

## SUMMARY: **S. 744**

### **Registered Provisional Immigrants and the DREAM Act**

On April 17, 2013, Senators Chuck Schumer, John McCain, Dick Durbin, Lindsay Graham, Bob Menendez, Marco Rubio, Michael Bennet, and Jeff Flake introduced S.774, entitled the Border Security, Economic Opportunity, and Immigration Modernization Act. If passed, S.744 would grant amnesty to the approximately 12 million illegal aliens currently living in the U.S., admit hundreds of thousands of new agricultural and low-skilled guest workers, and significantly increase legal immigration.

Below is a summary of two major amnesty provisions in the bill. The first is the blanket amnesty provision, which authorizes the Department of Homeland Security (DHS) to grant legal status — called “registered provisional immigrant” (RPI) status — to illegal aliens who have been in the United States since December 31, 2011. The second amnesty provision is the DREAM Act, authorizes DHS to give green cards to RPI aliens who meet certain requirements.

### **I. Registered Provisional Immigrant Status**

#### **General Authorization** (Sec. 2101, INA 245B(a), p.59-60)

After conducting required background checks, DHS may grant “registered provisional immigrant” (RPI) status to an alien who:

- Is eligible;
- Applies on time;
- Submits biometric and biographic data (Sec. 2101, INA 245B(c)(8), p. 78-79); and
- Pays an unspecified fee and a \$1,000 penalty, payable in installments. DHS may exempt defined classes of individuals from the fees, including DREAMers. (Sec. 2101, INA 245B(a), p.60)(*See also* Sec. 2101, INA 245B(c)(10), p. 81-84).

#### **Duration of Status and Extension** (Sec. 2101, INA 245B(c)(9), p.79-84)

- RPI status is valid for 6 years and renewable indefinitely
- An alien is eligible to renew if he/she:
  - Remains eligible for RPI status;
  - Meets employment requirements, which require the alien to establish that he/she

- Was regularly employed throughout RPI status (60-day periods excepted);
- Is not likely to become a public charge; and
- Is able to demonstrate average income not less than the poverty level (100 percent of the federal poverty level) throughout RPI status.
- Has not had his/her RPI status revoked;
- Has satisfied any federal tax liability that has been “assessed”;
- Pays a processing fee (aliens 16 or older), though DHS may cap and/or waive the fees. (p.83); and
- Pays a \$1,000 penalty (aliens 21 or older).

**Terms and Conditions of RPI Status** (Sec. 2101, INA 245(d), p.87)

- RPI aliens shall be work authorized
- RPI aliens may travel outside the U.S. and be re-admitted if:
  - The alien has a valid RPI document that meets certain security requirements
  - The alien’s absence did not exceed 180 days, unless the alien’s failure to timely return was due to extenuating circumstances
  - The alien meets the requirements for an extension and
  - The alien establishes that he is not inadmissible as a national security threat
- RPI aliens shall be considered to have been admitted to the U.S. and lawfully present and in RPI status as of the application date.
- An RPI alien:
  - Is lawfully admitted to the U.S. and
  - May not be classified as a nonimmigrant or an LPR

**Eligibility Requirements** (Sec. 2101, INA245B(b), p.60-68)

- An alien must demonstrate by a preponderance of the evidence that the alien:
  - Is physically present in the U.S. on the date of application
  - Has been physically present in the U.S. on or before 12/31/11, except absences that are “brief, casual, and innocent”
  - Has maintained continuous physical presence (except absences up to 180 days) in the U.S. from Dec. 31, 2011 until receiving RPI status
- Waivers (Sec. 2101, INA 245B(b)(4), p.66)
  - Civil penalties for failure to depart under INA shall not bar any alien from filing an RPI application
  - Frivolous applications for asylum shall not bar an alien applying for RPI status

- Dependents of RPI aliens may apply for derivative status even if they were not in the U.S. before 12/31/11 and did not have continuous presence in the U.S. since that date. (Sec. 2101, INA 245B(b)(5)(A), p.66)
- DACA Recipients (Sec. 2101, INA 245B(c)(13), p.86)
  - DHS may grant RPI status to DACA recipients, unless the alien “has engaged in conduct since the alien was granted DACA that would make the alien ineligible for RPI status.”

**Eligibility After Departure** (Sec. 2101, INA245B(c)(6), p.71)

- An alien outside the U.S. who: (1) departed while subject to a removal or voluntary departure order; or (2) reentered illegally after 12/31/11, may not apply for RPI status
- *DHS may waive this if the alien:*
  - Is the spouse/child of a U.S. citizen or LPR;
  - Is the parent of a child who is a U.S. citizen or LPR;
  - Entered the U.S. before 16, has a high school degree or GED in the U.S.; or
  - Was younger than 16 on the date he/she initially entered the U.S., is 16 years or older on the date of application, and was physically present in the U.S. for at least 3 out of the 6 years prior to enactment
- For purposes of the waiver, aliens are eligible despite failure to meet the physical presence requirement or any reinstatement of removal orders.

**Grounds for Ineligibility** (Sec. 2101, INA 245B(b)(3), p.61-66)

An alien is ineligible for RPI status if he/she:

- Has a conviction for a felony in the convicting jurisdiction (other than a state or local offense based on immigration status)
- Has a conviction for an aggravated felony as defined under 101(a)(43)
- Has a conviction for 3 or more misdemeanors (other than a state/local offense based on immigration status) if the alien was convicted on different dates for each of the offenses (waivable, p.65)(Sec. 2102(b)(3)(B)(i))
- Has a conviction for any offense under foreign law that if committed in the U.S. would render the alien inadmissible or removable under the INA (INA 212(a); 237(a))
- Has a conviction for unlawful voting under INA 237(a)(6)
- Is reasonably believed to be engaged in, or likely to engage in, terrorist activity (Sec. 2102(b)(3)(A)(iii))
- Is an LPR, a refugee/asylee, or a nonimmigrant (meaning the alien is legal) (2102(b)(3)(A)(iv))

**Grounds of Inadmissibility Waived** (Sec. 2101, INA 245B(b)(3), p.63)

- Public charge (INA 212(a)(4))
- Alien workers without labor certification (INA 212(a)(5))
- Aliens present without permission or parole (INA 212(a)(6)(A))
- Aliens who fail to attend removal proceedings (absconders) unless after application (INA 212(a)(6)(B))
- Aliens seeking admission within 5 years of being ordered removed unless after application (INA 212(a)(9)(A))
- Aliens who obtain immigration documents through fraud unless after enactment (INA 212(a)(6)(C)(i))
- Aliens who falsely claim citizenship unless after enactment (INA 212(a)(6)(C)(ii))
- Stowaway aliens unless after enactment (INA 212(a)(6)(D))
- Aliens subject to a final order of removal for document fraud unless after enactment (INA 212(a)(6)(F))
- Alien students who violate terms of their visas unless after enactment (INA 212(a)(6)(G))
- Immigrants who do not possess proper documents (INA 212(a)(7)(A))
- Nonimmigrants who do not possess proper documents (INA 212(A)(7)(B))
- 3 and 10 year bars based on the duration of unlawful presence in the U.S. (INA 212(a)(9)(B))
- Aliens illegally in the U.S. for 1+ yrs, who are ordered removed and attempt to re-enter unless after enactment (INA 212(a)(9)(C))
- Guardians required to accompany inadmissible, disabled aliens unless after enactment (INA 212(a)(10)(B))

**Grounds of Inadmissibility DHS may NOT Waive** (Sec. 2101, INA 245B(b)(3)(B)(ii), p.65)

- Aliens convicted of 2+ offenses for which the aggregate prison sentences are 5+ years (INA 212(a)(2)(B))
- Aliens who are/were drug traffickers (INA 212(a)(2)(C))
- Aliens who have imported or attempted to import prostitutes or receive proceeds therefrom within 10 yrs of application for a visa (INA 212(a)(2)(D))
- Aliens who commit a “serious criminal offense,” claim immunity, and leave the U.S. (INA 212(a)(2)(E))
- Foreign officials who have committed severe violations of religious freedom (INA 212(a)(2)(G))
- Human traffickers (“severe forms of human trafficking,” not sons or daughters) (INA 212(a)(2)(H))
- Money launderers (INA 212(a)(2)(I))
- Aliens who have engaged/incited terrorist activity or who are members/representatives of a terrorist organization (INA (a)(3)(B)(i))

- Practicing polygamists (INA 212(a)(10)(A))
- International child abductors (until surrender of child to lawful custodian/parent) (INA 212(a)(10)(C))
- Aliens who vote in violation of federal, state, or local laws (INA 212(a)(10)(D))
- Former citizens who renounce citizenship to avoid taxes (INA 212(a)(10)(E))
- Aliens who obtain, attempt to obtain admission documents through fraud if related to an RPI application (INA 212(a)(6)(C)(i))

**Grounds of Inadmissibility that are Waivable** (Sec. 2101, INA245B(b)(3)(B)(i), p.65)

- Conviction for 3 or more misdemeanors
- Gang membership (Sec. 3701, p.604)
- All other grounds not specifically enumerated

**Application Process** (Sec. 2101(c), p.68)

- RPI applicants shall be treated as applicants for admission
- An alien may not file an RPI application unless the applicant has satisfied “all federal income taxes assessed” in accordance with the tax code.
- Application period begins on the date DHS publishes a final rule, lasts one year, and may be extended for another year. As part of the rule:
  - DHS may create a family application
  - DHS may interview applicants

**Shielding Illegal Aliens During the Amnesty Process** (Sec. 2101, INA 245B(c)(5), p.70)

Illegal Aliens Who Have Not Applied

- If alien is apprehended between the date of enactment and the end of the application period and “appears prima facie eligible” for RPI status, DHS:
  - Shall provide the alien an opportunity to file a timely application; and
  - May not remove the individual – for any reason – until “a final administrative determination” is made on the application (apparently allow the aliens time to appeal an adverse decision before DHS can remove the alien).

Illegal Aliens Who Have Applied (p.76-77)

- Between the date an alien files an RPI application and the date DHS makes a “final decision” on the application, an alien:
  - may receive advance parole if urgent humanitarian circumstances compel such travel;
  - may not be detained or removed – for any reason – unless DHS first makes a prima facie determination that the alien is or has become ineligible;

- shall not be considered unlawfully present for purposes of the 3 and 10 year bars to admission;
- shall not be considered an unauthorized alien for employment purposes; and
- shall receive documentation that the alien has filed an application.
- An employer who knows that an alien is an RPI applicant or will apply for RPI status is not in violation of INA 274(a)(2) for continuing employment of an illegal alien pending adjudication of the application.

#### Aliens in Removal Proceedings (p.73)

- If DHS determines that an alien, between enactment and the end of the application period, is in removal proceedings before the Justice Department's Executive Office for Immigration Review (EOIR) and is "prima facie eligible" for RPI status:
  - DHS shall give the alien an opportunity to file an RPI application
  - EOIR shall, upon motion by DHS or the alien
    - terminate removal proceedings w/o prejudice, and
    - the alien a reasonable opportunity to apply
- IF EOIR determines that an alien, during the application period, is in removal proceedings before EOIR and is prima facie eligible for RPI status:
  - EOIR shall notify DHS, and
  - If DHS does not dispute the determination of prima facie eligibility w/n 7 days, EOIR shall:
    - terminate such proceedings w/o prejudice, and
    - give the alien a reasonable opportunity to apply

#### Aliens Ordered Removed (Sec. 2101, INA 245B(c)(7), p.75)

- An alien in the U.S. who has been ordered removed (including voluntary departure, but meets the eligibility requirements, is eligible to apply for RPI status notwithstanding the removal order (or a reinstatement thereof).

#### Shielding Information in Applications (Sec. 2104 p.117)

- Prohibition on Publication. No officer or employee of any federal agency may:
  - Use application information submitted for RPI status or green cards (including the DREAM Act) for any purpose other than to make a determination on any application for any immigration benefit or protection
  - Make any publication through which a particular applicant can be identified
  - Permit anyone other than the sworn officers, employees, and contractors of such agency or another agency approved by DHS to examine individual applications that have been filed
- DHS shall provide information submitted in applications for RPI status and green cards (including the DREAM Act), and any information derived therefrom, to:

- A law enforcement agency, court, or grand jury if the information is requested by such entity, consistent with law, in connection with:
  - A criminal investigation or prosecution of any matter not related to the applicant's immigration status; or
  - A national security investigation or prosecution.
- An official coroner for purposes of affirmatively identifying a deceased individual
- DHS may audit information submitted in applications for RPI status and green cards (including the DREAM Act) for purposes of identifying fraud and use any evidence detected by such audits for purposes of investigating, prosecuting, denying or terminating immigration benefits.
- Employment records supplied by an alien or employer to support an alien's application for RPI status may not be used in a civil or criminal prosecution or investigation of that employer under INA 274A *regardless of the outcome of the application*. Employers that provide unauthorized aliens with copies of employment records for an RPI application shall not be subject to civil and criminal liability under INA 274A.
- Adds a new section to the criminal code which provides that any person who knowingly uses, publishes, or permits information described application information to be examined in violation of such section shall be fined not more than \$10k. Such fine shall be submitted to the CIR trust fund. (Sec. 2105, p.130)

### **Opportunity for Illegal Aliens to Challenge Denial of Amnesty and/or Green Cards**

(Sec. 2104, INA 245E(c), p. 120)

- Administrative Review
  - DHS shall provide for a single level of administrative appellate review of a determination of applications under provisions granting RPI status or green cards to illegal aliens, including DREAMers
  - Administrative review of determination on an application for RPI status or green cards, including DREAMers, shall be conducted solely in accordance with this subsection
  - Aliens whose applications for RPI status or green cards (including DREAMers) have been denied or revoked may file only one appeal with DHS
  - Such appeal shall be filed not later than 90 days after the date of denial or revocation, unless the delay is reasonably justifiable
  - Aliens seeking administrative review shall not be removed from the U.S. (for any reason) until a "final decision" establishing ineligibility has been made
  - Administrative appellate review shall be de novo and based on: (1) the administrative record, and (2) any new evidence.

- During the period of administrative review, the alien shall not be considered “unlawfully present” for purposes of the 3 and 10 year bars
- Judicial Review (Sec.2104(b), p.124)
  - If DHS denies RPI status, or revokes RPI status after exhaustion of administrative remedies, the alien may seek review of such decision in federal court
  - While the federal court reviews the case:
    - The alien shall not accrue unlawful presence for purposes of the 3 and 10-year bars;
    - Any unexpired time for voluntary departure shall be tolled, and
    - The court shall have discretion to stay the execution of any removal order.
  - An alien may appeal an adverse decision in a federal circuit court of appeals in conjunction with the judicial review of an order of removal if the validity of the denial has not been upheld by the district court
  - Judicial review shall be based on the administrative record established at the time of review
  - A court may remand the case to DHS for consideration of additional evidence if the court finds that:
    - The additional evidence is material, and
    - There were reasonable grounds for failure to adduce the additional evidence before the Secretary.
  - Federal courts may hear cases challenging a DHS “pattern or practice” in the implementation of the amnesty that is “arbitrary, capricious, or otherwise contrary to law.” District courts may order any appropriate relief for such challenges without regard to exhaustion, ripeness, or other standing requirements (other than constitutionally mandated requirements) if the court determines that:
    - The resolution of such cause or claim will serve judicial and administrative efficiency, or
    - A remedy would otherwise not be reasonably available or practicable.
  - Except for challenges to patterns or practices (above), any claim that the provisions granting RPI status, green cards (including the DREAM Act), the protection of application information, and the appeals process, or any regulation, written policy, or written directive, issued or unwritten policy or practice initiated under the authority of the Secretary of DHS violates the constitution or otherwise violates the law, is available exclusively in U.S. district court.
  - Class action claims shall be made in conformity with the Class Action Fairness Act and the Federal Rules of Civil Procedure
  - No claims brought under this paragraph shall require the plaintiff to exhaust administrative remedies



- Courts may stay proceedings to permit DHS to evaluate an allegation of an unwritten policy or practice or to take corrective action.
- Provides that current law (INA 244(h) requiring the Senate to have a super majority to pass any law that grants green cards to aliens with temporary protected status (TPS) shall not apply to aliens applying for green cards under the amnesty or DREAM Act provisions (thus placing TPS aliens on the path to citizenship)
- Provides that failure to register pursuant to 8 CFR 264.1(f) (special registration for aliens from certain designated countries) or being subject to a removal order for non-compliance before the date of enactment shall not make an alien ineligible for any benefits under the INA

**Evidence of RPI Status** (Sec. 2101, INA 245B(c)(12), p.85)

DHS shall issue documentary evidence of RPI status to aliens with approved applications.

These documents:

- Shall be machine-readable, tamper-resistant, and contain a digitized photograph
- Shall serve as valid of travel/entry documents for the purpose of applying for admission
- May be accepted by an employer as evidence of work authorization and identity
- Shall indicate the alien is authorized to work for up to 3 years
- Shall include any other features determined by DHS

**Revocation of RPI Status** (Sec. 2101, INA 245B(d)(2), p.89)

- DHS may (but does not have to) revoke RPI status at any time *after* giving “appropriate notice” to the alien, and *after* the exhaustion or waiver of all applicable administrative review procedures, IF the alien:
  - Is no longer eligible;
  - Knowingly used RPI documents for fraud;
  - Was absent from the U.S. for too long, either:
    - A single period longer than 180 days, or
    - More than 180 days in a calendar year, unless there are extenuating circumstances.
- If DHS revokes RPI status, any documentation issued shall automatically be rendered invalid for any purpose except departure

**Eligibility for Benefits** (Sec. 2101, INA 245B(d)(3), p. 90)

- **Federal means-tested public benefits.** An RPI alien is ineligible for “any federal means-tested public benefit” (as defined by 8 U.S.C. 1613)
  - An RPI alien shall be considered lawfully present in the U.S. for all purposes while in RPI status, except that the alien:

- Is not entitled to the tax credit authorized in Obamacare (26 U.S.C. 36B)
- Shall be subject to the rules applicable to individuals not lawfully present set forth in subsection (e) of such section
- Shall be subject to the rules applicable to individuals not lawfully present that are set forth in section 1402(e) of Obamacare.
- **Social Security** (Sec. 2101, INA 245B(d)(4), p.91-92)
  - RPI aliens shall receive a social security number and social security card

**Enlistment in the Armed Forces** (Sec. 2101(b), p.93)

- Amends 10 U.S.C. 504 to allow RPI aliens to enlist in the military (current law allows only citizens and LPRs to enlist)

**Eligibility to Adjust to LPR Status** (Sec. 2102, INA 245C(a) and (b), p. 94)

DHS may adjust the status of an RPI alien to LPR status if the alien:

- Was granted RPI status and remains eligible for such status;
- Establishes that he/she was not continuously absent from the U.S. for more than 180 days in any calendar year while in RPI status;
- Is not inadmissible (grounds previously waived shall not apply);
- Has not been notified that DHS intends to revoke the alien’s RPI status, unless DHS has subsequently determines not to revoke RPI status;
- Has satisfied all federal income taxes assessed while the alien was authorized to work as an RPI alien;
- Establishes that he/she:
  - Was “regularly employed” during RPI status, allowing for brief periods lasting not more than 60 days
    - An alien may satisfy this requirement by submitting government records that establish compliance by a preponderance of the evidence
    - An alien unable to submit government records may satisfy the employment requirement may submit other documents DHS approves, including bank records, employer records, and “sworn affidavits from non-relatives who have direct knowledge of the alien’s work or education...”
    - An alien may satisfy the employment requirement in whole or part by providing evidence of “full-time attendance” at
      - An institution of higher education
      - A secondary school
      - An education, literacy, or career training program designed to lead to placement in post-secondary education, job training or employment, or

- An education program assisting students either in obtaining a regular high school diploma or its recognized equivalent or GED
- Is not likely to become a public charge;
- Demonstrates average income or resources not less than 125 percent of the federal poverty level.
- The employment/education requirement does not apply to:
  - Aliens under 21 at application for first extension of RPI status
  - Aliens 60+ at time of application under “Subclause II” [drafting error] or 65+ on date of adjustment, OR
  - Aliens who have a physical or mental disability, or as a result of pregnancy [drafting error?]
  - Dependents of RPI aliens
  - Any period in which the alien:
    - Was on medical leave, maternity leave, or other employment leave authorized by law
    - Is/was the primary caretaker of a child or another person unable to care for himself
    - Was unable to work due to circumstances outside the control of the alien (high unemployment?)
  - DHS may waive the employment or education requirement with respect to any alien who demonstrates extreme hardship to himself or a spouse, parent, or child who is a U.S. citizen or LPR
- Has the required English skills
  - An RPI 16 years or older shall establish that he/she:
    - Meets the English and civics requirements of INA 312, OR
    - Is satisfactorily pursuing a course of study “to achieve an understanding of English and knowledge and understanding” of civics (p. 103)
  - English requirement does not apply to aliens unable to comply because of a physical or mental impairment
  - DHS may waive the English requirement to RPI aliens 70 years or older.
- Registered for the military selective service

**Application Process for LPR Status (Sec. 2102, INA 245C(c), p.104)**

- RPI aliens may apply for LPR status by submitting evidence required to establish eligibility

- DHS may not adjust an RPI alien to LPR status until after DHS certifies “that immigrant visas have become available for all approved petitions for immigrant visas that were filed under sections 201 and 203 before the date of enactment”
- DHS may interview LPR applicants
- DHS may not adjust an RPI alien to LPR status “until renewed national security and law enforcement clearances have been completed”
- DHS shall impose a fee to recover the full cost and submit it into the CIR trust fund. However, DHS may limit the maximum fee payable by a family and exempt “defined classes of individuals” from the fee.
- Aliens 21+ years on the date of introduction shall pay a \$1,000 penalty unless the alien falls under the DREAM Act. The penalty may be paid in installments and shall be submitted to the CIR trust fund.
- LPR aliens may only adjust to LPR status under Section 2302 (p.269), which creates the Merit-Based, Track II system for legal immigration (Sec. 2102(b))

**Naturalization** (Sec. 2102(c), p.109)

- Allows all aliens who are lawfully present in the U.S. and eligible for work authorization for not less than 10 years before becoming an LPR to naturalize in 3 years (note that applicants for admission from outside the U.S. still have to wait 5 years)

**Privacy of Illegal Aliens** (Sec. 2104, 245E(d), p.123)

- DHS shall require “appropriate administrative and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable information collected” through RPI applications and green card applications filed pursuant thereto (including the DREAM Act)
- DHS shall conduct a “privacy impact assessment and a civil liberties impact assessment” of the RPI program and the DREAM Act during the pendency of the interim final regulations issued under Sec. 2110 of this Act

**Grant Program to Assist Illegal Aliens** (Sec. 2106, p. 131)

- Authorizes USCIS to establish a \$50M program (funded by the CIR trust fund) to award grants on a competitive basis to nonprofits to assist illegal aliens applying for amnesty, green cards, and the DREAM Act under INA 245B, 245C, or 245D.

**Exemptions Granted to DHS to Implement the Amnesty Act** (Sec. 2108, p.142)

- Exempts DHS from government contracting and hiring rules to implement all of the amnesty programs under the Act.

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

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## II. The DREAM Act (Sec. 2103, p.110)

### General Authority (Sec. 2103(b), INA 245D(b), p. 111)

- DHS may adjust the status of an RPI alien to LPR status if the alien demonstrates that:
  - The alien has been an RPI alien for at least 5 years;
  - The alien was younger than 16 on the date of initial entry to the U.S.;
  - Has earned a high school diploma or GED in the U.S.;
  - He/she satisfies the following education/service requirement:
    - Has completed at least 2 years at an institution of higher education for a bachelor's degree or higher, OR
    - Has served in the "Uniformed Services" (not armed forces) for at least 4 years (with an honorable discharge, if any)
  - Has provided DHS a list of each secondary school the alien has attended in the U.S.
  - He/she has provided biometric and biographic data and undergone background checks
- DHS may waive the education/service requirement if the alien demonstrates "compelling circumstances for the inability to satisfy the requirement"

### Application Process (Sec. 2103(b), INA 245D(b)(2), p. 114)

- An RPI alien seeking LPR status must submit an application
- DHS shall evaluate each application and notify the alien of his/her status adjustment or an adverse determination
- DHS may adopt regulations that implement streamlined procedures for DACA aliens

### Naturalization (Sec. 2103(b), INA 245D(b)(3), p.116)

- An alien granted LPR status under the DREAM Act shall be considered to have been in the U.S. as an LPR during the 5-year period he/she was an RPI alien (allowing the alien to immediately apply for naturalization upon receiving LPR status)

### Exemption from Numerical Caps (Sec. 2103(c), p. 116)

- RPI aliens or DREAMers who adjust to LPR status *are exempt from all numerical caps* under INA 201(b)

In-State Tuition (Sec. 2103, INA 245D(d), p. 117)

- Retroactively repeals 8 U.S.C. 1623 (Sec. 505 of IIRAIRA), thereby authorizing states to offer in-state tuition to illegal aliens