Summary of Security Through Regularized Immigration and a Vibrant Economy Act of 2007 (STRIVE ACT of 2007)

TITLE I – BORDER ENFORCEMENT

Certification Requirements Prior to Implementation of Earned Legalization of Undocumented Individuals and New Worker Program: Sets conditions that must be met before implementation of the new worker program and the program to legalize undocumented individuals. The Secretary of DHS must certify to Congress that improvements in border surveillance technology are being implemented; that the systems and infrastructure necessary to carry out improvements to immigration document security are ready to use; and that the first phase of the Electronic Employment Verification System requiring the participation of critical infrastructure employers has been implemented.

- **Increased Border Enforcement Personnel:** Increases border and other enforcement personnel, including port of entry inspectors (2500), immigration and customs enforcement investigators (1200), border patrol agents (11600), and Deputy United States Marshals (50). The bill also requires DHS to assign at least a 20% net increase in border patrol agents in each fiscal year between 2008-2012 to the Canadian border.

- **Assistance from Department of Defense:** Requires DHS and DOD to work together to implement a plan to increase DHS' use of DOD equipment in carrying out surveillance activities at or near the United States border. Requires both agencies to submit a related report to Congress.

- **Strengthening Infrastructure for Border Control:** Requires DHS to construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the U.S. borders.

- **Improvements to Ports of Entry:** Authorizes DHS to construct additional ports of entry along the U.S. border and to make necessary improvements to existing ports of entry.

- **Unmanned Aerial Vehicles and Related Surveillance Technologies:** Requires DHS to acquire and maintain unmanned aerial vehicles and related equipment to patrol the international borders of the U.S. and Canada.

- **Criminal Penalty for Evading Inspection:** Creates a new crime with penalties for evasion of border inspection personnel.

- **Border Security Plans, Strategies and Reports:** Requires DHS to develop a national strategy for border security (submitted to Congress no later than one year after the bill is enacted) and comprehensive plan for surveillance of the international land and maritime borders of the United States (submitted to Congress no later than 6

months after the bill is enacted). Requires DOS to submit a report to Congress on improving the exchange of information on North American security.

- **Improving Security South of the Border:** Requires the U.S., Mexican and Canadian governments to work together to establish a program relating to the needs of countries of Central America and requires the U.S. government to cooperate with the Central American government officials on issues related to violent criminal aliens, gang activities (including tracking gangs), and law enforcement assistance, among other things.

- **Report on Deaths at the Border:** Requires the Commissioner of U.S. Customs and Border Protection within DHS to collect statistics relating to deaths occurring at the border between the United States and Mexico, including the cause and total number of deaths.

- **Working with Mexico:** Requires the U.S. to work with Mexico to address border security, human trafficking, drug trafficking, gang activity, violence against women in the U.S. and Mexico, etc. DOS will work with the Mexican government to educate citizens and nationals of Mexico about eligibility requirements under the U.S. immigration laws to ensure that such individuals are not exploited while working in the United States; and also to encourage circular migration, including assistance with job and economic development for nationals and citizens of Mexico.

- **Reducing Fraud:** Requires DHS to make biometric data enhancements and provide CBP officers with training on document fraud detection and identification. Requires that documents be machine-readable, tamper-resistant and incorporate a biometric identifier. The bill also creates new authorities for collecting biometric information from immigrants and related penalties.

- **Law Enforcement Relief for States and Localities:** Authorizes DHS to award grants to law enforcement agencies that provide border-related assistance. The bill also allows the Justice Department to reimburse State and local prosecutors based along the border for prosecuting federally initiated and referred drug cases.

- **Safe and Secure Detention:** Includes basic protections and safeguards for asylum seekers and other immigrants who are subject to the government's expedited removal program and/or detention. Provides that DHS will fully implement and enforce select standards governing immigration detention and calls for new standards with respect to asylum seekers, vulnerable populations and other non-violent immigrant populations. Creates a new office for detention oversight to provide oversight and accountability around detention standard compliance. Includes provisions that relate to secure alternatives to detentions.

TITLE II – INTERIOR ENFORCEMENT

- **Increased Penalties Related to Gang Violence, Failure to Depart, and Alien Smuggling:** Enhances the penalties associated with gang membership, failure to depart after removal, and alien smuggling offenses and specifically:
  1) creates new immigration penalties for aliens convicted of gang crimes and bars such individuals from temporary protected status;
  2) increases criminal penalties associated with failure to depart after removal and extends such penalties to aliens found removable based on inadmissibility grounds;
  3) increases criminal penalties associated with willful failure to comply with terms of release under supervision; and
  4) enhances criminal offenses and increases penalties associated with alien smuggling.

- **Increased Criminal Penalties for Drunk Driving:** Creates new immigration penalties for aliens convicted of drunk driving offenses.

- **Increases Criminal Penalties for the Unauthorized Employment of Aliens.**

- **Makes Firearms Sale or Possession by Undocumented Aliens a Federal Crime:** Expands the list of federal crimes to include sale of firearms to and possession of firearms by any person unlawfully present in the United States.

- **Laundering of Monetary Instruments:** Adds the financial proceeds from alien smuggling and trafficking to the list of crimes covered by the money laundering provisions in the criminal code.

- **Increase of Federal Detention Space:** Authorizes DHS to construct and acquire at least 20 additional facilities for the detention of aliens that have a capacity to detain a combined total of at least 20,000 individuals at any time for aliens pending removal or a decision on removal. DHS must also construct or acquire additional facilities subject to appropriations for detention beds required by the intelligence reform bill.

- **Increases Number of ICE Agents:** Mandates adequate number of ICE agents for each state to investigate immigration violations and ensure the departure of removable aliens.

- **Enhanced Penalties and Reform of Passport, Visa and Document Fraud Offenses:** Expands and rewrites the criminal code and related penalties pertaining to passport, visa, and document-related fraud. Increases maximum term of imprisonment for certain offenses relating to passport, visa, and document fraud.

Allows DHS to waive prosecution under this section for certain vulnerable individuals, such as asylum seekers and victims of trafficking.

- **Illegal Entry and Reentry:** Increases the criminal penalties associated with reentry of aliens with criminal convictions.

- **Detaining Criminal Aliens:** Mandates the continuation or the development of programs to identify removable persons in federal and state correctional facilities, prevent their release into the community, and ensure their removal upon completion of their sentence.

- **Tightens Voluntary Departure Requirements:** Tightens requirements and enhances penalties for failure to depart in accordance with a voluntary departure agreement.

- **Detention and Removal of Aliens Ordered Removed:** Authorizes DHS to detain certain aliens ordered removed for more than 90 days beyond the removal period if the alien conspires or acts to prevent such removal, or his release would threaten the safety of the community.

- **Immigration Enforcement by State and Local Police:** Reaffirms that law enforcement personnel of a state or political subdivision possess the inherent authority to enforce criminal provisions of the immigration laws in the normal course of carrying out law enforcement duties.

- **Mandatory Address Reporting Requirements:** Enhances address-reporting requirements under the INA.

- **Expedited Removal:** Expands basis for which the government can subject an individual in the United States to expedited removal.

- **Aggravated Felony:** Modifies the aggravated felony definition. Expands the term "aggravated felony," as it applies to alien smuggling.

- **State Criminal Assistance Programs.:** Provides for reimbursement to state and local governments for pre-conviction costs for aliens charged with or convicted of crimes.

- **Requires U.S. Attorneys to Determine Immigration Status of Individuals Charged with Federal Offenses:** Requires U.S. Attorney Offices, when prosecuting criminal cases in Federal court, to determine immigration status of individuals and notify the court of their findings.

TITLE III – EMPLOYMENT VERIFICATION (Creates system for employers to electronically verify workers' employment authorization, establishes criminal penalties for employers and workers who operate outside the system, and implements strong enforcement mechanisms)

Employment Verification Regime:

- Mandates DHS and SSA to develop a system for employers to verify the employment authorization of all new workers electronically or telephonically and establishes an interim verification regime for employers to use while the system is under development.
- Phases in implementation of the system, starting with critical infrastructure employers and then other employers based on size (largest employers would be required to use the program first, with smaller employers following in successive years).
- Requires the Comptroller General to certify annually that the verification system is responding accurately to employer queries and is protecting the privacy of the records contained in the system. This certification is necessary to mandate employer participation requirements and system expansion. The Comptroller will also certify if the system is satisfying anti-discrimination benchmarks.

Procedures:

- Limits documents that can be accepted in order to establish employment authorization and creates specific procedures for employers to follow when an applicant's authorization is not immediately confirmed by the agency. Mandates improvement of security features of Social Security card.
- Establishes time frames for the system to confirm or not confirm an employee's work authorization. Requires a manual verification process when the System is unable to initially determine a worker's eligibility to work
- Provides the employee with an opportunity to submit additional documentation to establish work authorization in the case of initial non-confirmation but, in the case of a final nonconfirmation from the system, the employer must terminate the employee.
- Employees are entitled to administrative review of a non-confirmation decision and, if necessary, judicial review.

Criminal Penalties and Civil Sanctions:

- Creates significant criminal penalties for individuals who falsely attest to being authorized to work.
- Creates significant civil penalties for employers who do not comply with the new system's requirements and establishes serious criminal penalties for knowingly hiring unauthorized aliens.
- Creates a safe harbor for employers who use the new verification system.
- Debars employers who repeatedly violate these provisions from government contracts, grants, and agreements.

Privacy Safeguards of the System:

- Limits the data that can be collected and stored in the database and requires the agencies to develop the system with maximum security and privacy protections.
- Mandates the agencies to evaluate the impact of the system from a privacy perspective and complete privacy impact statements.
- Prohibits creation of a national identification card.

Anti-Discrimination Provisions of the System:

- Forbids employers from using the new system to discriminate against applicants or employees on the basis of nationality.
- Prohibits employers from terminating employment due to an initial non-confirmation, using the system to screen employees prior to offering employment, and using the system selectively.

TITLE IV – NEW WORKER PROGRAM

Certification Requirements prior to Implementation of the New Worker Program: Sets conditions that must be met in order for the Secretary of DHS to implement the New Worker Program. The Secretary must certify to Congress that border surveillance technology improvements are being implemented; that the systems and infrastructure necessary to make improvements to immigration document security are ready to use; and that the first phase of the Electronic Employment Verification System requiring the participation of critical infrastructure employers has been implemented.

H-2C Worker Visa Program: Creates a legal channel for future immigrant workers (and their spouses and children) by establishing the H-2C visa, which is valid for three years and renewable for another three. The bill ensures that U.S. workers have the first shot at all jobs and that new workers will not displace or adversely affect the wages or working conditions of U.S. workers.

Requirements to be Met by an Applicant for a New Worker (H-2C) Visa:

- demonstrate job qualifications and provide evidence of a job offer from U.S. employer
- complete criminal- and terrorism-related background checks
- pay a $500 application fee
- undergo a medical exam
- show admissibility to the U.S. (certain bars to admission related to undocumented status may be waived; security and criminal related bars may not be waived)

Features of the H-2C Program:

- **Flexible Visa Cap**: The visa program has an initial cap of 400,000, which adjusts up or down yearly based on market fluctuations.
- **Protections for Workers**: Includes labor rights and protections for new workers, including: paying *the greater of* the actual wage paid to other similarly-situated

workers or the prevailing wage; requiring that H-2C workers are provided the same conditions and benefits as received by U.S. workers; the ability to travel outside the United States; whistleblower protections; flexibility to change employers ("portability") so long as the new employer has complied with the applicable H-2C recruiting requirements; an opportunity to apply for permanent resident status, either through an employer or by self-petitioning (after five years of employment); and a path to citizenship if desired, among other protections.

- **Additional Worker Protections**: H-2C workers may not be treated as independent contractors, cannot be employed during labor disputes, and cannot be denied a right or remedy available under federal, state, or local labor and employment laws. Includes a non-discrimination clause.
- **Increased Labor Law Enforcement**: Adds 2,000 Department of Labor investigators dedicated to enforcing this title. Requires the Department of Labor to create regulations for processing complaints relating to violations of the H-2C program by an aggrieved worker. The Labor Secretary may impose administrative remedies and penalties upon finding a violation relating to H-2C employers or contractors.
- **Employer Obligations**: Employers must attempt to hire U.S. workers by first offering the job to any eligible U.S. worker who applies and is qualified and able. Employers can only hire H-2C workers where no U.S. workers are able, willing, or qualified to perform the job. Employers are barred from hiring new immigrant workers if they are located in an area with an unemployment rate higher than 9 percent for workers whose education level is at or below a high school diploma. The bill spells out procedures for recruiting U.S. workers.
- **Unemployment Rule**: Requires H-2C workers who are unemployed for more than 60 days to leave the United States and reapply for a new visa (exceptions apply for disability, authorized leave, or because of major disaster or emergency).
- **Fraud-Proof Documents**: H-2C workers will be issued a machine-readable, tamper-resistant document that will allow for biometric authentication. This document will serve as a valid travel, identity, and work authorization document.
- **Penalties for Unlawful Entry**: Workers who enter the United States unlawfully may be barred from receiving many immigration benefits (including participation in the H-2C program) for 10 years.
- **Alien Employment Management System**: DHS (in consultation with the Department of State) must develop and implement a system to manage and track the employment of H-2C workers.

Earned Citizenship: Provides new workers (and their spouses and children) with an opportunity to apply for conditional permanent residency and eventual citizenship. The immigrant may apply through an employer or by self-petition after working in H-2C status for 5 years and paying an additional fee of $500.

Requirements for Earned Citizenship:

- show physical presence in the U.S. and evidence of employment;
- complete criminal and security background checks;
- pay $500 application fee;

- meet English and civic requirements; and
- show admissibility (certain bars to admission related to undocumented status are waived; security- and criminal-related bars may not be waived).

Other Provisions in Title IV:

- The Secretary of State must negotiate bilateral agreements with home countries of H-2C workers.
- Standing Commission on Immigration and Labor Markets is established as an independent agency within the Executive Branch responsible for examining and analyzing various aspects of the H-2C program.
- The effective date for the H-2C program is one year after the bill's enactment date. Implementing regulations must be issued within 6 months of the bill's enactment date.

TITLE V – VISA REFORMS

- **Family-Based Immigration:** Exempts immediate relatives of U.S. citizens from the annual level of 480,000 for family-sponsored immigrant visas. Redistributes the 480,000 family-sponsored immigrant numbers among existing family preference categories. Unused family-sponsored immigrant visas from previous fiscal years are recaptured and made available for family-sponsored immigrant visas for future fiscal years.

- **Employment-Based Immigration:** Increases employment-based immigrant visas from 140,000 to 290,000 per fiscal year. The 290,000 ceiling for employment-based immigrant visas is redistributed among the employment-based immigrant visa categories and certain modifications are made to current categories. Unused employment-based immigrant visas from previous fiscal years are recaptured and made available for employment-based immigrant visas for future fiscal years. Visas issued to spouses and children after October 1, 2004 under the employment-based category will no longer be counted against the cap. No more than 800,000 visas may be issued to employment-based spouses and children during any fiscal year.

- **Per Country Limits:** Makes slight increases to the per-country limits for family and employment based visas.

- **H-1B Visa Program:** Increases the cap on H-1B visas to 115,000 (which can be increased in a subsequent year if the cap is reached during a given fiscal year, not to exceed 180,000) and exempts from this cap certain individuals who have earned an advanced degree in science, technology, engineering, or math in the United States.

- **Immigrants With Advanced Skills Exempt from Visa Cap:** Exempts several categories of highly skilled workers from the employment-based immigrant visa cap.

- **Sons and daughters of Filipino World War II veterans:** Exempts the sons and daughters of Filipino WWII veterans from the annual numerical limitations.

- **Preservation of Immigration Benefits for Victims of a Major Disaster or Emergency:** Includes a number of benefits and protections for victims of a major disaster or emergency, including a special immigrant status for qualifying individuals; humanitarian relief for certain surviving spouses and children; age-out protection; and discretionary waivers.

- **Relief for Widows and Orphans:** Creates a special immigrant classification for women and children deemed to have a credible fear of harm in their home country and lacking adequate protection from harm.

- **Relief for Minor Children and Widows:** Provides relief for certain surviving spouses and children following the death of qualifying relative. For example, the bill allows certain spouses, parents, or children to continue to be classified as immediate relatives following the death of a United States citizen. It also permits an alien relative whose spouse or parent died prior to the enactment of the STRIVE Act of 2007 to submit a petition within two years of the date of the bill's enactment.

- **Modifications to the Haitian Refugee Immigration Fairness Act:** Makes modifications to the Haitian Refugee Immigration Fairness Act of 1998. For example, enables children who were under the age of 21 on October 21, 1998 to apply for HRIFA today if they are otherwise eligible.

TITLE VI – EARNED LEGALIZATION PROGRAM FOR THE UNDOCUMENTED

Certification Requirements Prior to Implementation of Earned Legalization of Undocumented Individuals: Sets conditions that must be met before implementation of the program to legalize undocumented individuals. The Secretary of DHS must certify to Congress that improvements in border surveillance technology are being implemented; that the systems and infrastructure necessary to carry out improvements to immigration document security are ready to use; and that the first phase of the Electronic Employment Verification System requiring the participation of critical infrastructure employers has been implemented.

Visa Program for Qualified Undocumented Workers: Creates a program providing conditional nonimmigrant status for undocumented immigrants (and their spouses and children) in the U.S., which is valid for six years.

Features of the Conditional Nonimmigrant Program:

- Provides conditional nonimmigrant visa applicants with work and travel authorization and protection from removal;
- Provides certain immigrants in removal proceedings, facing removal, or ordered to depart voluntarily with an opportunity to apply for conditional nonimmigrant status;

- Bars related to undocumented status will be waived (security and criminal bars cannot be waived);
- Contains provisions for administrative and judicial review of denied applications.

Requirements for Conditional Nonimmigrant Status:
The alien must:
- Establish continuous presence in the U.S. on or before June 1, 2006;
- Attest to employment in the U.S. before June 1, 2006 and employment since that date (and submit related documentation);
- Complete criminal and security background checks; and
- Pay a $500 fine plus necessary application fees (fine exemption for children).

Other Criteria for Conditional Nonimmigrant Status:
- The individual must not be ineligible to receive a visa pursuant to the Immigration and Nationality Act;
- The individual has not been convicted of a felony or three or more misdemeanors;
- The individual has not participated in the persecution of another person on account of race, religion, nationality, membership in a particular social group, or political opinion;
- The individual has not been convicted by final judgment of a particularly serious crime and there are no reasonable grounds for believing that the alien has committed a particularly serious crime abroad before arriving in the U.S.; and
- There is a penalty of up to five years' imprisonment for anyone who willfully falsifies information in an application for conditional nonimmigrant status.

Earned Citizenship: Provides qualified conditional nonimmigrants and their spouses and children with an opportunity to apply for lawful permanent resident status (green card) and eventual citizenship.

Features of the Earned Citizenship Program:
- Applicants go to the back of the line for permanent visas; the current immigrant backlogs must be cleared before qualified conditional nonimmigrant visa applicants (and their families) can adjust to permanent resident status;
- The Department of State and DHS are required to provide any requesting law enforcement entity with information furnished on an application in connection with a criminal or national security investigation or prosecution;
- New penalties for making false statements in an application for earned citizenship are created;
- Immigrants who adjust from a conditional nonimmigrant visa (including dependents) to lawful permanent resident status shall not be counted against the worldwide numerical visa caps; and
- Those appealing decisions associated with the application for adjustment to permanent status have access to a defined administrative and judicial process.

Requirements for Earned Citizenship:
The applicant must:

- Meet employment requirements during the six-year period immediately preceding the application for adjustment;
- Pay a $1,500 fine plus application fees;
- Complete criminal and security background checks;
- Establish registration under the selective service (if applicable);
- Meet English and civic requirements;
- Undergo a medical examination;
- Pay all taxes;
- Show admissibility to the U.S.; and
- Meet a "Legal Reentry" requirement during the six-year period in conditional nonimmigrant status, no later than 90 days before filing an application for adjustment to lawful permanent resident status. Paperwork processing is performed in the U.S. An exit and reentry through any port of entry is required. Limited exceptions are available to the legal reentry requirement.

Other Provisions in Title VI:

- DREAM Act of 2007
- AgJOBS Act of 2007
- Grant programs to assist with new workers
- Strengthening American Citizenship Act of 2007 (includes numerous provisions to facilitate the naturalization process)
- Includes provisions to address poverty in Mexico

TITLE VII – MISCELLANEOUS

- **Increases in Prosecutors, Judges, and Support**: For each fiscal year from 2008 to 2012: Authorizes DHS to add at least 100 positions for attorneys at the Office of General Counsel to represent DHS in immigration matters; authorizes the Department of Justice (DOJ) to create positions for at least 50 additional attorneys a year to the Office of Immigration Litigation; 50 additional positions for attorneys in the United States Attorneys' office to litigate federal immigration cases; 20 additional positions for full-time immigration judges; 80 additional positions for personnel to support the immigration judges; and 20 additional positions for staff in the Board of Immigration Appeals (BIA). The Administrative Office of the United States Courts is authorized to create at least 50 new positions for attorneys in the Federal Defenders Program to litigate federal criminal immigration cases.

- **Immigration Appeals Study**: Requires the Director of the Federal Judicial Center, in consultation with other agencies, to conduct a study on the appellate process for immigration appeals, and consider whether all appeals from the BIA should be consolidated into one United States Court of Appeals.

- **Establishment of an Immigration Court System**: Includes a Sense of the Congress stating that the U.S. should establish an effective, fair, and well-staffed immigration court system.

- **Standards for Biometric Documents**: Requires that immigration documents issued by the Department of State (DOS) and DOJ comply with domestic and international authentication and biometric standards and be machine-readable and tamper-resistant, among other requirements.

- **New Fee Accounts**: Creates an account that will include the fees and fines from the new worker and legalization programs and distributes these funds for processing and implementation of the bill's programs, enforcement of labor standards, operation of the electronic employment verification system, and reimbursement to hospitals.

- **State Impact Assistance Account**: Creates an account funded by various fees collected under programs established in this bill for grants to States so that they may provide health and education services to non-citizens.

- **Naturalization through Service in the Armed Services**: Includes provisions to help non-citizen members of the Armed Service become citizens, and requires a report on naturalization by those who have served in the Armed Services.

- **Relief for Certain Immigrant Victims of Terrorism**: Requires DHS to provide relief from removal and/or green card status for any alien who, on September 10, 2001, was the spouse, child, or dependent son or daughter of an alien who died as a direct result of specified terrorist activity and was a beneficiary of the September 11th Victim Compensation Fund of 2001. DHS must provide related protections and work authorization. Certain exceptions apply.

- **Offices to Fight Corruption and Fraud**: Establishes an Office of Internal Corruption Investigations to address certain allegations against U.S. Citizenship and Immigration Service employees. Establishes an Office of Immigration Benefits Fraud Investigation.

- **Adjustment of Status for Certain Persecuted Religious Minorities**: Requires DHS to provide green card status for certain persecuted religious minorities.

- **State Court Interpreter Grants**: Requires DOJ to make grants to State courts to develop and implement programs to help those individuals whose English skills do not allow them to understand the State court proceedings they are involved in. Spells out details of the grant program.

- **Adequate Notice for Alternate Country Removal**: Provides for notice and an opportunity for a hearing if DHS decides to remove an alien to a country other than what was designated at the time of the removal hearing.