To reduce the number of visa overstays and to ensure that illegal aliens are apprehended, detained, and removed as rapidly as possible.

---

A BILL

To reduce the number of visa overstays and to ensure that illegal aliens are apprehended, detained, and removed as rapidly as possible.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Secure Our Nation’s

5 Interior Act of 2005”.

---

IN THE HOUSE OF REPRESENTATIVES

October 19, 2005

Mr. SULLIVAN (for himself, Mr. BURTON of Indiana, Mr. TANCREDO, Mr. HAYWORTH, Mr. GOODE, Mr. JONES of North Carolina, Mr. Hefley, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, 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.
SEC. 2. EXPEDITED REMOVAL.

Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

“(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 1-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless—

“(I) the alien has been charged with a crime, is in criminal proceedings, or is serving a criminal sentence; or
“(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the officer determines that the alien has been physically present in the United States for less than 1 year.

“(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who is described in clause (i), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.”.

SEC. 3. CLARIFICATION OF INHERENT AUTHORITY OF STATE AND LOCAL LAW ENFORCEMENT.

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 apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the enforcement of the immigration laws of the United States. This State authority has never been displaced or preempted by Congress.

SEC. 4. DEPARTMENT OF HOMELAND SECURITY RESPONSE TO REQUESTS FOR ASSISTANCE FROM STATE AND LOCAL LAW ENFORCEMENT.

(a) In General.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following:

“CUSTODY OF ILLEGAL ALIENS

“SEC. 240D. (a) In General.—If the Governor of a State (or, if appropriate, a political subdivision of the State), exercising authority with respect to the apprehension of an illegal alien, submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary

“(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, 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 a 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. The Secretary of Homeland Security may enter into contracts with appropriate State and local law enforcement, private entities, and detention officials to implement this subsection.

“(b) Reimbursement to States and Localities.—The Secretary of Homeland Security shall reimburse States and localities for all reasonable expenses, as determined by the Secretary, incurred by a State or locality 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 subparagraphs (A) and (B) of subsection (a)(1) 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.

“(c) Incarceration of Illegal Aliens.—The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide an appropriate level of security.

“(d) Transfer of Illegal Aliens.—

“(1) In General.—In carrying out this section, the Secretary of Homeland Security may 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) Agreements.—The Secretary of Homeland Security may enter into contracts with appropriate State and local law enforcement, private entities, and detention officials to implement this subsection.

“(e) Definition.—For purposes of this section, the term ‘illegal alien’ means an alien who entered the United States without inspection or at any time or place other
than that designated by the Secretary of Homeland Secu-

3 SEC. 5. UNIVERSAL PROCESSING THROUGH THE AUTO-

MATED ENTRY-EXIT CONTROL SYSTEM.

(a) RECORD OF ENTRY AND EXIT.—Subsection (a)

of section 110 of the Illegal Immigration Reform and Im-


is amended—

(1) by redesignating paragraphs (1) and (2) as

paragraphs (2) and (4), respectively;

(2) by inserting before paragraph (2) (as so re-

designated), the following new paragraph:

“(1) collect and maintain a record of each ad-

mission for every alien arriving in the United

States;”; and

(3) in paragraph (2) (as so redesignated)—

(A) by striking “(1) collect a record of”

and inserting “(1) collect and maintain a record

of each”;

(B) by striking the “and” at the end; and

(C) by inserting after paragraph (2) (as so

redesignated), the following:

“(3) verify the identity of every arriving and de-

parting alien by comparing in real time the biomet-

ric identifier on such alien’s travel or entry docu-
ment or passport with the arriving or departing alien; and’.

(b) INSPECTION.—

(1) Paragraph (3) of section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended to read as follows:

“(3) INSPECTION.—

“(A) IN GENERAL.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

“(B) PROCESSING THROUGH ENTRY-EXIT SYSTEM.—Notwithstanding any other provision of law and subject to clauses (i) and (ii), no alien may be admitted to the United States unless such alien has been processed through the automated entry-exit control system required by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act (8 U.S.C. 1221 note).”.

(2) Paragraph (1) shall apply to all aliens seeking admission or readmission on or after December 31, 2006.
(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress detailing the additional resources, including machine readers and personnel, that are needed at each port of entry, based on recent and anticipated volumes of admissions at such ports of entry, to fully implement subsection (b).