

1 “(vi) a safe learning, working, and liv-
2 ing environment.”; and

3 (3) in subsection (c), by striking “the Navajo
4 Community College” and inserting “Diné College”.

5 (e) EFFECT ON OTHER LAWS.—Section 6 of the
6 Navajo Community College Act (25 U.S.C. 640c–2) is
7 amended—

8 (1) by striking “the Navajo Community Col-
9 lege” each place it appears and inserting “Diné Col-
10 lege”; and

11 (2) in subsection (b), by striking “college” and
12 inserting “College”.

13 (f) PAYMENTS; INTEREST.—Section 7 of the Navajo
14 Community College Act (25 U.S.C. 640c–3) is amended
15 by striking “the Navajo Community College” each place
16 it appears and inserting “Diné College”.

17 **TITLE VIII—COMMITTEE ON THE**
18 **JUDICIARY**

19 **SEC. 8001. RECAPTURE OF UNUSED VISA NUMBERS.**

20 (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED
21 IMMIGRANT VISAS.—Section 201(d) of the Immigration
22 and Nationality Act (8 U.S.C. 1151(d)) is amended—

23 (1) in paragraph (2)(C)—

24 (A) by striking “is the difference” and in-
25 serting “is the sum of—

1 “(i) the difference”; and

2 (B) by striking the period at the end and
3 inserting the following: “; and

4 “(ii) the lesser of—

5 “(I) the number of immigrant
6 visas that were available in any pre-
7 vious fiscal year to employment-based
8 immigrants (and their family mem-
9 bers accompanying or following to join
10 under section 203(d)) and that were
11 not issued for that fiscal year or for
12 any subsequent fiscal year, excluding
13 those immigrant visas reserved for
14 employment-based immigrants for an
15 occupation listed in schedule A of sec-
16 tion 656.5 of title 20, Code of Federal
17 Regulations; and

18 “(II) 90,000.”; and

19 (2) by adding at the end the following:

20 “(3) Immigrant visas issued on or after October
21 1, 2004, to spouses and children of employment-
22 based immigrants shall not be counted against the
23 numerical limitation set forth in paragraph (1).”.

1 (b) SUPPLEMENTAL PETITION FEE.—Section
2 204(a)(1) of the Immigration and Nationality Act (8
3 U.S.C. 1154(a)(1)) is amended—

4 (1) in subparagraph (E), by adding at the end
5 the following: “Such petition shall be accompanied
6 by a supplemental petition fee in the amount of
7 \$500.”; and

8 (2) in subparagraph (F), by adding at the end
9 the following: “Such petition shall be accompanied
10 by a supplemental petition fee in the amount of
11 \$500.”.

12 (c) ADJUSTMENT OF STATUS.—

13 (1) IN GENERAL.—Section 245(a) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1255(a)) is
15 amended to read as follows:

16 “(a)(1) The status of an alien who was inspected and
17 admitted or paroled into the United States or the status
18 of any other alien having an approved petition for classi-
19 fication under subparagraph (A)(iii), (A)(iv), (B)(ii), or
20 (B)(iii) of section 204(a)(1) may be adjusted by the Sec-
21 retary of Homeland Security or the Attorney General, in
22 the discretion of the Secretary or Attorney General, and
23 under such regulations as the Secretary or Attorney Gen-
24 eral may prescribe, to that of an alien lawfully admitted
25 for permanent residence if—

1 “(A) the alien makes an application for such
2 adjustment;

3 “(B) the alien is eligible to receive an immi-
4 grant visa and is admissible to the United States for
5 permanent residence; and

6 “(C) an immigrant visa is immediately available
7 to the alien at the time the application is filed.

8 “(2) If a supplemental petition fee is paid for any
9 petition under subparagraph (E) or (F) of section
10 204(a)(1), an application under paragraph (1) of this sub-
11 section on behalf of an alien beneficiary of such petition
12 (including a spouse or child who is accompanying or fol-
13 lowing to join the principal beneficiary) may be filed with-
14 out regard to the limitation set forth in paragraph (1)(C).
15 An application for adjustment of status filed under this
16 paragraph may not be approved until such time as an im-
17 migrant visa becomes available.”.

18 (2) PENDING APPLICATIONS.—An alien on
19 whose behalf a petition was pending under subpara-
20 graph (E) or (F) of section 204(a)(1) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1154(a)(1)),
22 on the date of enactment of this Act may, upon the
23 payment of the supplemental petition fee set forth in
24 such section, apply for adjustment of status under
25 this subsection without regard to the limitation set

1 forth in section 245(a)(1)(C) of the Immigration and
2 Nationality Act (8 U.S.C. 1255(a)(1)(C)), as amend-
3 ed by paragraph (1).

4 (d) RECAPTURE OF UNUSED H-1B VISA NUM-
5 BERS.—Section 214(g) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1184(g)) is amended—

7 (1) by redesignating paragraphs (9) through
8 (11) as paragraphs (10) through (12), respectively;
9 and

10 (2) by inserting after paragraph (8) the fol-
11 lowing:

12 “(9)(A) If the numerical limitation in para-
13 graph (1)(A) for fiscal year 2006 or a subsequent
14 fiscal year has been reached, such numerical limita-
15 tion shall be supplemented in a number equal to the
16 lesser of—

17 “(i) the cumulative total number of visas
18 that were available in all prior fiscal years sub-
19 sequent to fiscal year 1991, and not issued for
20 each such fiscal year or any subsequent fiscal
21 year; and

22 “(ii) 30,000.

23 “(B) Any petition filed after the numerical limi-
24 tation set forth in paragraph (1)(A) has been
25 reached for that fiscal year, and seeking an H-1B

1 visa number recaptured under subparagraph (A) of
2 this paragraph, shall be accompanied by an H-1B
3 recapture fee in the amount of \$500.”.

4 (e) CONFORMING AMENDMENT.—Section 286(m) of
5 the Immigration and Nationality Act (8 U.S.C. 1356(m))
6 is amended by inserting “, including those fees provided
7 for in subparagraphs (E) and (F) of section 204(a)(1) and
8 subsections (c)(15) and (g)(9)(B) of section 214,” after
9 “all adjudication fees”.

10 (f) EXPENDITURE LIMITATION.—Amounts collected
11 under subparagraphs (E) and (F) of section 204(a)(1)
12 and subsections (c)(15) and (g)(9)(B) of section 214 of
13 the Immigration and Nationality Act, as amended by this
14 Act, may not be expended unless specifically appropriated
15 by an Act of Congress.

16 **SEC. 8002. FEES WITH RESPECT TO IMMIGRATION SERV-**
17 **ICES FOR INTRACOMPANY TRANSFEREES.**

18 Section 214(c) of the Immigration and Nationality
19 Act (8 U.S.C. 1184(c)) is amended by adding at the end
20 the following:

21 “(15)(A) The Secretary of State shall impose a fee
22 on an employer when an alien files an application abroad
23 for a visa authorizing initial admission to the United
24 States as a nonimmigrant described in section
25 101(a)(15)(L) in order to be employed by the employer,

1 if the alien is covered under a blanket petition described
2 in paragraph (2)(A).

3 “(B) The Secretary of Homeland Security shall im-
4 pose a fee on an employer filing a petition under para-
5 graph (1) initially to grant an alien nonimmigrant status
6 described in section 101(a)(15)(L) or to extend for the
7 first time the stay of an alien having such status.

8 “(C) The amount of the fee imposed under subpara-
9 graph (A) or (B) shall be \$750.

10 “(D) The fees imposed under subparagraphs (A) and
11 (B) shall only apply to principal aliens and not to spouses
12 or children who are accompanying or following to join such
13 principal aliens.

14 “(E)(i) An employer may not require an alien who
15 is the beneficiary of the visa or petition for which a fee
16 is imposed under this paragraph to reimburse, or other-
17 wise compensate, the employer for part or all of the cost
18 of such fee.

19 “(ii) Section 274A(g)(2) shall apply to a violation of
20 clause (i) in the same manner as it applies to a violation
21 of section 274A(g)(1).”.