



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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S. 744

“The Border Security Economic Opportunity and Immigration Modernization Act”

NCSL Summary

On April 17, 2013, Senator Chuck Schumer (D-N.Y.) introduced S. 744 the “Border Security, Economic Opportunity, and Immigration Modernization Act.” S.744 is the bipartisan legislative proposal for comprehensive immigration reform negotiated by the so-called Senate Gang of Eight, which comprises the following senators: Michael Bennet (D-Colo.), Dick Durbin (D-Ill.), Jeff Flake (R-Ariz.), Lindsey Graham (R-S.C.), John McCain (R-Ariz.), Robert Menendez (D-N.J.), Marco Rubio (R-Fla.), and Chuck Schumer (D-N.Y.).

State impact assistance grants to offset the costs of integration, including education/English acquisition and health/public health costs, were not included in the legislation. To read the bill, please click [here](#). To access NCSL’s Immigration Policy, click [here](#). To access NCSL’s 2-page summary of the legislation, click [here](#).

Below are the highlights of what is included in the 844-page legislation.

Section 1. Border Security, Economic Opportunity, and Immigration Modernization Act.

Section 2. Statement of Congressional Findings.

- Recognizes that the United States must have secure borders and has a tradition of welcoming and integrating immigrants into our society.

Section 3. Effective Date Triggers.

- Processing of applications for registered provisional immigrant status (RPI) may begin only after the secretary of Homeland Security (“secretary”) has submitted to Congress the Notice of Commencement of Implementation of the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy called for by this act.
- Prohibits the secretary from adjusting the status of aliens granted RPI status, except those granted agriculture card status under this act until the secretary:

- Certifies that the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy have been submitted to Congress and are substantially operational and completed.
- Implements a mandatory employment verification system for all workers.
- Uses an electronic exit system at air and sea ports of entry.
 - Exceptions to these requirements may occur in the event of force majeure preventing implementation of any of the requirements, or any of the requirements have been held unconstitutional by the United States Supreme Court, and 10 years have elapsed since the date of the enactment of the act.
- Permits the secretary to waive all legal requirements regarding the construction of infrastructure at the border and requires all legal actions pertaining to such waivers be filed in federal district court.

Section 4. Southern Border Security Commission.

- Establishes a Border Security Commission within the first five years after enactment of this act in the event the secretary determines that effective control in high-risk border areas has not been achieved. Its purpose will be to make recommendations to the president, secretary and Congress on how to achieve border security goals. The commission shall be composed of individuals with expertise in border security and will have:
 - Two members appointed by the president.
 - Two members appointed by the Senate president (1 Republican, 1 Democrat);
 - Two members appointed by the speaker of the House (1 Republican, 1 Democrat);
 - Four members – 1 from each of the four Southern border states who shall be appointed by either the governor or his/her designee.
- Requires the commission to submit a report to the president, Congress and the secretary no later than 180 days after the five-year period has ended.

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

- Requires the secretary to submit a Southern Border Security Strategy to the congressional committees of jurisdiction not later than 180 days after enactment.

- Specifies that the strategy shall include border security priorities and capabilities that must be obtained such as surveillance and detection and the resources (including personnel) that must be procured and deployed.
- Mandates that the secretary shall commence the implementation of the Comprehensive Southern Border Security Strategy immediately after its submission and make semi-annual reports to Congress regarding implementation progress.

Section 6. Comprehensive Immigration Reform Trust Fund.

- Establishes a separate account to be known as the Trust Fund that consists of:
 - \$6.5 billion to be transferred from the general fund to the Trust Fund on the enactment date or Oct. 1, 2013, whichever is later.
 - Proceeds from all visa fees (J-1 visa mitigation fee, H-1B, L-1, H-2B, F-1, visitor visa fees, merit system green card fees, H-1B nonimmigrant dependent employer fees, H-1B outplacement fees, and other aliens required by the act to pay a fee of \$1,500).
- Provides for an additional \$100 million on the enactment date or Oct. 1, 2013, whichever is later, for one-time startup costs of implementation. This funding shall remain available until Sept. 30, 2015.
- Requires that the \$6.5 billion be allocated as follows:
 - \$3 billion over a five-year period from the date of enactment to carry out the Comprehensive Border Security Strategy;
 - \$2 billion over a 10-year period from the date of enactment to carry out programs, projects and activities recommended by the Southern Border Security Commission.
 - \$1.5 billion over a five-year period to procure and deploy fencing in high risk border sectors.
- Designates that this funding is “emergency funding” for congressional budget purposes, which means that it is not subject to spending caps for each year the money is authorized.

Title I – Border Security

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

- Provides for 3,500 additional officers with the ability to add to this number in FY 2014 - 2017. Northern border agents may be reassigned to the Southern border.

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

- Permits the governor of a state to order any units or personnel of the National Guard to assist Southwest border agents as full-time employees under Title 32 U.S.C. Duties can include fence construction, increased surveillance activities, deployment of drones, provision of interoperability capabilities, border checkpoint construction and assist U.S. Border and Customs personnel.

Section 1104. Enhancement of Existing Border Security Operations.

- Increases the number of border crossing prosecutions in the Tucson sector of the Southwest border by up to 210 prosecutions per day. Funding will be provided to secure appropriate court and administrative costs as well to reimburse state, local and tribal law enforcement agencies for any detention costs.
- Requires FEMA to enhance law enforcement preparedness and operational readiness along the U.S. borders through Operation Stonegarden. Operation Stonegarden is a program intended to enhance law enforcement preparedness along the land borders of the United States. Federal funding (amount not specified) will be provided, not less than 90 percent of which shall be reimbursable to state and local law enforcement agencies for costs associated with illegal immigration and drug smuggling prevention efforts at the Southwest border.

Section 1106. Equipment and Technology.

- Requires U.S. Customs and Border Protection along with the U.S. Border Patrol to deploy additional surveillance (drones, helicopters, etc.) along the Southwest border “24/7”. Appropriations shall be such sums as necessary.

Section 1107. Access to Emergency Personnel.

- Establishes a two-year grant program in consultation with the governors of Southwest border states to improve emergency communications by providing people with the ability to purchase satellite phones if that person can prove he/she lives or works in the Southwest border area and is at an increased risk of violence because of lack of cellular service. Authorization is such sums as is necessary.

- Provides an appropriation in such sums as may be necessary for state and local law enforcement working in the Southwest border area to purchase P25-compliant radios and grants them access to the federal spectrum in emergency situations.

Section 1108. Southwest border Region Prosecution Initiative.

- Mandates that the United States attorney general shall reimburse state, county, tribal and municipal governments for costs associated with the prosecution and pretrial detention of federally initiated criminal cases declined by local offices of the United States attorneys.

Section 1110. SCAAP Reauthorization.

- Reauthorizes \$950 million through FY 2015 for the State Criminal Alien Assistance Program (SCAAP) under which the federal government reimburses states for the costs of incarcerating criminal aliens in state prisons.
 - This funding is subject to appropriations.

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

- Requires training for federal agents who work within 100 miles of any border. This training includes:
 - Identification and detection of false travel documents.
 - Civil, constitutional, human and privacy rights.
 - Enforcement activities including interrogations, stops, searches, seizures, arrests and detentions.
 - Use of force.
 - Immigration laws and the screening and identification of human trafficking victims.
 - Social and cultural sensitivity towards border communities.
 - Environmental concerns. Impact of border operations on affected communities.

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

- Establishes an independent task force to make recommendations to the secretary and review immigration and border enforcement policies, strategies, taking into account programs on border communities as well as ensuring civil rights are being protected. This task force shall be made up of 26 members for three years or for the life of the task force, whichever is shorter. Membership is as follows:

- 11 members from the Northern Border region
 - Two local government elected officials
 - Two local law enforcement representatives
 - Two civil rights advocates
 - One business representative
 - One higher education representative
 - One representative of the faith community
 - Two representatives of U.S. Border Patrol
- 15 members from the Southern Border region
 - Three local government elected officials
 - Three local law enforcement representatives
 - Three civil rights advocates
 - Two business representatives
 - One higher education representative
 - One1 representative of the faith community
 - Two representatives of U.S. Border Patrol

Title II – Immigrant Visas

Subtitle A- Registration and Adjustment of Registered Provisional Immigrants.

Section 2101. Registered Provisional Immigrant Status.

- Establishes the Registered Provisional Immigrant (RPI) status. Applicants who were in the United States before Dec. 31, 2011 must apply within the application period; provide biometric data and pass a background check; pay fees, penalties and any federal taxes owed. Qualifying spouses and children under 21 can be included in the principal application if they were in the United States before Dec. 31, 2012.
 - Allows DHS to accept applications for one year after publication of the final rule; and allows an 18-month extension.
 - RPI status is valid for six years and is renewable if the individual remains employed, is not a public charge, and demonstrates average income or resources at 100 percent of the federal poverty level.
 - Approved applicants are given machine-readable, tamper-resistant documents as evidence of RPI status allowing them to work and to travel outside the country.
 - Approved applicants may enlist in the military.
 - Allows people in custody or removal proceedings to apply for RPI if they appear to meet eligibility criteria.
 - Ineligible immigrants are those with felonies; an aggravated felony; three or more misdemeanors; certain foreign offenses; and unlawful voting.

- Prohibits applications for RPI for people removed from the United States after Dec. 31, 2011 or who entered illegally after that date. The secretary of DHS may waive this provision for children, parents and spouses of citizens and lawful permanent residents and for DREAMers with high school diploma or GED from a U.S. school.
- Allows Deferred Action for Childhood Arrivals (DACA) to apply.
- Creates a fee for application and renewal to cover costs of processing applications and background checks. Fees are to be deposited into the Comprehensive Reform Trust Fund.
- Creates a penalty for applicants over 21 of \$500 upon application for RPI and \$500 before renewal of RPI status.
- Clarifies that those granted registered provisional immigrant status are lawfully admitted to the United States and may not be classified as nonimmigrant (temporary) or as lawful permanent residents.
- Prohibits an alien who has been granted RPI status from eligibility for any federal means-tested public benefit (as such term is defined in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.) This includes Medicaid, CHIP, TANF, SNAP and SSI.
- Considers noncitizens granted RPI status to be lawfully present in the United States for all purposes while such noncitizen remains in such status, except that for purposes of the Affordable Care Act, the noncitizen:
 - Is not entitled to the premium assistance tax credit.
 - Is not entitled to cost-sharing (co-pays and deductibles).

Sec. 2102. Adjustment of status of registered provisional immigrants.

- Authorizes the DHS to adjust the RPI status to a legal permanent resident once all application requirements have been met and all fees, penalties and federal taxes have been paid.
 - The individual must meet certain employment or educational requirements, is not likely to become a public charge, and demonstrates average income or resources at 125 percent of the federal poverty level while an RPI. Exemptions are available for the education and employment requirement for age and disability and for dependents; medical, maternity or employment leave; and primary caretakers of children or others. The secretary may waive employment or education for extreme hardship.
 - Those with RPI status 16 and over must meet English and civics requirements.

- Creates a fee for application and renewal to cover costs of processing applications and background checks. Fees are to be deposited into the Comprehensive Reform Trust Fund.
- Creates a penalty for applicants over 21 on the date of enactment of \$1,000 upon application for LPR.
- Prohibits adjustments from RPI to LPR until backlogs in permanent family and employment visas are cleared (“back of the line”).
- Authorizes the DHS to naturalize a qualifying permanent resident within three years of their application if they were in the country at least 10 years before becoming a permanent resident.

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

- Allows an expedited road to citizenship for those who entered the United States before the age of 16, graduated from high school (or received a GED) in the United States , and attended at least two years of college or four years in the military. These individuals would be able to apply for RPI status and after five years would be eligible for Legal Permanent Resident (LPR) status, and able to apply for citizenship immediately.
- Contains no upper age limit for those who apply under this provision. The relevant issue is the person’s age at time of entry into the United States.
- Gives the Secretary of Homeland Security the discretion to establish streamlined procedures for individuals already granted Deferred Action for Childhood Arrivals (DACA).
- Repeals Section 505 of the Illegal Immigration and Reform Responsibility Act of 1996 that prohibited public universities from offering in-state tuition rates to undocumented students on the basis of residence in the state, unless they offered the same rates to nonresidents of the state.

Sec. 2104. Additional requirements.

- Creates confidentiality and protects information provided by RPI applicants, except for instances where information is needed for law enforcement, national security or auditing and evaluation of information to identify fraud.
- Provides protection for employers related to employment records for RPI applications, renewals, or adjustment.

Sec. 2105. Criminal penalty.

- Creates a criminal penalty of a maximum of \$10,000 for any individual who purposely uses, publishes, or allows the improper use of information provided in the applications. All fines are deposited to the Comprehensive Immigration Reform Trust Fund.

Sec. 2106. Grant program to assist eligible applicants.

- Allows the DHS to use a maximum of \$50 million from the Comprehensive Immigration Reform Trust Fund to create competitive grant programs for public and private nonprofit organizations to provide public education; assistance to individuals applying for RPI, LPR, and U.S. citizenship.
- Authorizes such funds as may be necessary, in addition to the \$50 million above, for FY2014-2018.

Sec. 2107. Conforming amendments to the Social Security Act.

- Allows individuals who were granted RPI status or those who adjusted their RPI status to correct their Social Security records.
- Protects DHS in proceedings in which their actions may separate a parent and child, and promote family reunification.

Sec. 2108. Government contracting and acquisition of real property interest.

- Exempts certain rules for DHS to hire employees and lease property to implement this title.

Sec. 2109. Long-term legal residents of the Commonwealth of the Northern Mariana Islands (CNMI).

- Creates a CNMI-only lawful permanent resident status for certain residents that were left without a long-term permanent status following the federalization of immigration law in the CNMI in 2008. Five years after enactment, these individuals may apply for an immigrant visa or lawful permanent residence.

Sec. 2110. Rulemaking.

- Requires all agencies involved in the RPI application process to have regulations in place to implement it within one year of enactment of this bill.

Sec. 2111. Statutory construction.

- Creates a liability shield for the United States by expressly stating that this title does not create any legally enforceable right or benefit for any person unless expressly stated therein.

Subtitle B – Agricultural Worker Program.

Section 2211. Requirements for Blue Card Status.

- Creates a new legal status – “blue card status” (defined as the status of an alien who has been lawfully admitted into the U.S. for temporary residence) and grants said status to agricultural workers (and their families) that can prove they performed agricultural employment for at least 100 days (or 575 hours) in a two-year period ending Dec. 31, 2012.
- Requires blue card status applicants to pay a \$100 fine to DHS plus a processing fee and pass a background check.
- Denies any federal public benefits (Medicaid, CHIP, SNAP, TANF, SSI, etc.) to bluecard status holders.
- Considers noncitizens granted RPI status to be lawfully present in the United States for all purposes while such noncitizen remains in such status, except that for purposes of the Affordable Care Act, the noncitizen:
 - Is not entitled to the premium assistance tax credit.
 - Is not entitled to cost-sharing (co-pays and deductibles) under ACA.
- Expires after eight years.

Section 2212. Adjustment to Permanent Resident Status.

- Allows for temporary agricultural workers (along with their families) to apply for permanent residency (green card status) if they have performed at least 100 work days of agricultural employment for at least five years, within eight years of enactment, or they have performed 150 work days of agricultural employment for three years, within five years of enactment.
- Requires applicants to settle all Federal tax liability, complete a background check, and pay a \$400 fine.

Section 2214. Reports on Blue Cards.

- Requires the Secretary of Homeland Security to submit to Congress an annual report (for the next eight years) on the number of blue card status applicants, blue card status holders, those that have applied for a green card and those that have been given a green card.

Section 2231. Nonimmigrant Classification for Nonimmigrant Agricultural Workers.

- Establishes a temporary worker program to reform the current H-2A visa system with an at-will employment based visa (W-3) and a contract-based visa (W-2) to allow temporary agricultural workers to work legally in the United States.
- Terminates H2-A visa system after W-2 and W-3 are implemented (estimated two years)

Section 2232. Establishment of Nonimmigrant Agricultural Worker Program.

- Caps distribution of visas at 112,333/year for the first five years. The secretary of Agriculture can modify the ceiling after five years based on various factors including worker shortage, emergency need, number of applicants, number of workers sought by employers, etc.
- Allows visas to last for up to three years, with the visa lasting a minimum of one year. Holders have the ability to renew for an extra three years upon expiration. Only one renewal allowed.
- Mandates that employers wishing to utilize W-2 or W-3 visa holders must register with the USDA as a “Designated Agricultural Employer,” provide housing or a housing allowance, provide transportation to and from the job-site, and use E-verify for worker verification.
- Prohibits employers from replacing United States workers with nonimmigrant agricultural workers.
- Assures that nonimmigrant visa holders have equal labor protections as domestic agricultural workers.
- Creates a formula-based minimum wage rate for the agriculture job categories: graders and sorters; agricultural equipment operators; farmworkers and laborers (crop, nursery and greenhouse); farmworkers (farm and ranch animals) with an annual increase of 1.5 percent and not more than 2.5 percent.

Subtitle C- Future Immigration

Section 2301. Merit-Based Points Track One Immigrant Visas

- Allocated by secretary of Homeland Security.
- Sets the worldwide level of merit-based immigrants with a floor of 120,000 and a ceiling of 250,000 per fiscal year.
- Increases above 120,000 subject to the following rules:
 - Less than 75 percent in applicants in one fiscal year, the level increases by 5 percent the next fiscal year.

- Equal to or more than 75 percent in applicants, the level is the same minus any amount added for the recaptured visas.
- Increases in worldwide merit-based visas are not allowed if the unemployment rate from the previous fiscal year is more than 8.5 percent.
- Recaptures unused visas by including them in the next fiscal year.
- Allows merit visas to be allocated to EB-3 permanent employment visas for the first four fiscal years after enactment.
- Allocates points in tier one based on education (up to 15 points), employment experience (up to 20 points), employment related to education (8-10 points), entrepreneurship (10 points), high demand occupation (10 points), civic involvement (2 points), English language proficiency (10 points), family relationships with current U.S. citizen(s) (10 points), age (4-6 points); and country of origin (5 points).
- Allocates points in tier two based on employment experience, special employment criteria, caregiver status (former or present), exceptional employment record, civic involvement, English language proficiency, family relationships with current U.S. citizen(s), age and country of origin.
- Allows individuals with registered provisional immigrant (RPI) status to apply for merit visas under 201(e) but may not accrue points for employment, high demand occupation, or entrepreneurship until 10 years after enactment of this law.
- Forbids individuals with pending or approved family or employment petitions from being granted a merit-based immigrant visa.
- Requires a \$500 fee for the visa.

Section 2302. Merit-Based Track Two Immigrant Visas

- Allocates visas by secretary of State.
- Clarifies that individuals who receive merit-based visas will have lawful permanent resident (LPR) status.
- Allows applicants for permanent family and employment visas who are in the backlog to apply for merit visas beginning Oct. 1, 2014. Applicants must have visas pending for five years or more, prior to enactment. Long-term immigrant workers (other than W visa holders) with 10 years of legal residence may also apply.
- Requires the secretary to allocate visas from FY2015-2021 in the following ways:
 - For employment visas, a number equal to one-seventh of the total number of employment-based visas pending on the date of enactment.
 - For family visas, spouses and children of legal permanent residents may be admitted as immediate relatives. For other relatives, establishes a formula for to admit those whose petitions were pending more than five years on the date of enactment.
 - RPI immigrants may not apply until 10 years after enactment.

- Issues visas for the family-based petitions in order in which the petitions were filed.
- Requires a \$500 fee for Tier 1 and Tier 2 applicants.

Section 2303. Repeal of the Diversity Visa Program

- Eliminates Diversity Visa Program, effective Oct. 1, 2014.
- Allows individuals selected to receive diversity immigrant visas in fiscal years 2013 or 2014 to remain eligible.

Section 2304. World-Wide Levels and Recapture of Unused Immigrant Visas

- Establishes after FY 2015 a world-wide level of employment-based visas of 140,000 plus unused family visas during the previous fiscal year. For FY2015, the level is 140,000 plus unused family visas during the previous fiscal year and unused employment-based visas from FY1992-2013.
- Establishes after fiscal year 2015 a world-wide level of family-sponsored visas of 480,000 minus immediate relatives and unused employment-based visas from the previous year. For FY2015, the level also includes unused family-sponsored visas from fiscal years 1992-2013.
- Establishes a floor of 226,000 for family sponsored visas, and within 18 months after enactment, at least 161,000 visas must be issued.

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

- Extends the definition of “immediate relative” to include a child or spouse of a LPR and converts current petitions of a child or spouse of LPRs to immediate relative designation.
- Extends the same protections as a U.S. citizen to persons with immediate relative status in the case of death of or abuse by LPR.
- Amends the worldwide family sponsored caps by deleting the current cap of 23,400 and replacing with a:
 - 20 percent cap for unmarried sons or daughters of U.S. citizens.
 - 20 percent cap for unmarried sons or daughters of LPRs.
 - 20 percent cap for married sons or daughters of U.S. citizens.
 - 40 percent cap for brothers and sisters of U.S. citizens.
- Directs the secretary of Homeland Security and secretary of State to adopt a plan to broadly disseminate information with regards to terminating registration for immigrants who had intention to become an LPR but failed to adjust their status within a year that there is a new visa available. There is a process to overturn termination within two years, with good cause.

Section 2306. Numerical Limitations on Individual Foreign States

- Eliminates per-country limits for employment-based immigrants.
- Increases per-country limit for family-based immigrants from 7 to 15 percent.
- Applies special rules for countries at ceiling to distribute visas in a proportional way across family categories.

Section 2307. Allocation of Immigrant Visas

- Changes allocation of world-wide family preference immigrant visas 18 months after enactment:
 - Caps unmarried sons and daughters at 35 percent (formerly 23,400).
 - Caps married sons and daughters of U.S. citizens under the age of 31 at time of petition filing to 25 percent (formerly 23,400).
 - Caps sons and daughters of LPRs to 40 percent (formerly 114,200).
 - Eliminates the category for brothers and sisters of U.S. citizens.
- Exempts certain categories from annual numerical limits on employment-based immigrants. Categories include: derivative beneficiaries of employment-based immigrants; those with extraordinary ability in the sciences, arts, education, business or athletics; outstanding professors and researchers; multinational executives and managers; doctoral degree holders; and immigrants who have completed foreign residency requirements or obtained a waiver.
- Allocates up to 40 percent of world-wide employment-based visas to members of professions holding advanced degrees or their equivalent in services in science, arts, professions, or business sought by an employer in the United States, including physicians holding medical degrees deemed sufficient for acceptance by an accredited U.S. medical residency or fellowship program.
 - Exempts from the 40 percent cap immigrants with a graduate degree in science, technology, engineering, or mathematics (STEM) earned from an accredited U.S. institution of higher education or has an offer for employment in a related field or graduated within five years of immediate filing date of the petition. The Secretary of Homeland Security can waive offer of employment if it is in the national interest.
- Directs the secretary of Homeland Security to grant a waiver for physicians working and/or serving patients living in shortage areas or veterans facilities. Physicians may not adjust to a permanent resident alien status until they have worked at least five years, full time in either a designated shortage area or veteran facility.
- Eliminates labor certification requirement for hiring advance degree holders in STEM fields from a U.S. university.
- Increases percentage of employment visas for skilled workers, professionals, and other professionals to 40 percent, increases percentage of employment visas for certain special

immigrants to 10 percent, and increases visas for those who foster employment creation to 10 percent.

Section 2308 V Nonimmigrant Visas

- Amends the V nonimmigrant visa (family petition) to include the following:
 - Individuals with approved petitions as the unmarried son or daughter of a U.S. citizen or LPR who is under 31.
 - The sibling of a citizen of the United States or a married son or daughter of a United States citizen who is over 31.
 - Allows these individuals to authorized to work after being admitted on a V visa
- Terminates after 30 days after the visa petition or adjustment of status is denied
- Secretary may not issue work authorization to siblings and sons and daughters of citizens V visa holders; limits their admission to 60 days.
- Subject to public charge requirement (PRWORA).
- Effective first day of the first fiscal year beginning after date of enactment.Prohibits eligibility for any Federal means-tested public benefit, including Medicaid, CHIP, TANF, SNAP and SSI.Considers noncitizens granted RPI status to be lawfully present in the United States for all purposes while such noncitizen remains in such status, except that for purposes of the Affordable Care Act, the noncitizen:
 - Is not entitled to the premium assistance tax credit.
 - Is not entitled to cost-sharing (co-pays and deductibles) under ACA.

Section 2309 Fiancée and Fiancé Child Status Protection

- Amends K visa to include fiancés of LPRs.
- Clarifies that children who are adjusting with their parents from a fiancé to a family visa are included.
- Provides certain age-out protections for children of those being admitted as a fiancé.

Section 2310 Equal Treatment for All Stepchildren

- Harmonizes definition of stepchildren with other children in the Immigration and Nationality Act to include the definition of stepchildren as those who are 21 and under.

Section 2311. International Adoption Harmonization

- Amends adoption age requirements to allow children under the age of 18 to be adopted.
- Harmonizes adoptions between Hague Convention and Non-Hague Convention countries.

Section 2312. Relief for Orphans, Widows, and Widowers

- Allows an alien who was excluded, deported, removed or departed voluntarily before the date of enactment based solely on the alien's lack of classification as an immediate relative because of the death of such citizen or resident to be eligible for parole into the United States.
- Adjudicates immigrant visa application for any aforementioned alien whose qualifying relative died before the completion of immigrant visa processing.
- Preserves eligibility for waiver of inadmissibility based on the relationship with the qualifying deceased relative.

Section 2313. Discretionary Authority with Respect to Removal, Deportation or Inadmissibility of Citizen and Resident Immediate Family

- Grants immigration judges discretion to decline to order removal, deportation or exclusion and to terminate proceedings if the judge determines that such action is:
 - Against the public interest.
 - Would result in hardship to the alien's U.S. citizen or permanent resident parent of a child, spouse, or child.
 - Determined that the alien is prima facie eligible for naturalization.
- Grants discretion to the secretary to waive grounds of inadmissibility if the denial of admission is against the public interest or would result in hardship to the alien's U.S. citizen or permanent resident parent of a child, spouse or child.
- Denies waiver and secretarial discretion to individuals who are subject to removal or are inadmissible based on certain criminal and national security grounds.
- Creates exception to reinstatement of removal orders for individuals under 18 or where reinstatement would be contrary to public interest or would result in hardship to the immigrant's U.S. citizen or permanent resident parent of a child, spouse or child.

Section 2314 Waivers of Inadmissibility

- Makes inapplicable the unlawful presence inadmissibility grounds for aliens who entered the United States as children prior to age 16 as H nonimmigrant beneficiaries and who have earned a bachelor's degree or higher from a U.S. institution.
- Allows parents of U.S. citizens or LPRs eligibility to apply for a waiver of unlawful presence and strikes the word "extreme" from hardship standard.
- Limits scope of inadmissibility for misrepresentation and false claims to U.S. citizenship.

Section 2315. Continuous Presence

- Amends the cancellation of removal of statute so that continuous residence and continuous physical presence end with the filing of the Notice to Appear with the Executive Office for Immigration Review.

Section 2316 Global Health Care Cooperation

- Requires the secretary of Homeland Security to allow legal immigrants who are physicians or health workers (and their families) to reside in designated developing countries and be considered continuously resident in the United States for naturalization purposes.
- Requires aliens seeking to enter the United States for work as a physician or health care worker to attest they do not have an outstanding obligation to their country of origin or country of residence.

Section 2317. Extension and Improvement of the Iraqi Special Immigrant Visa Program

- Makes changes to the Iraqi Special Immigrant Visa program, including recapturing unused visas, expands the definition of employment by or on behalf of the U.S. government in Iraq, improves application processing times and creates a review process for denied visa applications.

Section 2318 Extension and Improvement of the Afghan Special Immigrant Visa Program

- Increases the number of Afghan Special Immigrant visas, recaptures unused visas from previous years, expands visa access to parents and siblings of principle applicants, improves processing times and creates a review process for denied visa applications.

Section 2319 Elimination of Sunsets in Certain Visa Programs

- Eliminates the sunset for the Special Immigrant Nonminister Religious Worker Program and the EB-5 Regional Center Program.

Subtitle D- Conrad State 30 and Physician Access.

Section 2401. Conrad State 30 Program.

- Removes the sunset of the program which is currently in 2015.

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

- Exempts certain physicians from the worldwide cap on employment-based green cards. Under current law, physicians can get a National Interest Waiver green card under the

EB-2 category if they serve for 5 years (3 of which can be under the Conrad program) in a medically underserved area or Veterans Administration medical facility.

Section 2403. Employment Protections for Physicians.

- Institutes a number of employment protections for doctors in the Conrad program and make technical fixes to the operation of the program.
- Allows physicians to leave their employers without the Department of Homeland Security (DHS) determination of “extenuating circumstances.” However, they would then be required to do an additional year of service in an underserved area.
- Requires physicians’ employment contracts to specify the number of on-call hours the doctors must work, whether the employer would provide malpractice insurance, and the exact facilities at which the physicians would work. The contracts cannot include non-compete provisions.
- Allows physicians whose employment has been terminated to have 120 days to begin new employment in an underserved area before being considered out of status.

Section 2404. Allotment of Conrad 30 Waivers.

- Grants an additional five waivers to all states each time 90 percent of the nationwide waivers are used in a year. States that receive fewer than five waivers per year would not be included in the calculation so that states with very inactive programs would not prevent the program from expanding.
- Maintains any such increases in the cap indefinitely until there is a 5 percent decrease nationwide as compared to the last year in which there was an increase in the cap. Once the cap reaches 45 waivers, it would become more difficult for the cap to increase further. To go above 45, 95 percent of nationwide slots would have to be filled and any state that received at least one waiver would count in the calculations. These increase and decrease mechanisms are designed to let the program expand while not harming states that struggle to attract doctors under the program.

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

- Defines:
 - Dual Intent – Physicians entering the country on a J visa do not need to prove that they do not have intent to immigrate permanently.
 - Visa Status During Conrad Service - Permit doctors to do their J waiver service in any authorized status, rather than just H-1B as under current law.

- Clarifies National Interest Waiver Green Card:
 - Specialists are eligible (codifying current practice).
 - Physicians who serve in Conrad “flex” spots are eligible. Under current law, each state can use 10 of its 30 waivers for doctors who serve patients from underserved areas but at a facility not located in an underserved area. This provision is used, for example, in very rural states that may not be able to attract a crucial specialist unless that doctor is going to be working in a relatively larger community (in a facility that serves patients from around the state).
 - The five years of required service starts when the doctor begins employment, not when the green card application is filed.
- Clarifies that foreign medical degrees qualify for EB-2 green card.
- Authorizes short-term visa extensions for physicians completing their residencies. Physicians who would lose their visa status due to the timing gap between when they finish their training and when they are able to obtain a work visa, will maintain their status until the beginning of the next fiscal year (i.e. from the spring to the fall).
- Allows spouses and children of J Visa holders to be exempt from the two-year home country return requirement. The spouses of doctors doing Conrad service are often unable to work, and frequently these spouses are also doctors.

Subtitle E – Integration.

Section 2511. Office of Citizenship and New Americans.

- Renames the U.S. Citizenship and Immigration Services’ (USCIS) Office of Citizenship to “Office of Citizenship and New Americans.”
- Expands functions to include leadership, consultation, and coordination of immigrant integration across the federal government and with state and local entities; setting of goals and indicators and measuring progress; and engaging stakeholders.

Sections 2521-2524. Task Force on New Americans.

- Establishes a federal task force of 13 federal agencies within 18 months of enactment to coordinate federal integration and advise the DHS Secretary. Members include the attorney general; secretaries of Treasury, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Education; the directors of Office and Management and Budget, Domestic Policy Council and National Economic Council; and the administrator of the Small Business Administration. The Task Force shall provide a coordinated federal response to integration and provide recommendations 18 months after the task force is established.

Section 2531-2539. Public-Private Partnerships.

- Authorizes the DHS secretary to establish a nonprofit United States Citizenship Foundation to accept and make gifts to expand citizenship preparation for low-income/underserved permanent residents; provide direct assistance for those seeking provisional immigrant status, permanent resident status, or naturalization; and to coordinate immigrant integration with state or local entities.
- Establishes a Council of Directors that includes the director of U.S. Citizenship and Immigration Services (USCIS), chief of the Office of Citizenship and New Americans and 10 directors from national community-based organizations.
- Authorizes DHS to award Initial Entry, Adjustment and Citizenship Assistance grants to eligible public or private nonprofits for application assistance, training in the rights and responsibilities of citizenship, English as a second language and civics.
- Authorizes DHS to award competitive grants to state and local governments or other qualifying entity under a pilot program to promote immigrant integration for new immigrants. Priority is given to applications with matching funds from nonfederal sources; public-private collaboration; and to the 10 states with the highest rate of foreign-born or the largest increase in immigrant population in the last 10 years, based on data from the Office of Immigration Statistics or the U.S. Census Bureau. The grants may be used to establish New Immigrant Councils of 15-19 members from various sectors including state government; to provide subgrants; or develop a comprehensive plan to integrate new immigrants. Activities may include English, workforce training, U.S. history and civics; financial literacy; and engaging receiving communities. Requires an annual report from each grant recipient and an evaluation.
- Mandates a strategy to enhance public awareness of naturalization ceremonies.

Sections 2541, 2551, 2552. Funding, Waivers of English and Civics Requirements and Internet Access.

- Authorizes \$10 million for the Office of Citizenship and New Americans for September 2013-September 2018 subject to the appropriations process.
- Authorizes \$100 million for the two grant programs and awareness of naturalization ceremonies.
- Waives English language requirement for seniors applying for naturalization (65 years old plus five years of lawful permanent residence or 60 years old plus 10 years of lawful permanent residence).
- Permits the DHS Secretary to waive civics requirement for those over 60 years with 10 years of residence (previously 65 and 20) on a case by case basis.

- Prohibits the DHS Secretary from requiring internet access or an electronic application for permanent residence or citizenship until October 1, 2020.

Title III- Interior Enforcement.

Subtitle A- Employment Verification

Section 3101. Unlawful Employment of Unauthorized Aliens.

- Prohibits any (state and local, private, federal) employer from knowingly hiring or continuing to employ an alien who is not authorized to work in the United States.
- Mandates E-verify for all federal, state, and local government employers and private sector (including nonprofits) employers and codifies the E-verify process as follows:
 - Employers must attest under oath to the identity and employment authorization status of an individual by examining certain documents. Attestation forms shall be available by paper, telephone and electronically.
 - The secretary shall publish pictures of documents that are to be used.
 - If an employer has complied with the requirements of E-verify and a reasonable person would conclude that the documents examined are authentic, then an employer will be deemed to be in compliance.
 - Acceptable documents for the purposes of E-verify are a U.S. passport or passport card, a valid document showing that the alien is lawfully admitted for permanent residence or showing employment authorized status if such document has a photograph of the alien and anti-tampering security features, an enhanced driver's license meeting REAL ID requirements, or a passport issued by the appropriate authority of a foreign country accompanied by a form indicating work authorization status. Other documents that establish identity are also listed in the act.
- Requires that in addition to the document verification, employers use identity authentication mechanisms once they become available to verify the identity of a potential employee. The two identity authentication mechanisms are a photo tool which would match the individual's picture to a picture in a national database (USCIS), or an additional security measure to be developed by the secretary.
- Provides for state agency certification of compliance with E-verify to satisfy employment requirements when an individual is referred to an employer by such agency.

- Sets up a good faith defense for employers who can show they have complied with the employment requirements of the act or relied in good faith on an employment referral from a state agency.
- States that an employer's technical or procedural failure to comply where a good faith attempt can be shown compliant.
- Creates a presumption of knowledge of unlawful hiring after the date on which an employer is required to use E-verify for any employer who fails to use E-verify.
- Requires that all employees attest that they are either a U.S. citizen, an alien lawfully admitted for permanent residence, an alien who has employment authorized status, or is otherwise authorized by the secretary for employment.
- Mandates that an employer must retain authorization records for three years from the date of hire.
- Preserves the application of existing civil rights laws to the E-verify system.
- Clarifies that nothing shall be interpreted to require a national ID.
- Prohibits employers from withholding back pay of unauthorized workers during the employment period and allows workers wrongfully labeled as unauthorized to be reinstated at their jobs.
- Requires DHS to establish a system to monitor error rates, system functionality, system misuse, and accuracy. The act also requires DHS to provide individuals with access to their own case history in the system.
- Establishes a five year phase-in period for the use of E-verify:
 - Federal government must use E-verify 90 days after enactment.
 - Certain critical infrastructure employers must use E-verify one year after the date of implementing regulations are issued for this Title.
 - Employers with more than 5,000 people must use E-verify two years after the date implementing regulations are published.
 - Employers with more than 500 employees must use E-verify not later than three years after the date that implementing regulations are published.
 - Employers employing agricultural or services industry employers must use E-verify four years after the date that implementing regulations are published.

- All other employers must use E-verify not later than four years after implementing regulations are published.
- Tribal employers must use E-verify not later than five years after implementing regulations are published.
- Requires mandatory employer training as the secretary deems necessary.
- Requires DHS to report to Congress not later than 18 months after regulations are promulgated. This report shall include an assessment of accuracy rates, challenges faced by small businesses in implementation, rate of employer and employee noncompliance.
- Provides for a similar report to be submitted to Congress by the General Accounting Office (GAO) through the comptroller general.
- Stipulates that in compliance matters, there shall be a pre-penalty notice for reported employer noncompliance. The employer shall have 60 days to respond and a right to a hearing if requested.
- Establishes civil penalties for violations in a range between \$3,500 for a first, singular offense to \$25,000 for repeated offenses. Each unauthorized worker is a separate fine. There are also enhanced penalties in special circumstances. Fines for recordkeeping violations range from \$500-\$8,000 per occurrence.
- Establishes criminal penalties with jail time of up to two years with the possibility of enhanced jail time for egregious violations involving a pattern or practice.
- Preempts state and local laws including any state or local criminal or civil penalties related to hiring, continued employment or status verification for employment eligibility purposes, of unauthorized aliens. A state, locality, municipality or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the system.

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

- Requires that not later than 180 days after enactment, the commissioner of Social Security shall begin work to administer and issue fraud, tamper, identity theft, and wear-resistant Social Security cards. Allows five years to complete this process. Appropriates \$1 billion as emergency funds.

- Amends the federal fraud statute to create the federal crime of Social Security card fraud for knowingly possessing, selling, producing or using a fraudulent Social Security number or card.

Section 3104. Responsibilities of the Social Security Administration.

- Mandates that the agency establish a reliable and secure system to compare identifying information about an individual to determine its accuracy.

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

- Prohibits employers from discriminating against an employee based on national origin or citizenship with respect to hiring, verifying or discharging that employee.

Section 3106. Rulemaking.

- Requires that the secretary shall issue final regulations for Sections 3101, 3104, and 3105 and the attorney general shall issue regulations for Section 3102 not later than one year after enactment.

Subtitle B- Protecting United States Workers.

Section 3201. Protections for victims of serious violations of labor and employment law or crime.

- Expands U visa eligibility for victims of serious labor violations. The worker must have suffered physical or mental abuse or be a victim of certain criminal activity or of a covered violation. The worker must be helpful to prosecutor or designated agency investigating criminal activity.

Subtitle C- Other Provisions.

Section 3303. Mandatory Exit System.

- Requires the secretary of Homeland Security to establish a mandatory exit data system that includes a requirement for the collection of data from machine readable visas, passports and other travel and entry documents for all categories of aliens.

Section 3305. Profiling.

- Prohibits federal law enforcement from using race or ethnicity when making routine traffic stops unless a specific suspect description exists.

Subtitle D- Asylum and Refugee Protections.

Sections 3401-3407.

- Eliminates the one-year deadline for filing an asylum claim. Allows a two-year window for certain individuals to re-apply if previously denied solely on the one-year time limit.
- Expands protections for children of children of refugees and asylees to accompany the principal applicant granted refugee/asylee status.
- Allows the president in consultation with the secretary of State to designate certain high need groups as refugees in humanitarian emergencies, subject to the annual limit on refugees; each applicant must still qualify and pass security checks.
- Allows asylum officers to adjudicate asylum claims after credible fear is shown, allowing them to grant asylum or refer to an immigration judge for determination of asylum.
- Allows individuals in the United States, with their spouses and children, to apply for conditional lawful status if they are stateless; after one year they may apply for lawful permanent residence; subject to numerical limits of the EB4 green card.
- Raises the U visa cap from 10,000 to 18,000 to address the expansion of trafficking to include victims of labor trafficking in Sec. 3201 of S.744.
- Allows applicants for refugee status overseas to have an attorney or accredited representative; requires written records.

Subtitle E. Shortage of Immigration Court Resources for Removal Proceedings

Section 3501.

- Adds federal immigration judges and court personnel to carry out removal proceedings, provides for improved training for court officials, and provides for improved resources and technology for immigration courts.
- Funded by the Comprehensive Reform Trust Fund.

Subtitle F. Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad.

Section 3602. Disclosure.

- Requires that foreign laborers must be documented and lists certain information that must be disclosed to the foreign worker by the potential employer:
 - ID and address of the employer.

- All terms and conditions of employment.
- Mandates that employers of foreign labor provide a signed copy of the employment contract and an itemized list of costs and expenses charged to the worker. The employer faces criminal penalties in instances of fraud.

Subtitle G. Interior Enforcement.

Section 3701. Criminal Street Gangs.

- Requires deportation of aliens who are convicted of an offense for which an element was active participation in a criminal street gang. Makes aliens in this category ineligible for RPI status.

Section 3702. Banning Habitual Drunk Drivers.

- Makes an alien convicted of three or more offenses on separate dates, at least one of which occurred after the implementation deportable.

Section 3705. Reentry of Removed Alien.

- Establishes criminal penalties for reentry of alien criminal offenders (between 10-30 years).

Section 3716. Oversight of Detention Facilities.

- Establishes a process for federal oversight of federal, state, local and private detention facilities.

Title IV- Reforms to Nonimmigrant Visa Programs.

Subtitle A--Employment-based Nonimmigrant Visas

Section 4101. Market-based H-1B visa limits.

- Establishes a new H-1B cap of 110,000 for the first fiscal year after enactment. Creates a mechanism, The High Skilled Jobs Demand Index (HSDI), for adjusting the cap for each subsequent year contingent on the market and unemployment bound by the range of 110,000 to 180,000 for any fiscal year. In any fiscal year the number of visas may not increase or decrease by more than 10,000 than the preceding year.

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

- Allows H-1B spouses to work if the spouse is the national of a country that permits reciprocal employment.

Section 4103. Eliminating Impediments to Worker Mobility.

- Grants the secretary of Homeland Security deference for prior approval for an H-1B or L-1 nonimmigrant petition to extend their status involving the same employer and foreign national in the context of an extension request, absent the secretary of Homeland Security determining:
 - Material error with regard to the previous petition approval.
 - A substantial change in circumstances.
 - New information that adversely impacts the eligibility of the petitioner or the beneficiary. Maintains Secretary's discretion to deny an extension.
- Extends lawful status for 60 days in the event of early termination.
- Permits the secretary to renew certain nonimmigrant visas otherwise eligible and qualifies them for a waiver of interview and allows the option to waive interviews for low risk applicants.

Section 4104. STEM Education and Training.

- Creates a new \$500 fee to be submitted with permanent labor certification applications and deposited in the STEM Education and Training Account.

Subtitle B--H-1B Visa Fraud and Abuse Protections.

Section 4211. Modification of Application Requirements.

- Requires H-1B dependent employers to pay each H-1B worker at least a Level 2 wage.
- Mandates the Department of Labor (DOL) to create a three-tiered wage system. The first level shall be the mean 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 shall be the mean of wages surveyed; the third level shall be the mean of the highest two-thirds of wages surveyed.
- Maintains the wage survey for educational, nonprofit, research, and governmental entities.

- Stipulates that when a position is covered by professional sports rules or regulations, the wages paid are not considered as adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.
- Requires that the wages paid to H-2B nonimmigrants employed by the employer will be the greater of the actual wage level paid by the employer to other employees with similar experience and qualifications for such position; or the prevailing wage level for the occupational classification of the position in the geographic area of the employment, based on the “best information available” as of the time of filing the application.
- Obligates employers filing an H-1B petition to first advertise the job opening on a new DOL jobs website. The job description must be available for 30 days and include the wage ranges, terms of employment, minimum requirements and how to apply.
- Mandates dependent employers to demonstrate that they “did not displace and will not displace” a United States worker within the period of 180 days before and ending 180 days after the filing of a visa petition. Employers that are not an H-1B dependent employer must demonstrate that they did not displace U.S. workers 90 days before or after the filing of a visa petition, but would not be subject to the requirement if the total number of U.S. workers employed by such employer in the same job zone had not decreased during the year ending with the filing of the labor condition application.
- Prohibits H-1B dependent employers to place, outsource, lease or otherwise contract for the services or placement of an H-1B nonimmigrant employee. Additionally, a nondependent H-1B employer must pay a \$500 fee to outsource an employee.
- Defines “intending immigrants” to mean an alien who intends to work and reside permanently in the United States. These people shall not be considered in the calculation of H-1B dependency. Defines “covered employers” to mean an employer who is required to employ at least 90 percent of the visa petitions they submitted.

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

- Restores the previously expired H-1C nonimmigrant category for foreign nurses who will work in medically under-served areas.
- Reduces from 500 to 300 the number of H-1C nurses may be admitted per fiscal year.
- Permits one three-year extension; provides for portability.
- Effective 60 days after enactment.

Section 4213. New Application Requirements.

- Prohibits advertising that a position is open only to H-1B immigrants, or prospective H-1B nonimmigrants and further prohibits priority or preference in the hiring process for such position.
- Provides employers (other than an educational or research employer) that employ 50 or more employees in the United States. may not have more than 75 percent of the employees be H-1B in fiscal 2015; 65 percent in fiscal 2016, and 50 percent in fiscal 2016.
- Requires employer to submit an annual report that includes the Internal Revenue Service Form W-2 Wage and Tax Statement filed by the employer for each H-1B nonimmigrant employed by the employer during the previous year.

Section 4214. Application Review Requirements.

- Grants DOL increased parameters to review labor condition applications for fraud, misrepresentation, or obvious inaccuracies and increases from the present seven to fourteen days to certify an labor condition application. Also requires the DOL to post information of labor condition applications on the department’s website.

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

- Extends the time permitted for investigations from 12 months to 24 months from the time of the alleged incident and eliminates the “reasonable cause” requirement.
- Permits DOL to conduct voluntary surveys of employer compliance and audits of H-1B employers and perform audits of employers with more than 100 employees in the United States if their workforces are composed of more than 15 percent H-1B nonimmigrants during the calendar year. DOL must make available to the public an executive summary or report describing the general findings of the audits.

Section 4222. Investigation, Working Conditions, and Penalties.

- Broadens the conditions that penalties may be issued. Increases fines from up to \$1,000 to up to \$2,000 failures to meet labor condition application requirements, and from up to \$5,000 to up to \$10,000 for willful failures to meet labor condition application requirements. Adds employer liability to “to any employee harmed by such violations” for back wages and benefits.

Section 4223. Initiation of Investigations.

- Eliminates reasonable cause to suspect non-compliance to initiate an investigation and strikes the provision requiring the secretary “shall personally certify that reasonable cause exists.”

- Allows for complaints from anonymous sources by deleting previous requirements that the secretary know the identity of the sources. Also permits DOL employees to file complaints. Increases the time a complaint must be filed from within 12 months to 24 months.

Section 4224. Information Sharing.

- Requires that the director of USCIS provides the secretary of Labor with any information contained in the materials submitted by employers of H-1B nonimmigrants as part of the adjudication process that indicates that the employer is not complying with visa program requirements for H-1B nonimmigrants. Permits the secretary to initiate and conduct an investigation based on said information.

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

- Mandates that a searchable internet database for posting H-1B positions be established not later than 90 days after the date of the enactment.

Section 4232. H-1B Government Authority and Requirements.

- Requires that not later than 30 days after a labor condition application is filed, an employer shall provide an employee or beneficiary of such Application who is or seeking to be a qualified nonimmigrant with a copy the original of all applications and petitions filed by the employer with the Department of Labor or the Department of Homeland Security for such employee or beneficiary.
- Requires a report analyzing the accuracy and effectiveness of the secretary of Labor's current job classification and wage determination system by the comptroller general of the United States no later than 1 year after enactment.

Section 4233. Requirements for Information for H-1B and L Nonimmigrants.

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

Section 4234. Filing Fee for H-1B-Dependent Employers.

- Levies a \$5,000 fee for fiscal years 2015 to 2024 on companies employing more than 50 workers in the United States if between 30 and 50 percent of their workforces are H-1B or L nonimmigrants. Between 2015 to 2017, the fee is \$10,000 for companies employing more than 50 workers in the United States if where between 50 and 75 percent of their workforces are H-1B or L nonimmigrants. "Intending immigrants" are not included in the calculation.

Section 4235. Providing Premium Processing of Employment-Based Visa Petitions.

- Requires the DHS to establish and collect a fee for premium processing of employment-based immigrant petitions; and a fee for premium processing of an administrative appeal of any decision on a permanent employment-based immigrant petition.

Subtitle D- Other Nonimmigrant Visas

Section 4401. Nonimmigrant Visas for Students.

- Addresses F-1 visas for an alien having a residence in a foreign country to pursue a full course of study at an accredited college, university or language program or an established seminary, conservatory, academic high school, or other approved institution in the United States, provided the institution has agreed to report to the DHS the termination of the attendance of a nonimmigrant student.
- Allows students who commute from Canada or the United States. to have student visas if they plan to maintain their residence in those countries or are studying part-time.
- Allows the secretary of Homeland Security to require accreditation of institutions that are not already required to be accredited by the Department of Education provided an appropriate accrediting agency recognized by the Department of Education can provide that accreditation and the institution has or will have 25 aliens as students who have status as nonimmigrants.

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

- Allows for nonimmigrant specialty occupation worker visas under bilateral investment treaties and free trade agreements, provided DOL wage and attestation requirements are met, subject to a limit of 5,000 per fiscal year for each country with a free trade agreement.

Section 4403. E Visa Reforms (Treaty visas).

- Amends the nonimmigrant visa under treaties to include nationals of Ireland and requires a high school education or equivalent; or, within five years, has two years of work experience in a position requiring two years of training and experience.

Section 4404. Other Changes to Nonimmigrant Visas.

- Allows employment authorization to continue for O-1 visa holders pending the petition by a new employer. (O visas are extraordinary ability in the sciences, arts, education, business, or athletics). Waives consultation requirement for O-1 visa holders requesting entry within three years for motion picture or television production if previous

consultations by union and management were favorable.

Section 4405. Treatment of Nonimmigrants During Adjudication of Application.

- Extends employment authorization of nonimmigrants whose status has expired to continue, pending adjudication of the petition for extension of stay. This includes:
 - A (foreign government officials)
 - E (treaty traders and investors)
 - G (foreign media representatives)
 - J (exchange visitors)
 - L (intracompany transferees)
 - O (workers of extraordinary ability)
 - P (athletes and entertainers)
 - Q (international cultural exchange visitors)
 - R (religious workers)
 - TN (Trade NAFTA from Canada and Mexico)

Section 4406. Nonimmigrant Elementary and Secondary Students.

- Removes the requirement restricting the one-year period on admission for F-1 elementary and secondary student visas.

Subtitle E— “Jobs Originated Through Launching Travel Act of 2013” (JOLT)

Section 4502. Premium Processing.

- Requires the State Department to create a pilot premium processing program for visa interview appointments. Fees collected offset State Department appropriations for consular services. Requires a report to Congress.

Section 4503. Encouraging Canadian Tourism to the United States.

- Grants certain Canadian retirees and their qualifying spouses admission as visitors for no more than 240 days during any single year. Applicants must: be Canadian citizens; be at least 55 years of age; maintain a residence in Canada; not work or seek public assistance in the United States; and not otherwise be inadmissible or deportable.

Section 4504. Retiree Visa.

- Creates a new visa for retirees and their families, if the retiree uses at least \$500,000 in cash to purchase at least one home in the U.S. and maintain ownership during the period they remain in the country. Applicants must: be Canadian citizens; be at least 55 years of age; maintain a residence in Canada; not work or seek public assistance in the United States; and not otherwise be inadmissible or deportable.

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

- Requires the State Department to publicize historical data on the availability of visas at each processing post, so applicants can identify periods of low demand and low wait times.

Section 4506. Visa Waiver Program Enhanced Security and Reform.

- Authorizes DHS to designate any country as part of the visa waiver program, as long as the country provides machine-readable passports and the visa refusal rate and overstay rate for nationals of that country are both under 3 percent in the previous year.
- Allows DHS to waive the 3 percent threshold requirements if the country presents a low security risk; participates in counterterrorism efforts with the United States; and has a visa refusal rate of less than 10 percent.
- Permits DHS to designate a visa waiver designated country into a period of probationary status for noncompliance; if not remedied, the country can be removed from the visa waiver program.

Section 4507. Expediting Entry for Priority Visitors.

- Expands enrollment of trusted traveler programs for employees of international organizations. Citizens of countries that are state sponsors of terrorism cannot participate in this program.

Section 4508. Visa Processing.

- Requires the State Department to interview 80 percent of visa applicants within three weeks of their application. Expands resources in China and Brazil to keep visa appointment wait times under 15 days. Requires a semi-annual report to Congress of the progress in reaching and maintaining these goals.

Subtitle F- Reforms to the H-2B Visa Program

Section 4601-4604.

- Extends the exemption for H-2B returning workers from the cap through 2018.
- Requires wages to be comparable to employees with similar experience and qualifications for such position; or the prevailing wage level for the occupational classification in the geographic area.
- Includes ski instructors in the P visa category.

- Requires employers to certify the nonimmigrant worker will not displace a U.S. worker in the same metropolitan statistical area.
- Requires employers to pay incoming and outgoing transportation costs.
- Creates a \$500 labor certification fee by the U.S. Department of Labor to be used for the Comprehensive Immigration Reform Trust Fund established under Section 6.
- Establishes a 90-day nonimmigrant visa for multinational executives and managers; creates a 180-day nonimmigrant visa for multinational employees to participate in leadership and development; bars these visa holders from receiving a salary from a U.S. source.
- Allows honoraria for certain B visa visitors.
- Permits foreign workers to assist in federal or state disasters or emergencies for up to 90 days if employed in a foreign country at least one year before entering the United States; bars them from receiving income from a U.S. source.
- Allows nonimmigrants to enter for up to 90 days to those with specialized knowledge to perform maintenance on common carriers (airlines, ships, railways) if the machinery was made outside of the United States, if employed in a foreign country at least one year before entering the United States, and who does not receive income from a U.S. source.

Subtitle G—W Nonimmigrant Visas

Sec. 4701: Bureau of Immigration and Labor Market Research.

- Establishes the Bureau of Immigration and Labor Market Research (Bureau) headed by a commissioner who is appointed by the president and confirmed by the Senate.
- Allows the bureau to:
 - Determine annual caps for W-Visas.
 - Supplement recruitment methods employers use to attract W-nonimmigrants.
 - Declare shortage occupations by job zones and allow employers to ask the Bureau to designate particular occupations as the defined shortage occupations.
 - Conduct a survey of the unemployment rate of construction workers and its impacts every three months.
 - Submit a report on employment-based immigrant and nonimmigrant visa programs with recommendations Congress.

- Requires interagency cooperation between the Department of Commerce, Bureau of the Census, DOL and the Bureau of Labor Statistics to gather data, conduct surveys and assist the Bureau in making future recommendations.
- Appropriates \$20 million from the Treasury to establish the bureau. Collected fees from W-Visa applications can also be used to fund the bureau.

Sec. 4702: Nonimmigrant Classification for W Non-Immigrants.

- Creates a W-Visa classification stating that the visa holder is an immigrant having a foreign residence who comes to the United States temporarily for work. Allows spouses and children to accompany the principal W-Visa holder.

Sec. 4703: Admission of W Nonimmigrant Workers.

- Allows an eligible immigrant to enter the United States as a W nonimmigrant if hired by a registered employer. Permits the spouse and children of the main W-Visa holder to also be admitted with work permits.
- Grants the visa for three years and can be renewed for three additional years.
- Establishes requirements for qualifying immigrants:
 - Must report to their employer no later than 14 days after admitted to the U.S..
 - Cannot be unemployed for more than 60 consecutive days.
 - Must depart the U.S. if they fail to obtain employment.
 - Can travel outside the United States.
- Establishes requirements for qualifying employers that want to hire W-Visa holders must:
 - Submit an application to DHS with appropriate documentation.
 - Anticipate dates of employment.
 - Submit a description of the type of work to be performed.
 - Advertise employment opportunities online and recruit locally before seeking a W-Visa holder.
 - Offer employment categorized under zones 1-3.
 - Pay registrations fees (small businesses may be excluded from additional fees).
 - Be headquartered outside excluded geographic locations (metropolitan statistical areas with unemployment higher than 8.2 percent).
- Limits the number of W-Visas for the first 4 years to:
 - 20,000 during year 1.
 - 35,000 during year 2.
 - 55,000 during year 3.
 - 75,000 during year 4.
 - For each year after, the cap will be calculated by a bureau formula.

- Allows W nonimmigrant working for a registered employer to quit their current job for any reason and seek and accept employment with any other registered employer within the W-Visa protocol.
- Prohibits a registered employer from outsourcing or contracting a W nonimmigrant employee to another employer if more than 15 percent of its employees are W nonimmigrants.
- Prohibits employers from deducting W-Visa fees from their W nonimmigrants employee's wages. Collected fees are paid by employers and must only be paid by them.
- Bans employers from intimidating, threatening, restraining, coercing, retaliating, discharging, or in any other manner discriminating against an employee for whistleblowing.
- Requires the DHS to investigate complaints within 30 days of receipt. Complaints filed no later than six months after the violation, and the violation is found to be true the Secretary of Labor can impose fines or criminal penalties to employers found guilty of violations.
- Implements a new electronic monitoring system that is coordinated with the new E-Verify system to monitor W nonimmigrants and their movement from job to job.

Subtitle H - Investing in New Venture, Entrepreneurial Startups, and Technologies

Sections 4801-4803

- Creates a new three-year, renewable, nonimmigrant INVEST visa for immigrant entrepreneurs who secure \$100,000 in investments from an accredited investor, venture capitalist or government entity, or, has a business that has created three jobs and generated \$250,000 in the previous two years. A nonimmigrant is a temporary worker.
- Creates a new EB-6 immigrant visa for “qualified” entrepreneurs, capped at 10,000 per year. “Qualified” entrepreneurs are senior employees with a significant ownership interest in a U.S. entity, have submitted a business plan to USCIS, and had a substantial role in the founding or growth of the business. Requires that entrepreneurs have two years of nonimmigrant status and created five jobs and secured \$500,000 in investments or \$750,000 in annual revenue during the previous two years. Entrepreneurs with STEM degrees must meet similar but slightly relaxed requirements such as \$500,000 in annual revenue. A EB-6 visa is for a permanent resident.
- Requires regulations to be issued within 16 months.

For more information, please contact Susan Frederick or Sheri Steisel in NCSL Washington D.C.'s office at 202-624-5400.

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