

109TH CONGRESS  
1ST SESSION

# S. 1916

To strengthen national security and United States borders, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2005

Mr. HAGEL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To strengthen national security and United States borders, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Strengthening America’s Security Act of 2005”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Border enforcement studies.
- Sec. 3. Necessary assets for controlling United States borders.
- Sec. 4. Document fraud detection.
- Sec. 5. Report.
- Sec. 6. Biometric entry-exit system.
- Sec. 7. Expedited removal between ports of entry.

- Sec. 8. Cancellation of visas.
- Sec. 9. Release of aliens from noncontiguous countries.
- Sec. 10. Reducing illegal immigration and alien smuggling on tribal lands.
- Sec. 11. Detention space and removal capacity.
- Sec. 12. Increased criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.
- Sec. 13. Removal of aliens.
- Sec. 14. Additional immigration personnel.
- Sec. 15. Automated alien records.
- Sec. 16. Increase of Federal detention space.
- Sec. 17. State Criminal Alien Assistance Program.
- Sec. 18. Construction.
- Sec. 19. State defined.

1 **SEC. 2. BORDER ENFORCEMENT STUDIES.**

2 (a) SUBTERRANEAN ENTRY.—

3 (1) STUDY.—The Secretary of Homeland Secu-  
 4 rity and the head of the United States Army Corps  
 5 of Engineers shall carry out a joint study on meth-  
 6 ods to prevent aliens from illegally entering the  
 7 United States through subterranean tunnels along  
 8 the international border between the United States  
 9 and Mexico and the cost, utility, and effectiveness of  
 10 employing such methods for border security.

11 (2) REPORT.—Not later than 180 days after  
 12 the date of enactment of this Act, the Secretary of  
 13 Homeland Security and the head of the United  
 14 States Army Corps of Engineers shall submit to  
 15 Congress the results of the study required by para-  
 16 graph (1).

17 (b) BARRIERS FOR LAND CROSSINGS.—

18 (1) STUDY.—The Secretary of Homeland Secu-  
 19 rity shall carry out a study of the feasibility and ef-

1       fectiveness of completing primary and secondary  
2       fences along the international border between the  
3       United States and Mexico and the cost and utility  
4       of employing such fences for border security.

5           (2) REPORT.—Not later than 180 days after  
6       the date of enactment of this Act, the Secretary of  
7       Homeland Security shall submit to Congress the re-  
8       sults of the study required by paragraph (1).

9       **SEC. 3. NECESSARY ASSETS FOR CONTROLLING UNITED**  
10           **STATES BORDERS.**

11       (a) PERSONNEL.—

12           (1) CUSTOMS AND BORDER PROTECTION OFFI-  
13       CERS.—In each of the fiscal years 2006 through  
14       2010, the Secretary of Homeland Security shall in-  
15       crease by not less than 250 the number of positions  
16       for full-time active duty Customs and Border Pro-  
17       tection officers.

18           (2) AUTHORIZATION OF APPROPRIATIONS.—

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

24           (B) BORDER PATROL AGENTS.—There are  
25       authorized to be appropriated such sums as

1           may be necessary for each of fiscal years 2006  
2           through 2010 to carry out section 5202 of the  
3           Intelligence Reform and Terrorism Prevention  
4           Act of 2004 (118 Stat. 3734).

5           (C) TRANSPORTATION OF ALIENS.—There  
6           are authorized to be appropriated such sums as  
7           may be necessary for each of fiscal years 2006  
8           through 2010 for the transportation of aliens.

9           (b) TECHNOLOGICAL ASSETS.—

10           (1) ACQUISITION.—The Secretary of Homeland  
11           Security shall procure unmanned aerial vehicles,  
12           cameras, poles, sensors, and other technologies nec-  
13           essary to achieve operational control of the borders  
14           of the United States.

15           (2) AUTHORIZATION OF APPROPRIATIONS.—  
16           There are authorized to be appropriated such sums  
17           as may be necessary for each of fiscal years 2006  
18           through 2010 to carry out paragraph (1).

19           (c) INFRASTRUCTURE.—

20           (1) CONSTRUCTION OF BORDER CONTROL FA-  
21           CILITIES.—The Secretary of Homeland Security  
22           shall construct all-weather roads and shall acquire  
23           vehicle barriers and necessary facilities to support  
24           its mission of achieving operational control of the  
25           borders of the United States.

1           (2) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated such sums  
3           as may be necessary for each of fiscal years 2006  
4           through 2010 to carry out paragraph (1).

5           (d) BORDER PATROL CHECKPOINTS.—Temporary or  
6           permanent checkpoints may be maintained on roadways  
7           in border patrol sectors within 100 miles of the border  
8           between the United States and Mexico.

9   **SEC. 4. DOCUMENT FRAUD DETECTION.**

10          (a) TRAINING.—The Secretary of Homeland Security  
11          shall provide all customs and border protection officers  
12          with training in identifying and detecting fraudulent travel  
13          documents. Such training shall be developed in consulta-  
14          tion with the Forensic Document Laboratory of Immigra-  
15          tion and Customs Enforcement.

16          (b) FORENSIC DOCUMENT LABORATORY.—The Sec-  
17          retary of Homeland Security shall provide all customs and  
18          border protection officers with access to the Forensic Doc-  
19          ument Laboratory.

20          (c) REPORT AND ASSESSMENT.—

21                 (1) REPORT.—Not later than 1 year after the  
22                 effective date of this Act, and annually through  
23                 2010, the Secretary of Homeland Security shall sub-  
24                 mit a report to the Office of the Inspector General  
25                 regarding the accuracy and reliability of the Foren-

1 sic Document Laboratory in identifying and detect-  
2 ing fraudulent documents.

3 (2) ASSESSMENT.—The Office of Inspector  
4 General shall conduct an independent assessment of  
5 the accuracy and reliability of the Forensic Docu-  
6 ment Library and submit a report to Congress on  
7 the results of such assessment.

8 (d) RIGHT TO APPELLATE REVIEW.—

9 (1) ESTABLISHMENT OF APPELLATE REVIEW  
10 BOARD.—There is established, within Immigration  
11 and Customs Enforcement Identity and Benefits  
12 Fraud Branch of the Department of Homeland Se-  
13 curity, the Fraud Appellate Review Board, which  
14 shall be authorized to review determinations by the  
15 Forensic Document Laboratory that a certain docu-  
16 ment is fraudulent.

17 (2) RIGHT TO APPEAL.—Any alien against  
18 whom a negative determination is made by the Fo-  
19 rensic Document Laboratory regarding the authen-  
20 ticity of a document may appeal such determination  
21 to the Fraud Appellate Review Board for an inde-  
22 pendent determination of the findings of the Foren-  
23 sic Document Laboratory.

24 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated such sums as may be

1 necessary for each of fiscal years 2006 through 2010 to  
2 carry out this section.

3 **SEC. 5. REPORT.**

4 Not later than October 26, 2007, the Secretary of  
5 Homeland Security shall submit a report to Congress that  
6 describes—

7 (1) the documents that need to be machine-  
8 readable and tamper-resistant and incorporate bio-  
9 metric identifiers;

10 (2) how documents described in paragraph (1)  
11 will meet those standards;

12 (3) the locations at which the Department of  
13 Homeland Security will install document readers;

14 (4) the estimated costs for creating such docu-  
15 ments and installing such readers; and

16 (5) realistic deadlines for issuing machine-read-  
17 able, tamper-resistant documents that incorporate  
18 biometric documents and installing document read-  
19 ers.

20 **SEC. 6. BIOMETRIC ENTRY-EXIT SYSTEM.**

21 (a) **GROUND OF INADMISSIBILITY.**—Section 212 of  
22 the Immigration and Nationality Act (8 U.S.C. 1182) is  
23 amended—

24 (1) in subsection (a)(7), by adding at the end  
25 the following:

1                   “(C) WITHHOLDERS OF BIOMETRIC  
2                   DATA.—Any alien who knowingly fails to com-  
3                   ply with a lawful request for biometric data  
4                   under section 215(c) or 235(d) is inadmis-  
5                   sible.”; and

6                   (2) in subsection (d), by inserting after para-  
7                   graph (1) the following:

8                   “(2) The Secretary of Homeland Security shall deter-  
9                   mine whether a ground for inadmissibility exists with re-  
10                  spect to an alien described in subparagraph (C) subsection  
11                  (a)(7) and may waive the application of such subpara-  
12                  graph, for an individual alien or a class of aliens, at the  
13                  discretion of the Secretary.”.

14                  (b) COLLECTION OF BIOMETRIC DATA FROM ALIENS  
15                  DEPARTING THE UNITED STATES.—Section 215 of the  
16                  Immigration and Nationality Act (8 U.S.C. 1185) is  
17                  amended—

18                  (1) by redesignating subsection (c) as sub-  
19                  section (g); and

20                  (2) by inserting after subsection (b) the fol-  
21                  lowing:

22                  “(c) The Secretary of Homeland Security is author-  
23                  ized to require aliens departing the United States to pro-  
24                  vide biometric data and other information relating to their  
25                  immigration status.”.

1 (c) INSPECTION OF APPLICANTS FOR ADMISSION.—  
2 Section 235(d) of the Immigration and Nationality Act (8  
3 U.S.C. 1185(d)) is amended by adding at the end the fol-  
4 lowing:

5 “(5) AUTHORITY TO COLLECT BIOMETRIC  
6 DATA.—In conducting inspections under subsection  
7 (b), immigration officers are authorized to collect bi-  
8 ometric data from—

9 “(A) any applicant for admission or alien  
10 seeking to transit through the United States; or

11 “(B) any lawful permanent resident who is  
12 entering the United States, but is not regarded  
13 as seeking admission under section  
14 101(a)(13)(C).”.

15 (d) COLLECTION OF BIOMETRIC DATA FROM ALIEN  
16 CREWMAN.—Section 252 of the Immigration and Nation-  
17 ality Act (8 U.S.C. 1282) is amended by inserting “Immi-  
18 gration officers are authorized to collect biometric data  
19 from any alien crewman seeking permission to land tempo-  
20 rarily in the United States.” after “this title.”.

21 (e) IMPLEMENTATION.—Section 7208(l) of the 9/11  
22 Commission Implementation Act of 2004 (8 U.S.C.  
23 1365b(l)) is amended—

24 (1) by striking “There are authorized” and in-  
25 serting the following:

1           “(1) IN GENERAL.—There are authorized”; and  
2           (2) by adding at the end the following:

3           “(2) IMPLEMENTATION AT ALL LAND BORDER  
4 PORTS OF ENTRY.—There are authorized to be ap-  
5 propriated such sums as may be necessary for each  
6 of fiscal years 2006 and 2007 to implement the  
7 automated biometric entry and exit data system at  
8 all land border ports of entry.”.

9 **SEC. 7. EXPEDITED REMOVAL BETWEEN PORTS OF ENTRY.**

10          (a) IN GENERAL.—Section 235 of the Immigration  
11 and Nationality Act (8 U.S.C. 1225) is amended—

12           (1) in subsection (b)(1)(A)(i), by striking “the  
13 officer” and inserting “a supervisory officer”; and

14           (2) in subsection (c), by adding at the end the  
15 following:

16           “(4) EXPANSION.—The Secretary of Homeland  
17 Security shall make the expedited removal proce-  
18 dures under this subsection available in all border  
19 patrol sectors on the southern border of the United  
20 States as soon as operationally possible.

21           “(5) NATIONAL SECURITY CERTIFICATION.—No  
22 alien shall be expeditiously removed until the appro-  
23 priate Director of Field Operations has certified in  
24 writing that expeditious removal of the alien will  
25 pose no security risk to the United States.

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

5           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated \$10,000,000 for each  
7           of fiscal years 2006 through 2010 to carry out the amend-  
8           ments made by this section.

9           **SEC. 8. CANCELLATION OF VISAS.**

10          Section 222(g) of the Immigration and Nationality  
11          Act (8 U.S.C. 1202(g)) is amended—

12                 (1) in paragraph (1), by inserting “and any  
13                 other nonimmigrant visa issued by the United States  
14                 that is in the possession of the alien except upon a  
15                 showing of extraordinary circumstances or in the  
16                 case of technical violations” after “such visa”; and

17                 (2) in paragraph (2)(A), by striking “(other  
18                 than the visa described in paragraph (1)) issued in  
19                 a consular office located in the country of the alien’s  
20                 nationality” and inserting “(other than a visa de-  
21                 scribed in paragraph (1)) issued in a consular office  
22                 located in the country of the alien’s nationality or  
23                 foreign residence”.

1 **SEC. 9. RELEASE OF ALIENS FROM NONCONTIGUOUS**  
2 **COUNTRIES.**

3 (a) MINIMUM BOND.—Section 236(a)(2) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1226(a)(2)) is  
5 amended—

6 (1) by striking “on”;

7 (2) in subparagraph (A)—

8 (A) by inserting “except as provided under  
9 subparagraph (B), upon the giving of a”; and

10 (B) by striking “or” at the end;

11 (3) by redesignating subparagraph (B) as sub-  
12 paragraph (C); and

13 (4) by inserting after subparagraph (A) the fol-  
14 lowing:

15 “(B) if the alien is a national of a non-  
16 contiguous country, has not been admitted or  
17 paroled into the United States, and was appre-  
18 hended within 2 years of admission and within  
19 100 miles of the international border of the  
20 United States or presents a flight risk, as de-  
21 termined by the Secretary of Homeland Secu-  
22 rity, upon the giving of a bond of at least  
23 \$5,000 with security approved by, and con-  
24 taining conditions prescribed by, the Secretary  
25 of Homeland Security or the Attorney General,



1           (1) describes the level of access of Border Pa-  
2           trol agents on tribal lands;

3           (2) describes the extent to which enforcement of  
4           immigration laws may be improved by enhanced ac-  
5           cess to tribal lands;

6           (3) contains a strategy for improving such ac-  
7           cess through cooperation with tribal authorities; and

8           (4) identifies grants provided by the Depart-  
9           ment of Homeland Security for Indian tribes, either  
10          directly or through State or local grants, relating to  
11          border security expenses.

12          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated \$10,000,000 for each  
14          of fiscal years 2006 through 2010 to carry out this sec-  
15          tion.

16          **SEC. 11. DETENTION SPACE AND REMOVAL CAPACITY.**

17          (a) IN GENERAL.—Section 5204 of the Intelligence  
18          Reform and Terrorism Protection Act of 2004 (118 Stat.  
19          3734) is amended—

20                 (1) in subsection (a), by striking “8,000” and  
21                 inserting “10,000”; and

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

23                 “(c) AUTHORIZATION OF APPROPRIATIONS.—In ad-  
24                 dition to amounts otherwise authorized to be appropriated,  
25                 there are authorized to be appropriated such sums as may

1 be necessary for each of fiscal years 2006 through 2010  
 2 to carry out subsection (a).”.

3 (b) **LEGAL REPRESENTATION.**—No person shall be  
 4 detained by the Department of Homeland Security in a  
 5 location that limits the person’s reasonable access to legal  
 6 counsel. Upon active or constructive notice that a person  
 7 is represented by an attorney, that person shall not be  
 8 moved without providing the attorney reasonable notice in  
 9 advance of such move.

10 **SEC. 12. INCREASED CRIMINAL PENALTIES FOR ALIEN**  
 11 **SMUGGLING, DOCUMENT FRAUD, GANG VIO-**  
 12 **LENCE, AND DRUG TRAFFICKING.**

13 (a) **ALIEN SMUGGLING.**—Section 274(a) of the Immi-  
 14 gration and Nationality Act (8 U.S.C. 1324(a)) is amend-  
 15 ed—

16 (1) in paragraph (1)(B)—

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

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

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

23 (2) in paragraph (2)—

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

4 (B) in subparagraph (B)—

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

10 (ii) in clause (ii), by striking “or” at  
11 the end and inserting the following: “be  
12 fined under title 18, United States Code,  
13 and imprisoned not less than 3 years nor  
14 more than 20 years; or”;

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

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

21 “(C) in the case of a third or subsequent  
22 offense described in subparagraph (B) and for  
23 any other violation, shall be fined under title  
24 18, United States Code, and imprisoned not  
25 less than 5 years nor more than 15 years.”;

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

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

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

7           (1) in subsection (a)—

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

10                (B) by inserting “and if the terrorism of-  
11                fense resulted in the death of any person, shall  
12                be imprisoned for life,” after “section 2331 of  
13                this title)),”;

14                (C) by striking “20 years” and inserting  
15                “imprisoned not more than 40 years”;

16                (D) by striking “10 years” and inserting  
17                “imprisoned not more than 20 years”; and

18                (E) by striking “15 years” and inserting  
19                “imprisoned not more than 25 years”; and

20           (2) in subsection (b), by striking “5 years” and  
21           inserting “10 years”.

22           (c) CRIMES OF VIOLENCE.—

23                (1) IN GENERAL.—Title 18, United States  
24                Code, is amended by inserting after chapter 51 the  
25                following:

1                   **“CHAPTER 52—ILLEGAL ALIENS**

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

2   **“§ 1131. Enhanced penalties for certain crimes com-**  
3                   **mitted by illegal aliens**

4           “(a) Any alien unlawfully present in the United  
5 States, who commits, or conspires or attempts to commit,  
6 a crime of violence or a drug trafficking offense (as de-  
7 fined in section 924), shall be fined under this title and  
8 sentenced to not less than 5 years in prison.

9           “(b) If an alien who violates subsection (a) was pre-  
10 viously ordered removed under the Immigration and Na-  
11 tionality Act (8 U.S.C. 1101 et seq.) on the grounds of  
12 having committed a crime, the alien shall be sentenced to  
13 not less than 15 years in prison.

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

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

**“52. Illegal aliens ..... 1131”.**

21           (d) CRIMINAL STREET GANGS.—

22           (1) INADMISSIBILITY.—Section 212(a)(2) of the  
23 Immigration and Nationality Act (8 U.S.C.  
24 1182(a)(2)) is amended—

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

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

5 “(F) ALIENS WHO ARE MEMBERS OF  
6 CRIMINAL STREET GANGS.—

7 “(i) IN GENERAL.—Any alien who is  
8 found by a Federal district court to be a  
9 member of a criminal street gang (as de-  
10 fined in section 521(a) of title 18, United  
11 States Code) is inadmissible.

12 “(ii) EXCEPTION.—Clause (i) shall  
13 not apply to an alien who demonstrates  
14 that he or she is no longer a member of  
15 the criminal street gang.”.

16 (2) DEPORTABILITY.—Section 237(a)(2) of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1227(a)(2)) is amended by adding at the end the  
19 following:

20 “(F) ALIENS WHO ARE MEMBERS OF  
21 CRIMINAL STREET GANGS.—

22 “(i) IN GENERAL.—Any alien who is  
23 found by a Federal district court to be a  
24 member of a criminal street gang (as de-

1            fined in section 521(a) of title 18, United  
2            States Code) is deportable.

3            “(ii) EXCEPTION.—Clause (i) shall  
4            not apply to an alien who demonstrates  
5            that he or she is no longer a member of  
6            the criminal street gang.”.

7            (3) TEMPORARY PROTECTED STATUS.—Section  
8            244(c)(2)(B) of the Immigration and Nationality  
9            Act (8 U.S.C. 1254a(c)(2)(B)) is amended—

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

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

14            (C) by adding at the end the following:

15            “(iii) the alien has been found by a  
16            Federal district court to be a member of a  
17            criminal street gang (as defined in section  
18            521(a) of title 18, United States Code)  
19            and cannot demonstrate that he or she is  
20            no longer a member of the criminal street  
21            gang.”.

22    **SEC. 13. REMOVAL OF ALIENS.**

23            (a) CONTINUATION OF INSTITUTIONAL REMOVAL  
24            PROGRAM.—The Secretary of Homeland Security shall

1 continue to operate the Institutional Removal Program or  
2 develop and implement any other program to—

3 (1) identify removable criminal aliens in Fed-  
4 eral and State correctional facilities;

5 (2) ensure that such aliens are not released into  
6 the community; and

7 (3) remove such aliens from the United States  
8 after the completion of their sentences.

9 (b) AUTHORIZATION FOR DETENTION AFTER COM-  
10 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
11 enforcement officers of a State or political subdivision of  
12 a State are authorized to—

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

19 (2) issue a detainer that would allow aliens who  
20 have served a State prison sentence to be detained  
21 by the State prison until personnel from the Bureau  
22 of Immigration and Customs Enforcement can take  
23 the alien into custody.

24 (c) REPORT TO CONGRESS.—

1           (1) IN GENERAL.—The Secretary of Homeland  
2 Security shall submit a report to Congress on the  
3 participation of States in the Institutional Removal  
4 Program and in any other program under subsection  
5 (a).

6           (2) AUTHORIZATION OF APPROPRIATIONS.—  
7 There are authorized to be appropriated such sums  
8 as may be necessary to carry out paragraph (1).

9 **SEC. 14. ADDITIONAL IMMIGRATION PERSONNEL.**

10 (a) DEPARTMENT OF HOMELAND SECURITY.—

11           (1) INVESTIGATIVE PERSONNEL.—In addition  
12 to the positions authorized under section 5203 of the  
13 Intelligence Reform and Terrorism Prevention Act  
14 of 2004, for each of fiscal years 2006 through 2010,  
15 the Secretary of Homeland Security shall, subject to  
16 the availability of appropriations for such purpose,  
17 increase by not less than 200 the number of posi-  
18 tions for investigative personnel within the Depart-  
19 ment of Homeland Security investigating alien  
20 smuggling and immigration status violations above  
21 the number of such positions for which funds were  
22 made available during the preceding fiscal year.

23           (2) TRIAL ATTORNEYS.—In each of fiscal years  
24 2006 through 2010, the Secretary of Homeland Se-  
25 curity shall, subject to the availability of appropria-

1        tions for such purpose, increase the number of posi-  
2        tions for attorneys in the Office of General Counsel  
3        of the Department of Homeland Security who rep-  
4        resent the Department in immigration matters by  
5        not less than 100 above the number of such posi-  
6        tions for which funds were made available during  
7        each preceding fiscal year.

8            (3) DEFENSE ATTORNEYS.—In each of fiscal  
9        years 2006 through 2010, the Attorney General  
10       shall, subject to the availability of appropriations for  
11       such purpose, increase by not less than 100 the  
12       number of attorneys in the Federal Defenders Pro-  
13       gram or any other federally funded program for each  
14       Federal judicial district.

15           (4) AUTHORIZATION OF APPROPRIATIONS.—  
16       There are authorized to be appropriated to the De-  
17       partment of Homeland Security for each of fiscal  
18       years 2006 through 2010 such sums as may be nec-  
19       essary to carry out this subsection.

20       (b) DEPARTMENT OF JUSTICE.—

21           (1) ASSISTANT ATTORNEY GENERAL FOR IMMI-  
22       GRATION ENFORCEMENT.—

23           (A) ESTABLISHMENT.—There is estab-  
24       lished within the Department of Justice the po-  
25       sition of Assistant Attorney General for Immi-

1           gration Enforcement, which shall coordinate  
2           and prioritize immigration litigation and en-  
3           forcement in the Federal courts, including—

4                   (i) removal and deportation;

5                   (ii) employer sanctions; and

6                   (iii) alien smuggling and human traf-  
7           ficking.

8           (B) CONFORMING AMENDMENT.—Section  
9           506 of title 28, United States Code, is amended  
10          by striking “ten” and inserting “11”.

11          (2) LITIGATION ATTORNEYS.—In each of fiscal  
12          years 2006 through 2010, the Attorney General  
13          shall, subject to the availability of appropriations for  
14          such purpose, increase by not less than 50 the num-  
15          ber of positions for attorneys in the Office of Immi-  
16          gration Litigation of the Department of Justice.

17          (3) UNITED STATES ATTORNEYS.—In each of  
18          fiscal years 2006 through 2010, the Attorney Gen-  
19          eral shall, subject to the availability of appropria-  
20          tions for such purpose, increase by not less than 50  
21          the number of attorneys in the United States Attor-  
22          neys’ office to litigate immigration cases in the Fed-  
23          eral courts.

24          (4) IMMIGRATION JUDGES.—In each of fiscal  
25          years 2006 through 2010, the Attorney General

1 shall, subject to the availability of appropriations for  
2 such purpose, increase by not less than 50 the num-  
3 ber of immigration judges.

4 (5) AUTHORIZATION OF APPROPRIATIONS.—  
5 There are authorized to be appropriated to the De-  
6 partment of Justice for each of fiscal years 2006  
7 through 2010 such sums as may be necessary to  
8 carry out this subsection, including the hiring of  
9 necessary support staff.

10 **SEC. 15. AUTOMATED ALIEN RECORDS.**

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

18 (b) EXISTING RECORDS.—The Secretary of Home-  
19 land Security shall automate all alien records that were  
20 created during the 5-year period ending on the date of  
21 enactment of this Act.

22 (c) OVERSIGHT.—The Chief Information Officer of  
23 the Department of Homeland Security shall be responsible  
24 for oversight and management of automating the storage  
25 of alien records in an electronic format.

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

5 (e) REPORTS.—The Secretary of Homeland Security  
6 shall report to the appropriate committees in Congress in  
7 2008 and 2010 on the progress made in automating alien  
8 records under this section.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated such sums as may be  
11 necessary for each of the fiscal years 2006 through 2010  
12 to carry out this section.

13 **SEC. 16. INCREASE OF FEDERAL DETENTION SPACE.**

14 (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
15 FACILITIES.—

16 (1) IN GENERAL.—The Secretary of Homeland  
17 Security shall construct or acquire additional deten-  
18 tion facilities in the United States.

19 (2) DETERMINATION OF LOCATION.—The loca-  
20 tion of any detention facility built or acquired in ac-  
21 cordance with this subsection shall be determined by  
22 the Deputy Assistant Director of the Office of De-  
23 tention and Removal Operations within the Bureau  
24 of Immigration and Customs Enforcement.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as necessary  
3 to carry out this section.

4 **SEC. 17. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

5 (a) TRANSFER OF PROGRAM.—

6 (1) IN GENERAL.—Section 501 of the Immigra-  
7 tion Reform and Control Act of 1986 (8 U.S.C.  
8 1365) is amended by striking “Attorney General”  
9 each place it appears and inserting “Secretary of  
10 Homeland Security”.

11 (2) CONTRACTS.—Section 241(i) of the Immi-  
12 gration and Nationality Act (8 U.S.C. 1231(i)) is  
13 amended by striking “Attorney General” each place  
14 it appears and inserting “Secretary of Homeland Se-  
15 curity”.

16 (b) REIMBURSEMENT FOR COSTS ASSOCIATED WITH  
17 PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary  
18 of Homeland Security shall reimburse States and units of  
19 local government for costs associated with processing ille-  
20 gal aliens through the criminal justice system, including—

- 21 (1) indigent defense;
- 22 (2) criminal prosecution;
- 23 (3) autopsies;
- 24 (4) translators and interpreters; and
- 25 (5) court costs.

1           (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
2 241(i)(5) of the Immigration and Nationality Act (8  
3 U.S.C. 1231(i)(5)) is amended by striking “appropriated”  
4 and all that follows through the period and inserting the  
5 following: “appropriated to carry out this subsection—  
6                   “(A) \$750,000,000 for fiscal year 2006;  
7                   “(B) \$850,000,000 for fiscal year 2007;  
8                   and  
9                   “(C) \$950,000,000 for each of the fiscal  
10                 years 2008 through 2011.”.

11 **SEC. 18. CONSTRUCTION.**

12           Nothing in this Act may be construed to require law  
13 enforcement personnel of a State or political subdivision  
14 of a State to—

- 15                 (1) report the identity of a victim of, or a wit-  
16                 ness to, a criminal offense to the Secretary of Home-  
17                 land Security for immigration enforcement purposes;  
18                 (2) arrest such victim or witness for a violation  
19                 of the immigration laws of the United States; or  
20                 (3) enforce the immigration laws of the United  
21                 States.

1 **SEC. 19. STATE DEFINED.**

2       In this Act, the term “State” has the meaning given  
3 that term in section 101(a)(36) of the Immigration and  
4 Nationality Act (8 U.S.C. 1101 (a)(36)).

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