To provide for comprehensive immigration reform.

IN THE HOUSE OF REPRESENTATIVES

September 29, 2005

Mr. HAYWORTH (for himself, Mr. MILLER of Florida, Mr. SESSIONS, Ms. FOXX, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. TANCREDO, Mr. RENZI, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. POE, Mr. GUTKNECHT, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. FRANKS of Arizona, Mr. HUNTER, Mrs. KELLY, Mr. CARTER, Mr. GOODE, Mr. EVERETT, Mr. DUNCAN, Mr. GOHMER, and Mr. MCCOTTER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Ways and Means, Financial Services, Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for comprehensive immigration reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Enforcement First Immigration Reform Act of 2005”.

(b) Table of Contents.—The table of contents of this Act is as follows:
TITLE I—CLEAR AUTHORITY FOR INTERIOR ENFORCEMENT

Sec. 101. State defined.
Sec. 102. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
Sec. 103. State authorization for assistance in the enforcement of immigration laws encouraged.
Sec. 104. Civil and criminal penalties for aliens unlawfully present in the United States.
Sec. 105. Listing of immigration violators in the national crime information center database.
Sec. 106. State and local law enforcement provision of information about apprehended illegal aliens.
Sec. 107. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
Sec. 108. Increased Federal detention space.
Sec. 109. Federal custody of illegal aliens apprehended by State or local law enforcement.
Sec. 110. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
Sec. 111. Immunity.
Sec. 112. Institutional removal program (IRP).
Sec. 113. State criminal alien assistance program (SCAAP).
Sec. 114. Detention of dangerous aliens.
Sec. 115. Increased criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.
Sec. 116. Penalty for countries that do not accept return of nationals.
Sec. 117. No judicial review of visa revocation.
Sec. 118. Alternatives to detention.
Sec. 119. Additional immigration personnel.
Sec. 120. Completion of background and security checks.
Sec. 121. Denial of benefits to terrorists and criminals.
Sec. 122. Reinstatement of previous removal orders.
Sec. 123. Automated alien records.
Sec. 124. Annual report on interior enforcement.

TITLE II—IMPROVED BORDER SECURITY

Sec. 203. Expedited removal between ports of entry.
Sec. 204. Document fraud detection.
Sec. 205. Reducing illegal immigration and alien smuggling on tribal lands.

TITLE III—SOCIAL SECURITY FOR WORKING AMERICANS

Sec. 301. Letters to employers by the Commissioner of Social Security for purposes of resolving discrepancies in wage records and notification of the Secretary of Homeland Security regarding such letters.
Sec. 302. Tightening requirements for the provision of social security numbers on withholding exemption certificates.
Sec. 303. Annual reports to the Congress regarding large employers with the largest numbers of employees with non-matching social security account numbers.

Sec. 304. Exclusion of unauthorized work from work upon which creditable earnings may be based.

**TITLE IV—WORK AUTHORIZATION AND ENFORCEMENT**

Sec. 401. Requirement for employers to conduct employment eligibility verification.

Sec. 402. Amendments to the Social Security Act relating to identification of individuals.

Sec. 403. Employment Eligibility Database.

Sec. 404. Requirements relating to individuals commencing work in the United States.

Sec. 405. Compliance.

Sec. 406. Increase in personnel ensuring compliance with prohibitions on unlawful employment of aliens.

Sec. 407. Integration of fingerprinting databases.

Sec. 408. Authorizations of appropriations.

Sec. 409. Rules of construction.

**TITLE V—SECURE IDENTIFICATION STANDARDS**

Sec. 501. Prohibition on acceptance of identification issued by foreign governments.

Sec. 502. Foreign-issued forms of identification prohibited as proof of identity to open accounts at financial institutions.

Sec. 503. Identification standard for Federal benefits.

Sec. 504. Change in format of Individual Taxpayer Identification Numbers (ITINs).

Sec. 505. Sharing ITIN-related information.

Sec. 506. Birth certificates.

**TITLE VI—REFORM OF LEGAL IMMIGRATION**

Sec. 601. Increase in employment based visas.

Sec. 602. Increase in cap on unskilled workers.

Sec. 603. Elimination of family 4th preference visa category for adult siblings of citizens.

Sec. 604. 3-year moratorium on immigrant visas for Mexican nationals.

Sec. 605. Limitation on number of family-sponsored immigrant visas from Mexico.

Sec. 606. Elimination of diversity lottery visa category.

Sec. 607. Annual report on projected job creation and foreign labor demand.

Sec. 608. Visa term compliance bonds.

Sec. 609. Release of aliens in removal proceedings.

Sec. 610. Detention of aliens delivered by bondsmen.

**TITLE VII—CITIZENSHIP REFORM**

Sec. 701. Citizenship at birth for children of non-citizen, non-permanent resident aliens.

Sec. 702. Sanctions for Acts Violating the Oath of Renunciation and Allegiance.

Sec. 703. Policy of discouragement of dual/multiple citizenship.
Sec. 704. Informing birth nations of their previous citizens’ new status as American citizens.

TITLE VIII—WAGES PAID TO UNAUTHORIZED ALIENS

Sec. 801. Clarification that wages paid to unauthorized aliens may not be deducted from gross income.

(e) SEVERABILITY.—If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

TITLE I—CLEAR AUTHORITY FOR INTERIOR ENFORCEMENT

SEC. 101. STATE DEFINED.

For purposes of this title, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

SEC. 102. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States.
(including the transportation of such aliens across State
to detention centers), for the purposes of assisting
in the enforcement of the immigration laws of the United
States in the course of carrying out routine duties. This
State authority has never been displaced or preempted by
the Congress.

SEC. 103. STATE AUTHORIZATION FOR ASSISTANCE IN THE

ENFORCEMENT OF IMMIGRATION LAWS EN-
COURAGED.

(a) IN GENERAL.—Effective 2 years after the date
of the enactment of this title, a State (or political subdivi-
sion of a State) that has in effect a statute, policy, or
practice that prohibits law enforcement officers of the
State, or of a political subdivision within the State, from
assisting or cooperating with Federal immigration law en-
forcement in the course of carrying out the officers’ rou-
tine law enforcement duties shall not receive any of the
funds that would otherwise be allocated to the State under
section 241(i) of the Immigration and Nationality Act (8
U.S.C. 1231(i)).

(b) CONSTRUCTION.—Nothing in this section shall
require law enforcement officials from States or political
subdivisions of States to report or arrest victims or wit-
nesses of a criminal offense.
(c) **REALLOCATION OF FUNDS.**—Any funds that are not allocated to a State or political subdivision of a State due to the failure of the State to comply with subsection (a) shall be reallocated to States that comply with such subsection.

**SEC. 104. CIVIL AND CRIMINAL PENALTIES FOR ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.**

(a) **ALIENS UNLAWFULLY PRESENT.**—

(1) **IN GENERAL.**—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 275 the following:

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“CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN THE UNITED STATES

“SEC. 275A. (a) IN GENERAL.—In addition to any other penalty, an alien who is present in the United States in violation of this Act shall be guilty of a felony and shall be fined under title 18, United States Code, imprisoned not less than 1 year and a day, or both.

“(b) DEFENSE.—It shall be an affirmative defense to a violation of subsection (a) that the alien overstayed the time allotted under a visa due to an exceptional and extremely unusual hardship or physical illness that prevented the alien from leaving the United States by the required date.”.
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(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 275 the following new item:

“Sec. 275A. Criminal penalties for unlawful presence in the United States.”.

(b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL ENTRY.—Section 275(a) of such Act (8 U.S.C. 1325(a)) is amended by striking “6 months,” and inserting “1 year,”.

(c) INCREASE IN CIVIL PENALTIES FOR VARIOUS VIOLATIONS OF THE IMMIGRATION LAWS OF THE UNITED STATES.—Section 275(b) of such Act (8 U.S.C. 1325(b)) is amended to read as follows:

“(b)(1) Subject to paragraph (2), any alien described in paragraph (3) shall be subject to a civil penalty of—

“(A) $500 for the first violation;

“(B) $1,000 in the case of an alien who has been once previously been subject to a civil penalty under this subsection;

“(C) $2,500 in the case of an alien who has been twice previously been subject to a civil penalty under this subsection; or

“(D) $5,000 in the case of an alien who has been three or more times previously been subject to a civil penalty under this subsection.

“(2) In the case of an alien described in paragraph (3)(D), the alien shall be subject to civil penalties under
this subsection that are 5 times the amounts set forth under paragraph (1).

“(3) An alien described in this paragraph is an alien who—

“(A) is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers;

“(B) enters the United States without inspection;

“(C) fails to depart the United States within 30 days after the expiration date of a nonimmigrant visa or a voluntary departure agreement and is not in other lawful status; or

“(D) fails to depart the United States within 30 days after the date of a final order of removal and is not in other lawful status.

“(4) Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.”.

(d) Permission to Depart Voluntarily.—Section 240B of such Act (8 U.S.C. 1229c) is amended—

(1) by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and
(2) in subsection (a)(2)(A), by striking “120 days” and inserting “30 days”.

SEC. 105. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) Provision of Information to the NCIC.—

Not later than 180 days after the date of the enactment of this title, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on any and all aliens against whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, any and all aliens who have overstayed their authorized period of stay, and any and all aliens whose visas have been revoked. Such information shall be provided to the National Crime Information Center, and the National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

(1) the alien received notice of a final order of removal;

(2) the alien has already been removed; or
(3) sufficient identifying information is available on the alien.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or whether sufficient identifying information is available on the alien and even if the alien has already been removed; and”.

SEC. 106. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ILLEGAL ALIENS.

each State and each political subdivision of a State is en-
couraged to provide the Department of Homeland Security
in a timely manner with the information listed in sub-
section (b) on each alien apprehended in the jurisdiction
of the State or political subdivision who is believed to be
in violation of the immigration laws of the United States.

(b) INFORMATION REQUIRED.—The information list-
ed in this subsection is as follows:

(1) The alien’s name.

(2) The alien’s address or place of residence.

(3) A physical description of the alien.

(4) The date, time, and location of the encoun-
ter with the alien and reason for stopping, detaining,
apprehending, or arresting the alien.

(5) If applicable, the alien’s driver’s license
number and the State of issuance of such license.

(6) If applicable, the type of any other identi-
fication document issued to the alien, any designa-
tion number contained on the identification docu-
ment, and the issuing entity for the identification
document.

(7) If applicable, the license plate number,
make, and model of any automobile registered to, or
driven by, the alien.
(8) A photo of the alien, if available or readily obtainable.

(9) The alien’s fingerprints, if available or readily obtainable.

(c) ANNUAL REPORT ON REPORTING.—The Secretary shall maintain and annually submit to Congress a detailed report listing the States or political subdivisions of States that are providing information under subsection (a).

(d) REIMBURSEMENT.—The Department of Homeland Security shall reimburse States and political subdivisions of a State for all reasonable costs, as determined by the Secretary of Homeland Security, incurred by that State or political subdivision as a result of providing information under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out this section.

(f) CONSTRUCTION.—Nothing in this section shall require law enforcement officials of a State or political subdivision of a State to provide the Department of Homeland Security with information related to a victim of a crime or witness to a criminal offense.
SEC. 107. FINANCIAL ASSISTANCE TO STATE AND LOCAL
POLICE AGENCIES THAT ASSIST IN THE EN-
FORCEMENT OF IMMIGRATION LAWS.

(a) Grants for Special Equipment for Housing
and Processing Illegal Aliens.—From amounts
made available to make grants under this section, the Sec-
retary of Homeland Security shall make grants to States
and political subdivisions of States for procurement of
equipment, technology, facilities, and other products that
facilitate and are directly related to investigating, appre-
hending, arresting, detaining, or transporting immigration
law violators, including additional administrative costs in-
curred under this title.

(b) Eligibility.—To be eligible to receive a grant
under this section, a State or political subdivision of a
State must have the authority to, and have in effect the
policy and practice to, assist in the enforcement of the
immigration laws of the United States in the course of
carrying out such agency’s routine law enforcement duties.

(c) Funding.—There is authorized to be appro-
priated for grants under this section $1,000,000,000 for
each fiscal year.

(d) GAO Audit.—Not later than 3 years after the
date of the enactment of this title, the Comptroller Gen-
eral of the United States shall conduct an audit of funds
distributed to States and political subdivisions of States under subsection (a).

SEC. 108. INCREASED FEDERAL DETENTION SPACE.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States, with at least 500 beds per facility, for aliens detained pending removal or a decision on removal of such alien from the United States.

(2) DETERMINATIONS.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Deputy Assistant Director of the Detention Management Division of the Immigration and Customs Enforcement Office of Detention and Removal within the U.S. Immigration and Customs Enforcement.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary of Homeland Security shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realign-
ment Act of 1990 (part A of title XXIX of Public
Law 101–510; 10 U.S.C. 2687 note) for use in ac-
cordance with paragraph (1).

(b) Authorization of Appropriations.—There
are authorized to be appropriated such sums as are nec-
essary to carry out this section.

(c) Technical and Conforming Amendment.—
Section 241(g)(1) of the Immigration and Nationality Act
(8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
pend” and inserting “shall expend”.

SEC. 109. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-
HENDED BY STATE OR LOCAL LAW ENFORCE-
MENT.

(a) State Apprehension.—

(1) In general.—Title II of the Immigration
and Nationality Act (8 U.S.C. 1151 et seq.) is
amended by inserting after section 240C the fol-
lowing:

“CUSTODY OF ILLEGAL ALIENS

“Sec. 240D. (a) Transfer of Custody by State
and Local Officials.—If a State (or, if appropriate,
a political subdivision of the State) exercising authority
with respect to the apprehension or arrest of an illegal
alien submits a request to the Secretary of Homeland Se-
curity that the alien be taken into Federal custody, the
Secretary of Homeland Security—
“(1) shall—

“(A) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

“(B) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

“(2) shall designate at least one Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of the criminal or illegal aliens to the Department of Homeland Security.

“(b) POLICY ON DETENTION IN STATE AND LOCAL DETENTION FACILITIES.—In carrying out section 241(g)(1), the Attorney General or Secretary of Homeland Security shall ensure that an alien arrested under this Act shall be detained, pending the alien’s being taken for the examination under this section, in a State or local prison,
jail, detention center, or other comparable facility. Notwithstanding any other provision of law or regulation, such facility is adequate for detention, if—

“(1) such a facility is the most suitably located Federal, State, or local facility available for such purpose under the circumstances;

“(2) an appropriate arrangement for such use of the facility can be made; and

“(3) such facility satisfies the standards for the housing, care, and security of persons held in custody of a United States marshal.

“(c) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse States and political subdivisions of States for all reasonable expenses, as determined by the Secretary, incurred by the State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of subsection (a)(1). Compensation provided for costs incurred under such subparagraphs shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State) plus the cost of transporting the criminal or illegal alien from the point of apprehension, to the place of detention, and to the custody
transfer point if the place of detention and place of custody are different.

“(d) SECURE FACILITIES.—The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in Federal facilities pursuant to this Act are held in facilities that provide an appropriate level of security.

“(e) TRANSFER.—

“(1) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transfer of apprehended illegal aliens from the custody of States and political subdivisions of States to Federal custody.

“(2) CONTRACTS.—The Secretary of Homeland Security may enter into contracts, including appropriate private contracts, to implement this subsection.

“(f) DEFINITION.—For purposes of this section, the term ‘illegal alien’ means an alien who—

“(1) entered the United States without inspection or at any time, manner or place other than that designated by the Secretary of Homeland Security;

“(2) was admitted as a nonimmigrant and who, at the time the alien was taken into custody by the
State or a political subdivision of the State, had failed to—

“(A) maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248; or

“(B) comply with the conditions of any such status;

“(3) was admitted as an immigrant and has subsequently failed to comply with the requirements of that status; or

“(4) failed to depart the United States under a voluntary departure agreement or under a final order of removal.

“(g) Authorization of Appropriations for the Detention and Transportation to Federal Custody of Aliens Not Lawfully Present.—There is authorized to be appropriated $500,000,000 for the detention and removal of aliens not lawfully present in the United States under this Act for fiscal year 2006 and each subsequent fiscal year.”.

(2) Clerical Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 240C the following new item:

“Sec. 240D. Custody of illegal aliens.”.

(b) GAO Audit.—Not later than 3 years after the date of the enactment of this title, the Comptroller Gen-
eral of the United States shall conduct an audit of compen-
sation to States and political subdivisions of States for
the incarceration of illegal aliens under section 240D(a)
of the Immigration and Nationality Act (as inserted by
subsection (a)(1)).

SEC. 110. TRAINING OF STATE AND LOCAL LAW ENFORCE-
MENT PERSONNEL RELATING TO THE EN-
FORCEMENT OF IMMIGRATION LAWS.

(a) Establishment of Training Manual and
Pocket Guide.—Not later than 180 days after the date
of the enactment of this title, the Secretary of Homeland
Security shall establish—

(1) a training manual for law enforcement per-
sonnel of a State or political subdivision of a State
to train such personnel in the investigation, identi-
fication, apprehension, arrest, detention, and trans-
fer to Federal custody of aliens in the United States
(including the transportation of such aliens across
State lines to detention centers and the identification
of fraudulent documents); and

(2) an immigration enforcement pocket guide
for law enforcement personnel of a State or political
subdivision of a State to provide a quick reference
for such personnel in the course of duty.
(b) **Availability.**—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(c) **Applicability.**—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established under subsection (a)(2) with them while on duty.

(d) **Costs.**—The Department of Homeland Security shall be responsible for any and all costs incurred in establishing the training manual and pocket guide under subsection (a).

(e) **Training Flexibility.**—

(1) **In General.**—The Department of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is sealable, survivable, and can have a portal
in place within 30 days, shall be made available by
the Federal Law Enforcement Training Center Dis-
tributed Learning Program for State and local law
enforcement personnel.

(2) Federal personnel training.—The
training of State and local law enforcement per-
sonnel under this section shall not displace the train-
ing of Federal personnel.

(3) Clarification.—Nothing in this title or
any other provision of law shall be construed as
making any immigration-related training a require-
ment for, or prerequisite to, any State or local law
enforcement officer to assist in the enforcement of
Federal immigration laws in the normal course of
carrying out their normal law enforcement duties.

(f) Training limitation.—Section 287(g) of the
Immigration and Nationality Act (8 U.S.C. 1357(g)) is
amended—

(1) by striking “Attorney General” and insert-
ing “Secretary of Homeland Security” each place it
appears; and

(2) in paragraph (2), by adding at the end the
following: “Such training shall not exceed 14 days or
80 hours, whichever is longer.”.
SEC. 111. IMMUNITY.

(a) Personal Immunity.—Notwithstanding any other provision of law, a law enforcement officer of a State or local law enforcement agency who is acting within the scope of the officer’s official duties shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the performance of any duty described in this title.

(b) Agency Immunity.—Notwithstanding any other provision of law, a State or local law enforcement agency shall be immune from any claim for money damages based on Federal, State, or local civil rights law for an incident arising out of the enforcement of any immigration law, except to the extent a law enforcement officer of that agency committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

SEC. 112. INSTITUTIONAL REMOVAL PROGRAM (IRP).

(a) Continuation and Expansion.—

(1) In General.—The Department of Homeland Security shall continue to operate and implement the program known as the Institutional Removal Program (IRP) which—

(A) identifies removable criminal aliens in Federal and State correctional facilities;
(B) ensures such aliens are not released into the community; and

(C) removes such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The institutional removal program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens shall—

(A) cooperate with officials of the institutional removal program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition for receiving such funds.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State have the authority to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien’s State prison sentence in order to effectuate the transfer of the alien to Federal custody when the
alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from the U.S. Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology such as video conferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program (IRP) available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the institutional removal program—

(1) $100,000,000 for fiscal year 2007;
(2) $115,000,000 for fiscal year 2008;
(3) $130,000,000 for fiscal year 2009;
(4) $145,000,000 for fiscal year 2010; and
(5) $160,000,000 for fiscal year 2011.
SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended by inserting before the period at the end the following: “and $1,000,000,000 for each subsequent fiscal year”.

SEC. 114. DETENTION OF DANGEROUS ALIENS.

(a) Removal of Terrorist Aliens.—

(1) In general.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended—

(A) in section 208(b)(2)(A), by amending clause (v) to read as follows:

“(v) the alien is described in section 212(a)(3)(B), 212(a)(3)(F), or 237(a)(4)(B) unless, in the case only of an alien described in section 212(a)(3)(B)(i)(IV), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”;

(B) in section 240A(e), by amending paragraph (4) to read as follows:
“(4) An alien described in section 212(a)(3) or 237(a)(4).”;

(C) in section 240B(b)(1)(C), by striking “deportable under” and inserting “described in”;

(D) in section 241(b)(3)(B)—

(i) in clause (iii), by striking “or” at the end;

(ii) in clause (iv), by striking the period at the end and inserting “; or”;

(iii) by inserting after clause (iv) the following:

“(v) the alien is described in section 212(a)(3)(B), 212(a)(3)(F), or 237(a)(4)(B), unless, in the case only of an alien described in section 212(a)(3)(B)(i)(IV), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.”; and

(iv) by striking “For purposes of clause (iv)” and all that follows; and

(E) in section 249—
(i) by striking “inadmissible under section 212(a)(3)(E) or under section” and inserting “described in section 212(a)(3)(E) or”; and

(ii) in subsection (d), by striking “to citizenship and is not deportable under” and inserting “for citizenship and is not described in”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply to—

(A) all aliens subject to removal, deportation, or exclusion at any time; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such effective date.

(b) DETENTION OF DANGEROUS ALIENS.—

(1) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;
(B) in paragraph (2), by inserting “If a court orders a stay of removal of an alien who is subject to an order of removal that is administratively final, the Secretary of Homeland Security, in the exercise of the Secretary’s discretion, may detain the alien during the pendency of such stay of removal, before the beginning of the removal period, as provided in paragraph (1)(B)(ii).” after “detain the alien.”; and

(C) in paragraph (6), by striking “removal period and, if released,” and inserting “removal period, in the discretion of the Secretary, without any limitations other than those specified by the Secretary of Homeland Security by regulation, until the alien is removed. If an alien is released, the alien”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect upon the date of enactment of this Act, and shall apply to cases in which the final administrative removal order was issued before, on, or after such date.
SEC. 115. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING, DOCUMENT FRAUD, GANG VIOLENCE, AND DRUG TRAFFICKING.

(a) ALIEN SMUGGLING.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking “10 years” and inserting “15 years”;  

(B) in clause (ii), by striking “5 year” and inserting “10 years”; and  

(C) in clause (iii), by striking “20 years” and inserting “40 years”;  

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “one year, or both; or” and inserting “3 years, or both”;  

(B) in subparagraph (B)—

(i) in clause (i), by adding at the end the following: “be fined under title 18, United States Code, and imprisoned not less than 5 years nor more than 25 years;”;

(ii) in clause (ii), by striking “or” at the end and inserting the following: “be fined under title 18, United States Code,
and imprisoned not less than 3 years not
more than 20 years; or”;

(iii) in clause (iii), by adding at the
end the following: “be fined under title 18,
United States Code, and imprisoned not
more than 15 years; or”; and

(C) by striking the matter following clause
(iii) and inserting the following:

“(C) in the case of a third or subsequent
offense described in subparagraph (B) and for
any other violation, shall be fined under title
18, United States Code, and imprisoned not
less than 5 years nor more than 15 years.”;

(3) in paragraph (3)(A), by striking “5 years”
and inserting “10 years”; and

(4) in paragraph (4), by striking “10 years”
and inserting “20 years”.

(b) DOCUMENT FRAUD.—Section 1546 of title 18,
United States Code, is amended—

(1) in subsection (a)—

(A) by striking “not more than 25 years”
and inserting “not less than 25 years”

(B) by inserting “and if the terrorism of-
fense resulted in the death of any person, shall
be punished by death or imprisoned for life,”
after “section 2331 of this title)),”;
(C) by striking “20 years” and inserting
“imprisoned not more than 40 years”;
(D) by striking “10 years” and inserting
“imprisoned not more than 20 years”; and
(E) by striking “15 years” and inserting
“imprisoned not more than 25 years”; and
(2) in subsection (b), by striking “5 years” and
inserting “10 years”.
(c) CRIMES OF VIOLENCE.—
(1) IN GENERAL.—Title 18, United States
Code, is amended by inserting after chapter 51 the
following:
“CHAPTER 52—ILLEGAL ALIENS

“Sec.
“1131. Enhanced penalties for certain crimes committed by illegal aliens.

§1131. Enhanced penalties for certain crimes comm-
mitted by illegal aliens
“(a) Any alien unlawfully present in the United
States, who commits, or conspires or attempts to commit,
a crime of violence or a drug trafficking offense (as de-
defined in section 924), shall be fined under this title and
sentenced to not less than 5 years in prison.
“(b) If an alien who violates subsection (a) was pre-
viously ordered removed under the Immigration and Na-

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tionality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime, the alien shall be sentenced to not less than 15 years in prison.

“(c) A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.”.

(2) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following:

“52. Illegal aliens .......................................................... 1131”.

(d) Criminal Street Gangs.—

(1) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

“(F) Aliens who are members of criminal street gangs.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.”.

(2) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
1227(a)(2)) is amended by adding at the end the following:

“(F) Aliens who are members of criminal street gangs.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.”.

(3) Temporary protected status.—Section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; or”;

(C) by adding at the end the following:

“(iii) the alien is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).”.

SEC. 116. PENALTY FOR COUNTRIES THAT DO NOT ACCEPT RETURN OF NATIONALS.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended—

(1) by striking “On being notified” and inserting the following:

“(1) In general.—Upon notification”; and
(2) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(3) by adding at the end the following:

“(2) DENIAL OF ADMISSION.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may deny admission to any citizen, subject, national or resident of that country until the country accepts the alien that was ordered removed.”.

SEC. 117. NO JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking “, except in the context of a removal proceeding” and all that follows and inserting a period.

SEC. 118. ALTERNATIVES TO DETENTION.

The Secretary of Homeland Security shall implement pilot programs in all States to study the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring
alien appearance at court and compliance with removal orders.

SEC. 119. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, for each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 200 the number of positions for investigative personnel within the Department of Homeland Security investigating alien smuggling and immigration status violations above the number of such positions for which funds were made available during the preceding fiscal year.

(2) TRIAL ATTORNEYS.—In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department of Homeland Security who represent the Department in immigration matters by not less than 100 above the number of such posi-
tions for which funds were made available during each preceding fiscal year.

(3) **Authorization of Appropriations.**—
There are authorized to be appropriated to the Department of Homeland Security for each of fiscal years 2006 through 2010 such sums as may be necessary to carry out this subsection.

(b) **Department of Justice.**—

(1) **Assistant Attorney General for Immigration Enforcement.**—

(A) **Establishment.**—There is established within the Department of Justice the position of Assistant Attorney General for Immigration Enforcement, which shall coordinate and prioritize immigration litigation and enforcement in the Federal courts, including—

(i) removal and deportation;
(ii) employer sanctions; and
(iii) alien smuggling and human trafficking.

(B) **Conforming Amendment.**—Section 506 of title 28, United States Code, is amended by striking “ten” and inserting “11”.

(2) **Litigation Attorneys.**—In each of fiscal years 2006 through 2010, the Attorney General
shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(3) UNITED STATES ATTORNEYS.—In each of fiscal years 2006 through 2010, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys’ office to litigate immigration cases in the Federal courts.

(4) IMMIGRATION JUDGES.—In each of fiscal years 2006 through 2010, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of immigration judges.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice for each of fiscal years 2006 through 2010 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.
SEC. 120. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court may not—

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,

until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 121. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:
CONSTRUCTION

"Sec. 362. (a) Nothing in this Act or any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

"(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

"(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

"(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

"(b) An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection
SEC. 122. REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.

(a) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

“(5) REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.—

“(A) REMOVAL.—The Secretary of Homeland Security shall remove an alien who is an applicant for admission (other than an admissible alien presenting himself or herself for inspection at a port of entry or an alien paroled into the United States under section 212(d)(5)), after having been, on or after September 30, 1996, excluded, deported, or removed, or having departed voluntarily under an order of exclusion, deportation, or removal.

“(B) JUDICIAL REVIEW.—The removal described in subparagraph (A) shall not require any proceeding before an immigration judge, and shall be under the prior order of exclusion, deportation, or removal, which is not subject to reopening or review. The alien is not eligible
and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of sections 208 or 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect as if enacted on March 1, 2003.

SEC. 123. AUTOMATED ALIEN RECORDS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of Homeland Security shall automate the storage of alien records in an electronic format that is interoperable with the alien record keeping systems of the Department of Justice and accessible by other Federal agencies for the purposes of administering the immigration laws of the United States.

(b) EXISTING RECORDS.—The Secretary of Homeland Security shall automate all alien records that were created during the 5-year period ending on the date of enactment of this Act.
(c) OVERSIGHT.—The Chief Information Officer of the Department of Homeland Security shall be responsible for oversight and management of automating the storage of alien records in an electronic format.

(d) OFFICIAL RECORD.—The automated alien record created under this section shall constitute the official record for purposes of the National Archives and Records Administration.

(e) REPORTS.—The Secretary of Homeland Security shall report to the appropriate committees in Congress in 2008 and 2010 on the progress made in automating alien records under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

SEC. 124. ANNUAL REPORT ON INTERIOR ENFORCEMENT.

The Secretary of Homeland Security shall submit to Congress, by not later than January 15 of each year (beginning with 2006) on the progress of enforcing immigration laws in the interior of the United States.
TITLE II—IMPROVED BORDER SECURITY

SEC. 201. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

§374a. Assignment of members to assist border patrol and control

“(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

“(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

“(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weap-
ons of mass destruction, components of weapons of
mass destruction, prohibited narcotics or drugs, or
other terrorist or drug trafficking items.

“(b) REQUEST FOR ASSIGNMENT.—The assignment
of members under subsection (a) may occur only if—

“(1) the assignment is at the request of the
Secretary of Homeland Security; and

“(2) the request is accompanied by a certifi-
cation by the Secretary of Homeland Security that
the assignment of members pursuant to the request
is necessary to respond to a threat to national secu-

“(c) TRAINING PROGRAM REQUIRED.—The Sec-

“(d) CONDITIONS OF USE.—(1) Whenever a member
who is assigned under subsection (a) to assist the Bureau
of Border Security or the United States Customs Service
is performing duties at a border location pursuant to the
assignment, a civilian law enforcement officer from the
agency concerned shall accompany the member.

“(2) Nothing in this section shall be construed to—

“(A) authorize a member assigned under sub-
section (a) to conduct a search, seizure, or other
similar law enforcement activity or to make an ar-
rest; and

“(B) supersede section 1385 of title 18 (popu-
larly known as the ‘Posse Comitatus Act’).

“(e) Establishment of Ongoing Joint Task
Forces.—(1) The Secretary of Homeland Security may
establish ongoing joint task forces if the Secretary of
Homeland Security determines that the joint task force,
and the assignment of members to the joint task force,
is necessary to respond to a threat to national security
posed by the entry into the United States of terrorists,
drug traffickers, or illegal aliens.

“(2) If established, the joint task force shall fully
comply with the standards as set forth in this section.

“(f) Notification Requirements.—The Secretary
of Homeland Security shall provide to the Governor of the
State in which members are to be deployed pursuant to
an assignment under subsection (a) and to local govern-
ments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

“(g) Reimbursement Requirement.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

“(h) Termination of Authority.—No assignment may be made or continued under subsection (a) after September 30, 2007.”.

(b) Commencement of Training Program.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this title.

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

“374a. Assignment of members to assist border patrol and control.”.

SEC. 202. NECESSARY ASSETS FOR CONTROLLING UNITED STATES BORDERS.

(a) Personnel.—

(1) Customs and Border Protection Officers.—In each of the fiscal years 2006 through 2010, the Secretary of Homeland Security shall in-
crease by not less than 250 the number of positions
for full-time active duty Customs and Border Pro-
tection officers.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) CUSTOMS AND BORDER PROTECTION
OFFICERS.—There are authorized to be appro-
priated such sums as may be necessary for each
of fiscal years 2006 through 2010 to carry out
paragraph (1).

(B) BORDER PATROL AGENTS.—There are
authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010 to carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734).

(C) TRANSPORTATION OF ALIENS.—There are authorized to be appropriated $25,000,000 for each of fiscal years 2006 through 2010 for the transportation of aliens.

(b) TECHNOLOGICAL ASSETS.—

(1) ACQUISITION.—The Secretary of Homeland Security shall procure unmanned aerial vehicles, cameras, poles, sensors, radar, and other technologies necessary to achieve operational control of the borders of the United States.
(2) Authorization of Appropriations.—

There are authorized to be appropriated $500,000,000 for each of fiscal years 2006 through 2010 to carry out paragraph (1).

(c) Infrastructure.—

(1) Construction of Border Control Facilities.—The Secretary of Homeland Security shall construct all-weather roads and shall acquire vehicle barriers and necessary facilities to support its mission of achieving operational control of the borders of the United States.

(2) Authorization of Appropriations.—

There are authorized to be appropriated $500,000,000 for each of fiscal years 2006 through 2010 to carry out paragraph (1).

(d) Border Patrol Checkpoints.—Temporary or permanent checkpoints may be maintained on roadways in border patrol sectors close to the border between the United States and Mexico.

SEC. 203. EXPEDITED REMOVAL BETWEEN PORTS OF ENTRY.

(a) In General.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended—

(1) in subsection (b)(1)(A)(i), by striking “the officer” the inserting “a supervisory officer” and
(2) in subsection (c), by adding at the end the following:

“(4) EXPANSION.—The Secretary of Homeland Security shall make the expedited removal procedures under this subsection available in all border patrol sectors on the southern border of the United States as soon as operationally possible.

“(5) TRAINING.—The Secretary of Homeland Security shall provide employees of the Department of Homeland Security with comprehensive training of the procedures authorized under this subsection.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the amendments made by this section.

SEC. 204. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary of Homeland Security shall provide all customs and border protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the Forensic Document Laboratory of the Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary of Homeland Security shall provide all customs and
border protection officers with access to the Forensic Document Laboratory.

(c) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

SEC. 205. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) Grants Authorized.—The Secretary of Homeland Security may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) Use of Funds.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;
(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department of Homeland Security for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

**TITLE III—SOCIAL SECURITY FOR WORKING AMERICANS**

**SEC. 301. LETTERS TO EMPLOYERS BY THE COMMISSIONER OF SOCIAL SECURITY FOR PURPOSES OF RESOLVING DISCREPANCIES IN WAGE RECORDS AND NOTIFICATION OF THE SECRETARY OF HOMELAND SECURITY REGARDING SUCH LETTERS.**

(a) In General.—Section 205(e)(2) of the Social Security Act (42 U.S.C. 405(e)(2)) is amended by adding at the end the following new subparagraph:
“(I)(i) In any case in which the Commissioner determines that the social security account numbers in the wage records provided to the Social Security Administration by an employer with respect to 10 or more employees do not match relevant records otherwise maintained by the Social Security Administration, the Commissioner shall promptly send to the employer a written notice—

“(I) informing the employer of the discrepancies,

“(II) requesting such information as may be in the possession of the employer as would assist the Commissioner in resolving the discrepancies, and

“(III) informing the employer that a copy of such notice is being provided to the Secretary of Homeland Security to assist such Secretary in the enforcement of applicable Federal immigration laws relating to employment of individuals who are not authorized to work in the United States.

“(ii) In any case in which the Commissioner sends a notice described in clause (i) with respect to employees of an employer, the Commissioner shall simultaneously transmit a copy of such notice to the Secretary of Homeland Security, including a listing of the names, addresses, and social security account numbers of such employees, according to the wage records described in clause (i), and
any nonmatching information with respect to the names, addresses, or social security account numbers of such employees in the relevant records otherwise maintained by the Social Security Administration.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to determinations by the Commissioner of Social Security (that relevant records maintained by the Commissioner do not match social security account numbers provided to the Commissioner by employers) made on or after the date of the enactment of this Act.

SEC. 302. TIGHTENING REQUIREMENTS FOR THE Provision of SOCIAL SECURITY NUMBERS on withHolding Exemption Certificates.

(a) In General.—Section 6724 of the Internal Revenue Code of 1986 (relating to waiver; definitions and special rules) is amended by adding at the end the following new subsection:

“(f) Special Rules With Respect to Social Security Numbers on Withholding Exemption Certificates.—

“(1) Automatic waiver of penalty if social security number verified.—No penalty shall be imposed under this part with respect to the social security account number of an employee fur-
nished under section 6051(a)(2) if the employer verifies the employee's identity pursuant to section 205(c)(2) of the Social Security Act.

“(2) REASONABLE CAUSE WAIVER NOT TO APPLY.—

“(A) IN GENERAL.—Subsection (a) shall not apply with respect to the social security account number of an employee furnished under section 6051(a)(2).

“(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the employer—

“(i) receives confirmation of an individual's identity pursuant to section 205(c)(2) of the Social Security Act, or

“(ii) corrects a clerical error made by the employer with respect to the social security account number of an employee within 60 days after notification under section 205(c)(2)(I) of the Social Security Act that the social security account number contained in wage records provided to the Social Security Administration by the employer with respect to the employee does not match the social security account num-
ber of the employee contained in relevant records otherwise maintained by the Social Security Administration.’’.

(b) Increase in Penalty on Employer Providing False Employee Social Security Account Number.—Section 6721 of such Code (relating to imposition of penalty) is amended by adding at the end the following new subsection:

“(f) Increased Penalties for Failure to Furnish Correct Social Security Account Number.—In the case of a failure to furnish the correct social security account number under section 6051(a)(2)—

“(1) subsection (a)(1) shall be applied by substituting ‘$500’ for ‘$50’ and ‘$2,500,000’ for ‘$250,000’,

“(2) subsection (b) shall not apply,

“(3) subsection (c) shall not apply,

“(4) subsection (d)(1)(A) shall be applied by substituting ‘$500,000’ for ‘$250,000’, and

“(5) subsection (e) shall be applied by substituting ‘$1,000’ for ‘$100’ in paragraph (2), and ‘$2,500,000’ for ‘$250,000’ in paragraph (3)(A).’’.

(e) Effective Dates.—
(1) Subsection (a).—The amendment made by subsection (a) shall apply to statements furnished after December 31, 2005.

(2) Subsection (b).—The amendment made by subsection (b) shall apply to failures occurring after December 31, 2005.

SEC. 303. ANNUAL REPORTS TO THE CONGRESS REGARDING LARGE EMPLOYERS WITH THE LARGEST NUMBERS OF EMPLOYEES WITH NON-MATCHING SOCIAL SECURITY ACCOUNT NUMBERS.

Section 205(c)(2) of the Social Security Act (as amended by section 301 of this title) is amended further by adding at the end the following new subparagraph:

“(J)(i) Not later than January 31 of 2006 and of each subsequent calendar year, the Commissioner of Social Security, in consultation with the Secretary of the Treasury, shall—

“(I) determine the 500 large employers who, during the preceding calendar year, employed the largest number of employees whose social security account numbers, as furnished under section 6051(a)(2) of the Internal Revenue Code of 1986, did not match relevant records otherwise maintained by the Commissioner or such Secretary as of the end of such calendar year,
“(II) determine the 250 large employers with the highest percentages, expressed as a percentage of each employer’s workforce as of the end of such preceding calendar year, of employees described in subclause (I), and

“(III) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the identities and addresses of the employers described in subclause (I) and the identities and addresses of the employers described in subclause (II) in connection with such preceding calendar year.

“(ii) For purposes of this subparagraph—

“(I) The term ‘large employer’ means, in connection with any calendar year, an employer who normally employed more than 100 employees on a typical business day during the calendar year.

“(II) In the case of an employer which was not in existence throughout the calendar year, the determination of whether such employer is a large employer shall be based on the number of employees that it is reasonably expected such employer will normally employ on business days in the subsequent calendar year.
“(III) The Commissioner, in consultation with the Secretary of the Treasury, may prescribe regulations which provide for references in this clause to an employer to be treated as including references to predecessors of such employer.”.

SEC. 304. EXCLUSION OF UNAUTHORIZED WORK FROM WORK UPON WHICH CREDITABLE EARNINGS MAY BE BASED.

(a) Exclusion of Unauthorized Employment From Employment Upon Which Creditable Wages May Be Based.—Section 210(a)(19) of the Social Security Act (42 U.S.C. 410(a)(19)) is amended—

(1) by striking “(19) Service” and inserting the following:

“(19)(A) Service performed by an alien while employed in the United States for any period during which the alien is not authorized to be so employed. “(B) Service”.

(b) Exclusion of Unauthorized Functions and Services From Trade or Business From Which Creditable Self-Employment Income May Be Derived.—Section 211(c) of the Social Security Act (42 U.S.C. 411(c)) is amended by inserting after paragraph (6) the following new paragraph:
“(7) The performance of a function or service in the United States by an alien during any period for which the alien is not authorized to perform such function or service in the United States.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages earned, and self-employment income derived, before, on, or after the date of the enactment of this Act, except that such amendments shall not apply with respect to monthly insurance benefits under title II of the Social Security Act of individuals who became eligible for such benefits for a month beginning before the date of the enactment of this Act. For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, such individual would be entitled to such benefit for such month.

TITLE IV—WORK AUTHORIZATION AND ENFORCEMENT

SEC. 401. REQUIREMENT FOR EMPLOYERS TO CONDUCT EMPLOYMENT ELIGIBILITY VERIFICATION.

(a) RENAMING OF BASIC PILOT PROGRAM.—The basic pilot program established under section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is hereby renamed as the “Employ-
(b) Extension of Scope of Program.—The Secretary of Homeland Security shall provide for the implementation of the Employment Eligibility Verification System throughout the United States on a timely basis, consistent with the implementation of subsection (c) and such System shall continue in operation until the implementation of the employment eligibility verification system established under the succeeding provisions of this title.

(c) Requirement for Use of Employment Eligibility Verification.—

(1) In General.—Subject to paragraph (3), any person or other entity that hires any individual for employment in the United States, including the Federal Government and any contractors of the Federal Government, shall participate in the Employment Eligibility Verification System.

(2) Sanctions for Noncompliance; Continuation of Current Compliance Authority.—The provisions of paragraph (2) of section 402(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) shall apply with respect to a person or entity required to partici-
pate in the Employment Eligibility Verification Sys-
tem in the same manner as such paragraph applies
to a person or entity required to participate under
such subsection.

(3) EFFECTIVE DATE.—The requirement of
paragraph (1) applies to individuals hired on or
after the date that is 30 days after the date of the
enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated such sums as may be
required to carry out the Employment Eligibility
Verification System throughout the United States.

SEC. 402. AMENDMENTS TO THE SOCIAL SECURITY ACT RE-
LATING TO IDENTIFICATION OF INDIVID-
UALS.

(a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY
CARDS.—Section 205(c)(2)(G) of the Social Security Act
(42 U.S.C. 405(c)(2)(G)) is amended—

(1) by inserting “(i)” after “(G)”;

(2) by striking “banknote paper” and inserting
“durable plastic or similar material”; and

(3) by adding at the end the following new
clauses:

“(ii) Each Social Security card issued under this sub-
paragraph shall include an encrypted machine-readable
electronic identification strip which shall be unique to the individual to whom the card is issued. The Commissioner shall develop such electronic identification strip in consultation with the Secretary of Homeland Security, so as to enable employers to use such strip in accordance with section 274A(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)(B)) to obtain access to the Employment Eligibility Database established by such Secretary pursuant to section 4 of such Act with respect to the individual to whom the card is issued.

“(iii) Each Social Security card issued under this subparagraph shall contain—

“(I) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes; and

“(II) a disclaimer stating the following: ‘This card shall not be used for the purpose of identification.’.

“(iv) The Commissioner shall provide for the issuance (or reissuance) to each individual who—

“(I) has been assigned a Social Security account number under subparagraph (B),

“(II) has attained the minimum age applicable, in the jurisdiction in which such individual engages
in employment, for legally engaging in such employ-
ment, and

“(III) files application for such card under this
clause in such form and manner as shall be pre-
scribed by the Commissioner,

a Social Security card which meets the preceding require-
ments of this subparagraph and which includes a recent
digitized photograph of the individual to whom the card
is issued.

“(v) The Commissioner shall maintain an ongoing ef-
fort to develop measures in relation to the Social Security
card and the issuance thereof to preclude fraudulent use
thereof.”.

(b) SHARING OF INFORMATION WITH THE SEC-
RETARY OF HOMELAND SECURITY.—Section 205(c)(2) of
such Act is amended by adding at the end the following
new subparagraph:

“(I) Upon the issuance of a Social Security account
number under subparagraph (B) to any individual or the
issuance of a Social Security card under subparagraph (G)
to any individual, the Commissioner of Social Security
shall transmit to the Secretary of Homeland Security such
information received by the Commissioner in the individ-
ual’s application for such number or such card as such
Secretary determines necessary and appropriate for ad-
ministration of the Enforcement First Immigration Re-
form Act of 2005. Such information shall be used solely
for inclusion in the Employment Eligibility Database es-
tablished pursuant to section 4 of such Act.”.

(e) Effective Dates.—The amendment made by
subsection (a) shall apply with respect to Social Security
cards issued after 2 years after the date of the enactment
of this title. The amendment made by subsection (b) shall
apply with respect to the issuance of Social Security ac-
count numbers and Social Security cards after 2 years
after the date of the enactment of this title.

SEC. 403. EMPLOYMENT ELIGIBILITY DATABASE.

(a) In General.—The Secretary of Homeland Secu-
rity shall establish and maintain an Employment Elig-
bility Database. The Database shall include data com-
prised of the citizenship status of individuals and the work
and residency eligibility information (including expiration
dates) with respect to individuals who are not citizens or
nationals of the United States but are authorized to work
in the United States. Such data shall include all such data
maintained by the Department of Homeland Security as
of the date of the establishment of such database and in-
formation obtained from the Commissioner of Social Secu-
rity pursuant to section 205(c)(2)(I) of the Social Security
Act. The Secretary shall maintain ongoing consultations
with the Commissioner to ensure efficient and effective op-
eration of the Database.

(b) Incorporation of Ongoing Pilot Programs.—To the extent that the Secretary determines ap-
propriate in furthering the purposes of subsection (a), the
Secretary may incorporate the information, processes, and
procedures employed in connection with the Citizen Attes-
tation Verification Pilot Program and the Employment
Eligibility Verification Program into the operation and
maintenance of the Database under subsection (a).

(c) Confidentiality.—

(1) In general.—No officer or employee of
the Department of Homeland Security shall have ac-
cess to any information contained in the Database
for any purpose other than—

(A) the establishment of a system of
records necessary for the effective administra-
tion of this title; or

(B) any other purpose the Secretary of
Homeland Security deems to be in the national
security interests of the United States.

(2) Restriction.—The Secretary shall restrict
access to such information to officers and employees
of the United States whose duties or responsibilities
require access for the purposes described in para-  
graph (1).

(3) OTHER SAFEGUARDS.—The Secretary shall  
provide such other safeguards as the Secretary de-  
determines to be necessary or appropriate to protect  
the confidentiality of information contained in the  
Database.

(d) DEADLINE FOR MEETING REQUIREMENTS.—The  
Secretary shall complete the establishment of the Data-  
base and provide for the efficient and effective operation  
of the Database in accordance with this section not later  
than 2 years after the date of the enactment of this title.

SEC. 404. REQUIREMENTS RELATING TO INDIVIDUALS  
COMMENCING WORK IN THE UNITED STATES.

(a) REQUIREMENTS FOR EMPLOYERS AND EMPLOY-  
EES.—Section 274A(a)(1) of the Immigration and Nation-  
ality Act (8 U.S.C. 1324a(a)(1)) is amended to read as  
follows:

“(1) IN GENERAL.—

“(A) REQUIREMENTS FOR EMPLOYEES.—

No individual may commence employment with  
an employer in the United States unless such  
individual has—

“(i) obtained a Social Security card  
issued by the Commissioner of Social Secu-
rity meeting the requirements of section 205(e)(2)(G)(iii) of the Social Security Act; and

“(ii) displayed such card to the employer pursuant to the employer’s request for purposes of the verification required under subparagraph (B).

“(B) REQUIREMENTS FOR EMPLOYERS.—

“(i) IN GENERAL.—No employer may hire for employment an individual in the United States in any capacity unless such employer verifies under this subparagraph that such individual has in his or her possession a Social Security card issued to such individual pursuant to section 205(e)(2)(G) of the Social Security Act which bears a photograph of such individual and that such individual is authorized to work in the United States in such capacity. Such verification shall be made in accordance with procedures prescribed by the Secretary of Homeland Security for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such in-
dividual to work in the United States in such capacity.

“(ii) Verification procedures.—Such procedures shall include use of—

“(I) a phone verification system which shall be established by the Secretary; or

“(II) a card-reader verification system employing a device approved by the Secretary as capable of reading the electronic identification strip borne by the card so as to verify the identity of the card holder and the card holder’s authorization to work, and which is made available at minimal cost to the employer.

“(iii) Security and effectiveness.—The Secretary shall ensure that the phone verification system described in subparagraph (I) of clause (ii) is as secure and effective as the card-reader verification system described in subparagraph (II) of such clause.

“(iv) Access to database.—The Secretary shall ensure that, by means of
such procedures, the employer will have such access to the Employment Eligibility Database established and operated by the Secretary pursuant to section 4 of the Enforcement First Immigration Reform Act of 2005 as to enable the employer to obtain information, relating to the citizenship, residency, and work eligibility of the individual seeking employment by the employer in any capacity, which is necessary to inform the employer as to whether the individual is authorized to work for the employer in the United States in such capacity.

“(v) DEFENSE.—An employer who establishes that the employer complied in good faith with the requirements of this subparagraph shall not be liable for hiring an unauthorized alien, if—

“(I) such hiring occurred due to an error in the phone verification system, the card-reader verification system, or the Employment Eligibility Database which was unknown to the
employer at the time of such hiring;
and

“(II) the employer terminates
that employment of the alien upon
being informed of the error.”.

(b) CONFORMING AMENDMENTS.—Section 274A of
the Immigration and Nationality Act (8 U.S.C. 1324a) is
amended—

(1) in subsection (a), by striking paragraphs
(3), (5), and (6) and redesignating paragraphs (4)
and (7) as paragraphs (3) and (4), respectively;
(2) in subsection (b)—

(A) by striking “Attorney General” each
place such term appears and inserting “Sec-
retary of Homeland Security”;

(B) by amending the matter preceding
paragraph (2) to read as follows:

“(b) EMPLOYMENT VERIFICATION FORMS.—

“(1) EMPLOYER ATTESTATION OF COMPLI-
ANCE.—The verification procedures prescribed under
subsection (a)(1)(B) shall include an attestation,
made under penalty of perjury and on a form des-
ignated or established by the Secretary of Homeland
Security by regulation, that the employer has com-
plied with such procedures.”; and
(C) by striking paragraph (6);

(3) by striking subsection (d); and

(4) by amending subsection (h)(3) to read as follows:

“(3) DEFINITIONS.—For purposes of this section:

“(A) The term ‘authorized to work in the United States’, when applied to an individual, means that the individual is not an unauthorized alien.

“(B) The term ‘employer’ means—

“(i) any person or entity who hires an individual; or

“(ii) any individual earning self-employment income (as defined in section 211(b) of the Social Security Act (42 U.S.C. 411(b))).

“(C) The term ‘employee’ shall have the meaning given such term in section 210(j) of the Social Security Act (42 U.S.C. 410(j)).

“(D) The term ‘hire’ means to hire an individual, or to recruit or refer for a fee an individual, for employment in the United States.

“(E) The term ‘unauthorized alien’ means, with respect to the employment of an alien at
a particular time, that the alien is not at that
time—

“(i) an alien lawfully admitted for
permanent residence; or

“(ii) authorized to be so employed by
this Act or by the Secretary of Homeland
Security.”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect 2 years after the date of the
enactment of this title and shall apply to employment of
any individual in any capacity commencing on or after
such effective date.

SEC. 405. COMPLIANCE.

(a) IN GENERAL.—Section 274A(e) of the Immigra-
tion and Nationality Act (8 U.S.C. 1324a(e)) is amended
to read as follows:

“(e) COMPLIANCE.—

“(1) CIVIL PENALTY.—

“(A) IN GENERAL.—The Secretary of
Homeland Security may assess a penalty, pay-
able to the Secretary, against any employer
who—

“(i) hires an individual for employ-
ment in the United States in any capacity
who is known by the employer not to be
authorized to work in the United States in such capacity; or

“(ii) fails to comply with the procedures prescribed by the Secretary pursuant to this section in connection with the employment of any individual.

“(B) AMOUNT.—Such penalty shall not exceed $50,000 for each occurrence of a violation described in subparagraph (A) with respect to the individual, plus, in the event of the removal of such individual from the United States based on findings developed in connection with the assessment or collection of such penalty, the costs incurred by the Federal Government, cooperating State and local governments, and State and local law enforcement agencies, in connection with such removal.

“(2) ACTIONS BY SECRETARY.—If any person is assessed under paragraph (1) and fails to pay the assessment when due, or any person otherwise fails to meet any requirement of this section, the Secretary may bring a civil action in any district court of the United States within the jurisdiction of which such person’s assets are located or in which such person resides or is found for the recovery of the
amount of the assessment or for appropriate equi-
table relief to redress the violation or enforce the
provisions of this section, and process may be served
in any other district. The district courts of the
United States shall have jurisdiction over actions
brought under this section by the Secretary without
regard to the amount in controversy.

“(3) CRIMINAL PENALTY.—Any person who—

“(A) hires for employment any individual
in the United States in any capacity who such
person knows not to be authorized to work in
the United States in such capacity; or

“(B) hires for employment any individual
in the United States and fails to comply with
the procedures prescribed by the Secretary pur-
suant to section 5(b) in connection with the hir-
ing of such individual;

shall upon conviction be fined in accordance with
title 18, United States Code, or imprisoned for not
more than 1 year for each such offense (not to ex-
ceed 5 years for all such offenses), or both.”.

(b) CONFORMING AMENDMENTS.—Section 274A of
the Immigration and Nationality Act (8 U.S.C. 1324a) is
amended—
(1) in subsection (g)(2), by striking “hearing under subsection (e),” and inserting “hearing,”;
(2) by striking subsection (f); and
(3) by redesignating subsections (e), (g), and (h) as subsections (d), (e), and (f), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this title and shall apply to employment of any individual in any capacity commencing on or after such effective date.

SEC. 406. INCREASE IN PERSONNEL ENSURING COMPLIANCE WITH PROHIBITIONS ON UNLAWFUL EMPLOYMENT OF ALIENS.

Beginning with first fiscal year that begins after the date of the enactment of this Act, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 10,000 the number of positions within the Department of Homeland Security for full-time personnel charged with carrying out section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 405 of this title, above the number of such positions for which funds were made available for fiscal year 2004.
SEC. 407. INTEGRATION OF FINGERPRINTING DATABASES.

The Secretary of Homeland Security and the Attorney General of the United States shall jointly undertake to integrate the fingerprint database maintained by the Department of Homeland Security with the fingerprint database maintained by the Federal Bureau of Investigation. The integration of databases pursuant to this section shall be completed not later than 2 years after the date of the enactment of this title.

SEC. 408. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DEPARTMENT OF HOMELAND SECURITY.—Except as otherwise provided in this title, there are authorized to be appropriated to the Department of Homeland Security for each fiscal year beginning with the first fiscal year that begins after the date of the enactment of this Act, such sums as may be necessary to carry out this title and the amendments made by this title, of which not less than $100,000,000 shall be for the purpose of carrying out section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 406 of this title.

(b) SOCIAL SECURITY ADMINISTRATION.—There are authorized to be appropriated to the Social Security Administration for each fiscal year beginning with the first fiscal year that begins after the date of the enactment of
this Act, such sums as are necessary to carry out the amendments made by section 403.

SEC. 409. RULES OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this title shall be construed—

(1) to require the presentation of a Social Security card for any purpose other than—

(A) for the administration and enforcement of the Social Security laws of the United States; or

(B) for the purpose of implementing and enforcing this title and the amendments made by this title; or

(2) to require the Social Security card to be carried by an individual.

(b) NO NATIONAL IDENTIFICATION CARD.—It is the policy of the United States that the Social Security card shall not be used as a national identification card.

TITLE V—SECURE IDENTIFICATION STANDARDS

SEC. 501. PROHIBITION ON ACCEPTANCE OF IDENTIFICATION ISSUED BY FOREIGN GOVERNMENTS.

(a) IN GENERAL.—A Federal agency may not accept, for any official purpose, an identification document for an
individual if the identification document is issued by a foreign government.

(b) Exception.—If a passport issued by a foreign government is authorized by Federal law to be accepted for a specific official purpose on the date of the enactment of this title, subsection (a) shall not be construed to affect such authorization.

(c) Definition.—For purposes of this section, the term “Federal agency” means—

(1) an Executive agency (as defined in section 105 of title 5, United States Code);
(2) a military department (as defined in section 102 of title 5, United States Code);
(3) an office, agency, or other establishment in the legislative branch of the Government of the United States;
(4) an office, agency, or other establishment in the judicial branch of the Government of the United States; and
(5) the government of the District of Columbia.
SEC. 502. FOREIGN-ISSUED FORMS OF IDENTIFICATION PROHIBITED AS PROOF OF IDENTITY TO OPEN ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(l) of title 31, United States Code (relating to identification and verification of accountholders) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) Prohibition on use of identification issued by a foreign government.—A financial institution may not accept any form of identification that was issued by a foreign government, other than a passport, for use in verifying the identity of a person in connection with the opening of an account by such person at the financial institution, including a matricula consular issued in the United States by a duly authorized consular officer of the Government of Mexico.”.

SEC. 503. IDENTIFICATION STANDARD FOR FEDERAL BENEFITS.

(a) Federal Agencies.—No department, agency, commission, other entity, or employee of the Federal Government may accept, recognize, or rely on (or authorize
the acceptance or recognition of or reliance on) for the purpose of establishing identity any document except those described in subsection (c).

(b) STATE AND LOCAL AGENCIES.—No department, agency, commission, other entity, or employee of a State or local government charged with providing or approving applications for public benefits or services funded in whole or in part with Federal funds may accept, recognize, or rely on (or authorize the acceptance or recognition of or reliance on) for the purpose of establishing identity any document except those described in subsection (c).

(c) DOCUMENTS DESCRIBED.—Documents described in this subsection are limited to—

(1)(A) Valid, unexpired United States passports, immigration documents, and other identity documents issued by a Federal authority.

(B) Individual taxpayer identification numbers issued by the Internal Revenue Service shall not be considered identity documents for purposes of subparagraph (A).

(2) Valid, unexpired identity documents issued by a State or local authority if—

(A) the State or local authority statutorily bars issuance of such identity documents to
aliens unlawfully present in the United States;
and

(B) the State or local authority requires independent verification of records provided by the applicant in support of the application for such identity documents.

(3) Valid, unexpired foreign passports, if such passports include or are accompanied by proof of lawful presence in the United States.

SEC. 504. CHANGE IN FORMAT OF INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITINS).

Notwithstanding any other provision of law, the Secretary of the Treasury shall, not later than one year after the date of the enactment of this Act, modify the format of Individual Taxpayer Identification Numbers (ITINs) in a manner so that they no longer resemble social security account numbers.

SEC. 505. SHARING ITIN-RELATED INFORMATION.

Notwithstanding any other provision of law, the Commissioner of Internal Revenue is authorized to, and shall, share with the Secretary of Homeland Security the names and addresses of individuals with assigned Individual Taxpayer Identification Numbers as the Secretary may certify as necessary for the enforcement of Federal immigration laws.
SEC. 506. BIRTH CERTIFICATES.

(a) Applicability of Minimum Standards to Local Governments.—The minimum standards in this section applicable to birth certificates issued by a State shall also apply to birth certificates issued by a local government in the State. It shall be the responsibility of the State to ensure that local governments in the State comply with the minimum standards.

(b) Minimum Standards for Federal Recognition.—

   (1) Minimum standards for federal use.—

      (A) In general.—Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, a birth certificate issued by a State to any person unless the State is meeting the requirements of this section.

      (B) State certifications.—The Secretary of Homeland Security shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Sec-
retary of Health and Human Services, may pre-
scribe by regulation.

(2) Minimum Document Standards.—To
meet the requirements of this section, a State shall
include, on each birth certificate issued to a person
by the State, the use of safety paper, the seal of the
issuing custodian of record, and such other features
as the Secretary of Homeland Security may deter-
mine necessary to prevent tampering, counterfeiting,
and otherwise duplicating the birth certificate for
fraudulent purposes. The Secretary may not require
a single design to which birth certificates issued by
all States must conform.

(3) Minimum Issuance Standards.—

(A) In General.—To meet the require-
ments of this section, a State shall require and
verify the following information from the re-
questor before issuing an authenticated copy of
a birth certificate:

   (i) The name on the birth certificate.

   (ii) The date and location of the birth.

   (iii) The mother’s maiden name.

   (iv) Substantial proof of the reques-
tor’s identity.
(B) Issuance to Persons Not Named on Birth Certificate.—To meet the requirements of this section, in the case of a request by a person who is not named on the birth certificate, a State must require the presentation of legal authorization to request the birth certificate before issuance.

(C) Issuance to Family Members.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the States, shall establish minimum standards for issuance of a birth certificate to specific family members, their authorized representatives, and others who demonstrate that the certificate is needed for the protection of the requestor’s personal or property rights.

(D) Waivers.—A State may waive the requirements set forth in clauses (i) through (iii) of subparagraph (A) in exceptional circumstances, such as the incapacitation of the registrant.

(E) Applications by Electronic Means.—To meet the requirements of this sec-
tion, for applications by electronic means, through the mail or by phone or fax, a State shall employ third party verification, or equivalent verification, of the identity of the requestor.

(F) Verification of Documents.—To meet the requirements of this section, a State shall verify the documents used to provide proof of identity of the requestor.

(4) Other Requirements.—To meet the requirements of this section, a State shall adopt, at a minimum, the following practices in the issuance and administration of birth certificates:

(A) Establish and implement minimum building security standards for State and local vital record offices.

(B) Restrict public access to birth certificates and information gathered in the issuance process to ensure that access is restricted to entities with which the State has a binding privacy protection agreement.

(C) Subject all persons with access to vital records to appropriate security clearance requirements.
(D) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance process.

(E) Establish and implement internal operating system standards for paper and for electronic systems.

(F) Establish a central database that can provide interoperative data exchange with other States and with Federal agencies, subject to privacy restrictions and confirmation of the authority and identity of the requestor.

(G) Ensure that birth and death records are matched in a comprehensive and timely manner, and that all electronic birth records and paper birth certificates of decedents are marked “deceased”.

(H) Cooperate with the Secretary of Homeland Security in the implementation of electronic verification of vital events under subsection (d).

(c) Establishment of Electronic Birth and Death Registration Systems.—In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary of Homeland Security shall take the following actions:
(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.

(6) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.
(7) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the Social Security Administration, regarding births and deaths of United States citizens abroad.

(8) Not later than 3 years after the date of establishment of databases provided for under this section, require States to record and retain electronic records of pertinent identification information collected from requestors who are not the registrants.

(9) Not later than 6 months after the date of the enactment of this Act, submit to Congress, a report on whether there is a need for Federal laws to address penalties for fraud and misuse of vital records and whether violations are sufficiently enforced.

(d) ELECTRONIC VERIFICATION OF VITAL EVENTS.—

(1) LEAD AGENCY.—The Secretary of Homeland Security shall lead the implementation of electronic verification of a person’s birth and death.

(2) REGULATIONS.—In carrying out paragraph (1), the Secretary shall issue regulations to establish a means by which authorized Federal and State
agency users with a single interface will be able to
generate an electronic query to any participating
vital records jurisdiction throughout the United
States to verify the contents of a paper birth certifi-
cate. Pursuant to the regulations, an electronic re-
response from the participating vital records jurisdic-
tion as to whether there is a birth record in their
database that matches the paper birth certificate will
be returned to the user, along with an indication if
the matching birth record has been flagged “de-
ceased”. The regulations shall take effect not later
than 5 years after the date of the enactment of this
Act.

(e) Grants to States.—

(1) In general.—The Secretary of Homeland
Security may make grants to States to assist the
States in conforming to the minimum standards set
forth in this section.

(2) Authorization of Appropriations.—
There are authorized to be appropriated to the Sec-
retary of Homeland Security for each of the fiscal
years 2006 through 2009 such sums as may be nec-
essary to carry out this section.

(f) Authority.—
(1) Participation with federal agencies and 25 states.—All authority to issue regulations, certify standards, and issue grants under this section shall be carried out by the Secretary of Homeland Security, with the concurrence of the Secretary of Health and Human Services and in consultation with State vital statistics offices and appropriate Federal agencies.

(2) Extensions of deadlines.—The Secretary of Homeland Security may grant to a State an extension of time to meet the requirements of subsection (b)(1)(A) if the State provides adequate justification for noncompliance.

(g) Repeal.—Section 7211 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

TITLE VI—REFORM OF LEGAL IMMIGRATION

SEC. 601. INCREASE IN EMPLOYMENT BASED VISAS.

Notwithstanding any other provision of law, the number of employment-based visas made available under sections 201(d) and 203(b) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1153(b)) for each fiscal year (beginning with the first fiscal year beginning after the
date of the enactment of this Act) is hereby increased by 120,000.

SEC. 602. INCREASE IN CAP ON UNSKILLED WORKERS.

(a) In General.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(B)) is amended by striking “10,000” and inserting “20,000”.

(b) Effective Date.—The amendments made by subsection (a) shall apply for visa numbers for fiscal years beginning with the first fiscal year beginning after the date of the enactment of this Act.

SEC. 603. ELIMINATION OF FAMILY 4TH PREFERENCE VISA CATEGORY FOR ADULT SIBLINGS OF CITIZENS.

(a) In General.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

(1) in paragraph (1), by striking “paragraph (4)” and inserting “paragraph (3)”;

(2) by striking paragraph (4).

(b) Conforming Amendments.—(1) Section 201(c)(1)(A)(i) of such Act (8 U.S.C. 1151(c)(1)(A)(i)) is amended by striking “480,000” and inserting “415,000”.

(2) Section 204(a)(1)(A)(i) of such Act (8 U.S.C. 1154(a)(1)(A)(i)) is amended by striking “(1), (3), or (4)” and inserting “(1) or (3)”. 

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(3) Section 212(d)(11) of such Act (8 U.S.C. 1182(d)(11)) is amended by striking “(other than paragraph (4) thereof)”.

effective date.—The amendments made by this section shall apply for visa numbers for fiscal years beginning with the first fiscal year beginning after the date of the enactment of this Act.

SEC. 604. 3-YEAR MORATORIUM ON IMMIGRANT VISAS FOR MEXICAN NATIONALS.

Notwithstanding any other provision of law, no native of Mexico (as determined for purposes of section 202(b) of the Immigration and Nationality Act) shall be eligible for an immigrant visa under section 203(a) or 203(b) of such Act for any of the 3 fiscal years beginning with the first fiscal year that begins after the date of the enactment of this Act.

SEC. 605. LIMITATION ON NUMBER OF FAMILY-SPONSORED IMMIGRANT VISAS FROM MEXICO.

Notwithstanding any other provision of law, the number of immigrant visas that may be issued to natives of Mexico under section 203(a) of the Immigration and Nationality Act in any fiscal year (beginning with the fiscal year after the last fiscal year in which section 604 applies) may not exceed 50,000.
SEC. 606. ELIMINATION OF DIVERSITY LOTTERY VISA CATEGORY.

(a) In General.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking subsection (c).

(b) Conforming Amendments.—

(1) Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(A) in subsection (a)—

(i) by adding “and” at the end of paragraph (1);

(ii) by striking “; and” at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3); and

(B) by striking subsection (e).

(2) Section 203 of such Act (8 U.S.C. 1153) is amended—

(A) in subsections (d) and (h)(2)(B), by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”; and

(B) in subsection (g), by striking “subsections (a), (b), and (e)” and inserting “subsections (a) and (b)”.

(3) Section 204(a)(1) of such Act (8 U.S.C. 1154(a)(1)) is amended by striking subparagraph (I).
(c) Effective Date.—The amendments made by this section shall apply for visa numbers for fiscal years beginning with the first fiscal year beginning after the date of the enactment of this Act.

SEC. 607. ANNUAL REPORT ON PROJECTED JOB CREATION AND FOREIGN LABOR DEMAND.

The Secretary of Labor shall submit to Congress, not later than April 1 of each year (beginning with 2006), a report on projected job creation in the United States and the demand for both immigrant and nonimmigrant foreign laborers over each of the succeeding five fiscal years.

SEC. 608. VISA TERM COMPLIANCE BONDS.

(a) Definitions.—For purposes of this section:

(1) Visa term compliance bond.—The term “visa term compliance bond” means a written suretyship undertaking entered into by an alien individual seeking admission to the United States of America on a nonimmigrant visa whose performance is guaranteed by a bail agent.

(2) Suretyship undertaking.—The term “suretyship undertaking” means a written agreement, executed by a bail agent, which binds all parties to its certain terms and conditions and which provides obligations for the visa applicant while
under the bond and penalties for forfeiture to ensure
the obligations of the principal under the agreement.

(3) BAIL AGENT.—The term “bail agent”
means any individual properly licensed, approved,
and appointed by power of attorney to execute or
countersign bail bonds in connection with judicial
proceedings and who receives a premium.

(4) SURETY.—The term “surety” means an en-
tity, as defined by, and that is in compliance with,
sections 9304 through 9308 of title 31, United
States Code, that agrees—

(A) to guarantee the performance, where
appropriate, of the principal under a visa term
compliance bond;

(B) to perform as required in the event of
a forfeiture; and

(C) to pay over the principal (penal) sum
of the bond for failure to perform.

(b) ISSUANCE OF BOND.—A consular officer may re-
quire an applicant for a nonimmigrant visa, as a condition
for granting such application, to obtain a visa term com-
pliance bond.

(e) VALIDITY, EXPIRATION, RENEWAL, AND CAN-
cellation of Bonds.—
(1) VALIDITY.—A visa term compliance bond undertaking is valid if it—

(A) states the full, correct, and proper name of the alien principal;

(B) states the amount of the bond;

(C) is guaranteed by a surety and countersigned by an attorney-in-fact who is properly appointed;

(D) is an original signed document;

(E) is filed with the Secretary of Homeland Security along with the original application for a visa; and

(F) is not executed by electronic means.

(2) EXPIRATION.—A visa term compliance bond undertaking shall expire at the earliest of—

(A) 1 year from the date of issue;

(B) at the expiration, cancellation, or surrender of the visa; or

(C) immediately upon nonpayment of the premium.

(3) RENEWAL.—The bond may be renewed—

(A) annually with payment of proper premium at the option of the bail agent or surety; and
(B) provided there has been no breech of
conditions, default, claim, or forfeiture of the
bond.

(4) CANCELLATION.—The bond shall be can-
celed and the surety and bail agent exonerated—

(A) for nonrenewal;

(B) if the surety or bail agent provides
reasonable evidence that there was misrepresen-
tation or fraud in the application for the bond;

(C) upon termination of the visa;

(D) upon death, incarceration of the prin-
cipal, or the inability of the surety to produce
the principal for medical reasons;

(E) if the principal is detained in any city,
State, country, or political subdivision thereof;

(F) if the principal departs from the
United States of America for any reason with-
out permission of the Secretary of Homeland
Security and the surety or bail agent; or

(G) if the principal is surrendered by the
surety.

(5) EFFECT OF EXPIRATION OR CANCELLA-
tion.—When a visa term compliance bond expires
without being immediately renewed, or is canceled,
the nonimmigrant status of the alien shall be re-
voked immediately.

(6) SURRENDER OF PRINCIPAL; FORFEITURE
OF BOND PREMIUM.—

(A) SURRENDER.—At any time before a
breach of any of the conditions of the bond, the
surety or bail agent may surrender the prin-
cipal, or the principal may surrender, to any of-
office or facility of the Department of Homeland
Security charged with immigration enforcement
or border protection.

(B) FORFEITURE OF BOND PREMIUM.—A
principal may be surrendered without the re-
turn of any bond premium if the visa holder—

(i) changes address without notifying
the surety or bail agent and the Secretary
of Homeland Security in writing at least
60 days prior to such change;

(ii) changes schools, jobs, or occupa-
tions without written permission of the
surety, bail agent, and the Secretary;

(iii) conceals himself or herself;

(iv) fails to report to the Secretary as
required at least annually; or
(v) violates the contract with the bail agent or surety, commits any act that may lead to a breach of the bond, or otherwise violates any other obligation or condition of the visa established by the Secretary.

(7) CERTIFIED COPY OF UNDERTAKING OR WARRANT TO ACCOMPANY SURRENDER.—

(A) IN GENERAL.—A person desiring to make a surrender of the visa holder—

(i) shall have the right to petition any Federal court for an arrest warrant for the arrest of the visa holder;

(ii) shall forthwith be provided a certified copy of the arrest warrant and the undertaking; and

(iii) shall have the right to pursue, apprehend, detain, and deliver the visa holder, together with the certified copy of the arrest warrant and the undertaking, to any official or facility of the Department of Homeland Security charged with immigration enforcement or border protection or any detention facility authorized to hold Federal detainees.
(B) Effects of delivery.—Upon delivery of a person under subparagraph (A)(iii)—

(i) the official to whom the delivery is made shall detain the visa holder in custody and issue a written certificate of surrender; and

(ii) the court issuing the warrant described in subparagraph (A)(i) and the Secretary of Homeland Security shall immediately exonerate the surety and bail agent from any further liability on the bond.

(8) Form of bond.—A visa term compliance bond shall in all cases state the following and be secured by a surety:

(A) Breach of bond; procedure, forfeiture, notice.—

(i) If a visa holder violates any conditions of the visa or the visa bond the Secretary of Homeland Security shall—

(I) order the visa canceled;

(II) immediately obtain a warrant for the visa holder’s arrest;

(III) order the bail agent and surety to take the visa holder into
custody and surrender the visa holder
to the Secretary; and

(IV) mail notice to the bail agent
and surety via certified mail return
receipt at each of the addresses in the
bond.

(ii) A bail agent or surety shall have
full and complete access to any and all in-
formation, electronic or otherwise, in the
care, custody, and control of the United
States Government or any State or local
government or any subsidiary or police
agency thereof regarding the visa holder
needed to comply with section 304 of the
Securing America’s Future through En-
forcement Reform Act of 2005 that the
court issuing the warrant believes is crucial
in locating the visa holder.

(iii) If the visa holder is later ar-
rested, detained, or otherwise located out-
side the United States and the outlying
possessions of the United States (as de-
defined in section 101(a) of the Immigration
and Nationality Act), the Secretary of
Homeland Security shall—
(I) order that the bail agent and
surety are completely exonerated, and
the bond canceled and terminated;
and

(II) if the Secretary has issued
an order under clause (i), the surety
may request, by written, properly filed
motion, reinstatement of the bond.
This subclause may not be construed
to prevent the Secretary from revok-
ing or resetting a higher bond.

(iv) The bail agent or surety must—

(I) produce the visa bond holder;
or

(II)(aa) prove within 180 days
that producing the bond holder was
prevented—

(bb) by the bond holder’s ill-
ness or death;

(cc) because the bond holder
is detained in custody in any city,
State, country, or political sub-
division thereof;

(dd) because the bond holder
has left the United States or its
outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

(ee) because required notice was not given to the bail agent or surety; and

(ff) prove within 180 days that the inability to produce the bond holder was not with the consent or connivance of the bail agent or sureties.

(v) If the bail agent or surety does not comply with the terms of this bond within 60 days after the mailing of the notice required under subparagraph (A)(i)(IV), a portion of the face value of the bond shall be assessed as a penalty against the surety.

(vi) If compliance occurs more than 60 days but no more than 90 days after the mailing of the notice, the amount assessed shall be one-third of the face value of the bond.

(vii) If compliance occurs more than 90 days, but no more than 180 days, after
the mailing of the notice, the amount assessed shall be two-thirds of the face value of the bond.

(viii) If compliance does not occur within 180 days after the mailing of the notice, the amount assessed shall be 100 percent of the face value of the bond.

(ix) All penalty fees shall be paid by the surety within 45 days after the end of such 180-day period.

(B) The Secretary of Homeland Security may waive the penalty fees or extend the period for payment or both, if—

(i) a written request is filed with the Secretary; and

(ii) the bail agent or surety provides evidence satisfactory to the Secretary that diligent efforts were made to effect compliance of the visa holder.

(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

(i) COMPLIANCE.—The bail agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any visa holder, wherever he or she
may be found, who violates any of the terms and conditions of the visa or bond.

(ii) Exoneration.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

(iii) Limitation of Liability.—The total liability on any undertaking shall not exceed the face amount of the bond.

SEC. 609. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) In General.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

“(2) subject to section 241(a)(8), may release the alien on bond of at least $10,000, with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security, but the Secretary shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds that the alien is not a flight risk and is not a threat to the United States; and”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.
SEC. 610. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

(a) In General.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

“(8) Effect of Production of Alien by Bondsman.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to all immigration bonds posted before, on, or after such date.
TITLE VII—CITIZENSHIP REFORM

SEC. 701. CITIZENSHIP AT BIRTH FOR CHILDREN OF NON-CITIZEN, NON-PERMANENT RESIDENT ALIENS.

(a) In General.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by inserting after subsection (c) the following new subsection:

“(d) For purposes of section 301(a), a person born in the United States shall be considered as ‘subject to the jurisdiction of the United States’ if—

“(1) the child was born in wedlock in the United States to a parent either of whom is (A) a citizen or national of the United States, or (B) an alien who is lawfully admitted for permanent residence and maintains his or her residence (as defined in subsection (a)(33)) in the United States; or

“(2) the child was born out of wedlock in the United States to a mother who is (A) a citizen or national of the United States, or (B) an alien who is lawfully admitted for permanent residence and maintains her residence in the United States.

For purposes of this subsection, a child is considered to be ‘born in wedlock’ only if both parents are married to

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each other and parents are not considered to be married
if such marriage is only a common law marriage.”.

(b) CONFORMING AMENDMENT.—Section 301 of
such Act (8 U.S.C. 1401) is amended by inserting “(as
defined in section 101(d))” after “subject to the jurisdi-
tion thereof”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to aliens born on or after the date
of the enactment of this Act.

SEC. 702. SANCTIONS FOR ACTS VIOLATING THE OATH OF

RENUNCIATION AND ALLEGIANCE..

(a) IN GENERAL.—Subject to subsection (b), each of
the following acts performed by a naturalized citizen of
the United States is deemed a violation of the Oath of
Renunciation and Allegiance that was taken voluntarily by
the citizen and are subject to a fine of $10,000, imprison-
ment for one year, or both:

(1) Voting in an election of the foreign state in
which the persons were previously a subject or cit-
izen.

(2) Running for elective office of the foreign
state in which the persons were previously a subject
or citizen.

(3) Serving in any government body (executive,
legislative, or judicial, national, provincial, or local)
of the foreign state in which the persons were previously a subject or citizen.

(4) Using the passport of the foreign state in which the persons were previously a subject or citizen.

(5) Taking an oath of allegiance to the foreign state in which the persons were previously a subject or citizen.

(6) Serving in the armed forces of the foreign state in which the persons were previously a subject or citizen.

(b) EXCEPTION AUTHORITY.—In exceptional cases a naturalized citizen may obtain a waiver and exemption from the sanction imposed by subsection (a) with respect to an act if the Secretary of State (or in the case of an act described in subsection (a)(6), the Secretary of Defense) determines that the act is in the national interest of the United States. Such waivers shall be granted in advance on a case-by-case basis by the Secretary involved.

(c) INFORMING APPLICANTS FOR CITIZENSHIP THAT THE UNITED STATES CONCERNING SANCTIONS.—The Secretary of Homeland Security shall inform applicants for United States citizenship of the provisions of this section and shall incorporate knowledge and understanding
of these provisions into the history and government test that applicants are required to complete for citizenship.

(d) Effective Date.—Subsection (a) shall apply to acts performed on or after the date of the enactment of this Act.

**SEC. 703. POLICY OF DISCOURAGEMENT OF DUAL/MULTIPLE CITIZENSHIP.**

The Secretary of State shall revise the 1990 memoranda and directives on dual citizenship and dual nationality and return to the traditional policy of the Department of State of viewing dual/multiple citizenship as problematic and as something to be discouraged not encouraged.

**SEC. 704. INFORMING BIRTH NATIONS OF THEIR PREVIOUS CITIZENS’ NEW STATUS AS AMERICAN CITIZENS.**

(a) In General.—In the case of an individual who formerly a native of a foreign state and who is naturalized as a citizen of the United States, the Secretary of State shall provide for notice to consular officials of such foreign state—

(1) of the fact of such naturalization and that such individual is no longer subject to that state’s jurisdiction; and
(2) that the United States rejects the doctrine “perpetual allegiance”.

(b) EFFECTIVE DATE.—Subsection (a) applies to individuals naturalized on or after the date of the enactment of this Act.

TITLE VIII—WAGES PAID TO UNAUTHORIZED ALIENS

SEC. 801. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.

(a) IN GENERAL.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

“(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

“(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

“(B) WAGES.—For the purposes of this paragraph, the term ‘wages’ means all remuneration for employment, including the cash
value of all remuneration (including benefits) paid in any medium other than cash.

“(C) SAFE HARBOR.—If a person or other entity is participating in the basic pilot program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.”.

(b) 6-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of such Code (relating to exceptions) is amended by adding at the end the following new paragraph:

“(10) DEDUCTION CLAIMED FOR WAGES PAID TO UNAUTHORIZED ALIENS.—In the case of a return of tax on which a deduction is shown in violation of section 162(c)(4), any tax under chapter 1 may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”.
(c) Use of Documentation for Enforcement Purposes.—Section 274A of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended—

(1) in subparagraph (b)(5), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this chapter”;

(2) in subparagraph (d)(2)(F), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this chapter”; and

(3) in subparagraph (d)(2)(G), by inserting “section 162(c)(4) of the Internal Revenue Code of 1986 or” after “or enforcement of”.

(d) Availability of Information.—The Commissioner of Social Security shall make available to the Commissioner of Internal Revenue any information related to the investigation and enforcement of section 162(c)(4) of the Internal Revenue Code of 1986, including any no-match letter and any information in the suspense earnings file.

(e) Effective Date.—

(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.
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(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2005.