investigation or hearing shall be conducted on a complaint concerning a violation unless the complaint was filed within six months of the violation. The Secretary shall determine within 30 days of the filing of the complaint if there is reasonable cause to conduct an investigation and if there is a reasonable basis to believe that a violation of this section has occurred. If the Secretary decides there is a reasonable basis, she shall issue notice to the interested parties and offer an opportunity for a hearing on the complaint within 60 days. After the hearing, the Secretary has 60 days to make a finding on the matter awarding reasonable attorneys' fees and costs to the prevailing party.

Civil Penalties. After notice and an opportunity for a hearing, if the Secretary of Labor finds a violation of this subsection, the Secretary may impose administrative remedies and penalties including back wages, benefits, and civil monetary penalties. The Secretary of Labor may also impose a civil penalty for a violation of this subsection including a fine up to $2,000 per affected worker for the first violation and up to $4,000 for each subsequent violation. If the violation is found to be willful, the fine can be up to $5,000 per affected worker. If the violation is found to be willful and a U.S. worker was harmed, a fine up to $25,000 per violation per affected worker may be assessed. The Secretary of Labor may also impose a civil penalty for knowingly or recklessly failing to comply with the terms of representations made in petitions, applications, certifications, or attestations under this section, or with labor recruiters of up to $4,000 per affected worker. After the third offense of a failure to comply the fine can increase to $5,000.

Criminal Penalties. Anyone who misrepresents the number of full time employees or the number of employees who are U.S. workers for the purpose of reducing a fee or avoiding the cap shall be fined up to in accordance with title 18 of the United States Code in an amount of $25,000 or imprisoned for not more than one year or both.

Monitoring. United States Citizenship and Immigration Services in the Department of Homeland Security will implement a new electronic monitoring system modeled on the Student and Exchange Visitor Information Systems (SEVIS, the tracking system used by ICE to monitor foreign students) to monitor the presence and employment of W nonimmigrants and their

movement from job to job. This new system will be coordinated with the use of the employment verification system described in Section 274A(d) for greater efficiency.

SUBTITLE H – INVESTING IN NEW VENTURE, ENTREPRENEURIAL STARTUPS, AND TECHNOLOGIES.

Section 4801. Nonimmigrant Invest Visas.

This section creates a new visa for immigrant entrepreneurs who seek to start new businesses and create jobs in the United States. Specifically, it creates a new, three-year nonimmigrant visa for individuals who are able to secure at least $100,000 in investments from an accredited investor, venture capitalist, startup accelerator, or government entity or combination of entities. Alternatively, an individual can obtain a nonimmigrant visa if he or she has a U.S. business that has created at least three jobs and has generated at least $250,000 in annual revenue for the previous two years. The section also creates a process for extending the nonimmigrant visa if the entrepreneur's business meets certain jobs, investment, or revenue thresholds.

Section 4802. Invest Immigrant Visa.

This section creates a new "EB-6" immigrant visa category for certain entrepreneurs. To qualify, the entrepreneur must have maintained a valid nonimmigrant status for at least two years and have created at least five jobs in the United States. The entrepreneur must also have either secured at least $500,000 investment or generated at least $750,000 in annual revenue during the last two years.

For entrepreneurs with an advanced degree in STEM, the individual must have maintained a valid nonimmigrant status for at least two years, created at least four jobs in the United States, and secured $500,000 in investments. In the alternative, an entrepreneur with a STEM degree can obtain an immigrant visa if he or she has maintained a valid nonimmigrant status for at least two years, created at least three jobs, and generated at least $500,000 in annual revenue for two years. The immigrant visa is capped to 10,000 per year.

Section 4803. Administration and Oversight.

Not later than 16 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Commerce, the Administrator of the Small Business Administration, and other relevant agencies shall promulgate regulations. The Secretary has certain authority to adjust certain dollar amounts in this section.

Section 4804. Permanent Authorization of EB-5 Regional Center Program.

This section makes the EB-5 Regional Center Pilot Program permanent and makes several other reforms and improvements to the program. Section 4804(a) repeals the existing pilot program at Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note).

Section 4804(b) places the EB-5 Regional Center Program in INA Section 203(b)(5). This section provides a description of the requirements for approval of a designated regional center. The section establishes a preapproval procedure pursuant to which a commercial enterprise associated with a regional center may file a petition to have a business plan, investment documents, and economic analysis preapproved by the Secretary. Preapproval given

under this section shall be binding for purposes of the adjudication of immigrant investor petitions affiliated with such investment opportunities, absent evidence of fraud, misrepresentation, criminal misuse, or threat to national security. This section also establishes a premium processing option for immigrant investors seeking to invest in such preapproved investment opportunities. The section sets out annual financial reporting requirements for regional centers, along with a range of sanctions for regional centers and regional center operators that act in a manner inconsistent with a regional center designation, or which file incomplete or inaccurate financial statements. The section provides authority to the Secretary of Homeland Security to ensure that individuals involved in a regional center do not have criminal or other disqualifying background information and provides the Secretary with authority to terminate previously approved regional centers. The section requires certification from regional center operators that applicable securities laws are being complied with. The section also permits consultation between the Department of Homeland Security and the Department of Commerce in relation to the immigrant investor program.

Section 4805. Conditional Permanent Resident Status for Certain Employment-Based Immigrants, Spouses, and Children.

This section provides that spouses and children shall not be required to file separate I-829 petitions if the principal applicant includes family members in his or her I-829. If the dependent obtains permanent residence after the date when the principal files an I-829, the conditional basis of the dependent shall be removed upon approval of the principal's petition and the dependent's permanent residency will be unconditional when approved. For alien investors in regional centers, approved regional center financial statements shall serve to demonstrate fulfillment of the job creation requirements that all investors must meet under Section 203(b)(5).

Section 4806. EB-5 Visa Reforms.

This section removes dependents from the EB-5 numerical cap. At least 5,000 EB-5 visas are reserved for investment in Targeted Employment Areas (TEA). Pursuant to this section, Targeted Employment Area designations shall be valid for five years and may be renewed for additional five-year periods if the area continues to meet the definition of a high unemployment or rural area. Individuals who invest in an approved Targeted Employment Area, which later loses that status, need not increase investment as a result.

This section provides authority for the Secretary of Commerce to adjust the minimum required investment amount to which an immigrant investor is subject. The section provides, beginning in 2016 and in the absence of action by the Secretary of Commerce, that the investment amounts required for EB-5 investors will adjust based on changes in the Consumer Price Index. A new adjustment will occur every five years thereafter.

The section defines full-time employment and provides that full-time employment may be measured in full-time equivalents, including intermittent or seasonal employment opportunities and construction jobs. "Capital" is defined to include all real, personal or mixed assets, whether tangible or intangible, owned or controlled by the investor, or held in trust for the benefit of the investor, to which the investor has unrestricted access, which shall be valued at the fair market value in U.S. dollars at the time it is invested.

"High unemployment and poverty area" means an area consisting of a census tract or contiguous census tracts that has an unemployment rate at least 150 percent of the national rate

and includes at least one tract with 20 percent of its residents living below the federal poverty level, or is in a federal or state enterprise zone.

A "rural area" means any area outside a metropolitan statistical area or within the outer boundary of any town with more than 20,000 people or any town with fewer than 20,000 people in a state with fewer than 1,500,000 people. The new definitions section applies to any applications filed on the date that is one year after the date of enactment.

The section also provides that where a principal alien's conditional permanent resident status is terminated under Section 216A, the child of that alien will continue to be considered a child should the principal alien file a new petition under section 203(b)(5) within one year after such termination.

This section provides authority to the Secretary to fix the compensation of, and appoint, individuals with the expertise necessary to administer the Regional Center Program. The section permits the Secretary to delegate certain authority to the Secretary of Commerce to evaluate commercial enterprise business plans and investment documents, including determinations concerning job creation. The section provides authority governing the use of fees and provides that necessary regulations may be adopted by the Secretary of Homeland Security and the Secretary of Commerce.

The section permits an immigrant investor to file concurrent petitions for classification under Section 203(b)(5) and for adjustment of status to a conditional lawful permanent resident.

Section 4807. Authorization of Appropriations.

This section authorizes appropriations for various sections of the bill from the Trust Fund.

SUBTITLE I – STUDENT AND EXCHANGE VISITOR PROGRAM.

Section 4901. Short Title.

The subtitle may be referred to as the "Student Visa Integrity Act."

Section 4902. SEVIS and SEVP Defined.

The term SEVIS means the Student and Exchange Visitor Information Systems of the Department of Homeland Security. The term SEVP means the Student and Exchange Visitor Program of the Department of Homeland Security.

Section 4903. Increased Criminal Penalties.

This section establishes a maximum penalty of 15 years in prison if a violator of 18 U.S.C. 1546(a) was an agent of an educational institutions with respect to participation in SEVIS.

Section 4904. Accreditation Requirement.

This section defines accredited for F-1 sponsorship as being any program accredited by the Secretary of Education.

Section 4905. Other Academic Institutions.

The Department of Homeland Security shall require accreditation of academic institutions for F-1s if the institution is not already required to be accredited under the F-1 rules

and an appropriate accrediting agency recognized by the Department of Education is able to provide such attestation. The Department of Homeland Security will have the ability to waive the requirement for institutions waiting more than a year for accreditation to be approved.

Section 4906. Penalties for Failure to Comply with SEVIS Reporting Requirements.

Institutions that do not comply may be fined and barred from participation in the program.

Section 4907. Visa Fraud.

If DHS has "reasonable suspicion" that an owner of, or a designated school official at, an approved institution of higher education, an approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to SEVIS or if such owner or designated school official is indicted for such fraud, DHS may immediately suspend such certification without prior notification and suspend such official's or such school's access to SEVIS. A conviction of fraud shall lead to a permanent disqualification from filing future petitions and from having an ownership interest or a management role in any U.S. educational institution that enrolls F or M students.

Section 4908. Background Checks.

Individuals cannot be designated school officers (DSOs) or granted access to SEVIS unless the individual is a national of the United States or a permanent resident and during the most recent three-year period; the Department of Homeland Security has conducted a background check on the individual and determined the person has not been convicted of an immigration violations and is not a national security risk; and the individual has completed an online SEVIS training course.

Individuals may serve as interim DSOs while the background check is going on. If the interim DSO does not successfully complete the background check, DHS shall review each Form I-20 issued by the interim DSO. The Department of Homeland Security may collect a fee from an approved school for each background check conducted under this section. The section takes effect one year after enactment.

Section 4909. Revocation of Authority to Issue Form I-20 of Flight Schools Not Certified by the Federal Aviation Administration.

The Department of Homeland Security shall prohibit any flight school in the United States from accessing SEVIS or issuing a Form I-20 to an alien seeking an F or M visa if the school has not been certified by DHS and the Federal Aviation Administration (FAA).

Section 4910. Revocation of Accreditation.

When an accrediting agency is required to notify the Secretary of Education and the state licensing authority of the final denial, withdrawal, suspension or termination of accreditation of an institution pursuant to Section 496 of the Higher Education Act of 1965, the agency shall notify DHS, and DHS shall immediately withdraw the school from SEVP and prohibit the school from accessing SEVIS.

Section 4911. Report on Risk Assessment.

Not later than 180 days after date of enactment, DHS shall submit to Congress a report that contains a risk assessment strategy for the issuance of I-20s.

Section 4912. Implementation of GAO Recommendations.

Within six months of enactment, DHS shall submit to the Judiciary Committees of the House and Senate a report describing the risks of Student and Exchange Visitor Program (SEVP), and a process to allocate SEVP's resources based on risk, quality control, and monitoring.

Section 4913. Implementation of SEVIS II.

Within two years of enactment, DHS shall complete the deployment of both phases of the second generation of the SEVIS system.