To improve the security of the United States borders and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Security and Modernization Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term “Department” means the Department of Homeland Security.
(2) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

(3) STATE.—Except as otherwise provided, the term “State” has the meaning given that term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

SEC. 3. CONSTRUCTION.

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

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary for immigration enforcement purposes;

(2) arrest such victim or witness for a violation of the immigration laws of the United States; or

(3) enforce the immigration laws of the United States.

TITLE I—BORDER PROTECTION
Subtitle A—Personnel and Training

SEC. 101. PERSONNEL OF THE DEPARTMENT OF HOME- LAND SECURITY.

(a) IN GENERAL.—

S 2049 IS
(1) Customs and Border Protection Officers.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty officers of the Bureau of Customs and Border Protection of the Department for such fiscal year.

(2) Immigration and Customs Enforcement Inspectors.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking “800” and inserting “1000”.

(3) Investigative Personnel.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by paragraph (2), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for investigative personnel within the Department to investigate alien smuggling and immigration status violations for such fiscal year.
(4) **LEGAL PERSONNEL.**—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters for such fiscal year.

(5) **WAIVER OF FTE LIMITATION.**—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel employed by the Department to fulfill the requirements of paragraph (1) and the amendment made by paragraph (2).

(b) **TRAINING.**—The Secretary shall provide appropriate training for the agents, officers, inspectors, and associated support staff of the Department on an ongoing basis to utilize new technologies and techniques and to ensure that the proficiency levels of such personnel are acceptable to protect the international borders of the United States.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this section.
SEC. 102. PERSONNEL OF THE DEPARTMENT OF JUSTICE AND OTHER ATTORNEYS.

(a) Litigation Attorneys.—During each of the fiscal years 2007 through 2011, 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 for such fiscal year.

(b) United States Attorneys.—During each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of United States Attorneys to litigate immigration cases in the Federal courts for such fiscal year.

(c) United States Marshals.—During each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of Deputy United States Marshals to investigate criminal immigration matters.

(d) Immigration Judges.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of immigration judges for such fiscal year.
(e) Defense Attorneys.—During each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of attorneys in the Federal Defenders Program for such fiscal year.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section, including the hiring of necessary support staff.

SEC. 103. USE OF THE NATIONAL GUARD FOR BORDER PROTECTION ACTIVITIES.

(a) In General.—Section 112 of title 32, United States Code, is amended—

(1) by striking “drug interdiction and counter-drug activities” each place it appears and inserting “drug interdiction, counter-drug, and border activities”; and

(2) in subparagraphs (A) and (B) of subsection (e)(1), by striking “drug interdiction or counter-drug activities” each place it appears and inserting “drug interdiction, counter-drug, or border activities”.

S 2049 IS
(b) Definition of Drug Interdiction, Counter-Drug, and Border Activities.—Subsection (h)(1) of such section is amended to read as follows:

“(1) The term ‘drug interdiction, counter-drug, and border activities’, with respect to the National Guard of a State, means the use of National Guard personnel in—

“(A) drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities authorized by the law of the State and requested by the Governor of the State; or

“(B) activities conducted in cooperation with personnel of the Department of Homeland Security to secure the international borders of the United States, including constructing roads, fencing, and vehicle barriers, assisting in search and rescue operations conducted by personnel of the Department of Homeland Security, and monitoring international borders, and excluding any law enforcement activities conducted by personnel of the Department of Homeland Security.”.
SEC. 104. DEPUTY BORDER PATROL AGENT PROGRAM.

(a) AUTHORITY TO ESTABLISH.—The Secretary may establish a Deputy Border Patrol Agent Program (in this section referred to as the “Program”) in the Office of Border Patrol.

(b) PURPOSE.—The purpose of the Program shall be to establish a volunteer force of trained, retired law enforcement officers to assist the Secretary in carrying out the mission of the Department to achieve operational control of the borders of the United States.

(c) QUALIFICATIONS.—An individual may participate as a volunteer in the Program only if such individual is a retired law enforcement officer, who is or was previously licensed by a Federal or State authority to enforce Federal, State, or local penal offenses.

(d) UTILIZATION OF VOLUNTEERS.—The Secretary may utilize an individual who participates as a volunteer in the Program to provide such border security functions that the Secretary determines are appropriate.

(e) TRAINING AND OTHER REQUIREMENTS.—The Secretary may require an individual who participates as a volunteer in the Program to participate in such training, testing, and other requirements that the Secretary determines are appropriate.

(f) SWEARING IN.—Upon completion of any training, testing, or other procedures required by the Secretary, an
individual who participates in the Program shall be sworn
in and assigned to the Office of Border Patrol.

(g) ASSIGNMENT OF VOLUNTEERS.—The Secretary
may assign individuals participating in the Program to
provide patrol services at facilities and locations along the
international borders of the United States.

(h) OVERSIGHT OF AGENTS.—The Secretary, acting
through the Commissioner of the Bureau of Customs and
Border Protection of the Department, shall have oversight
of all individuals participating in the Program. Such vol-
unteers shall serve at the pleasure of the Secretary, acting
through the Commissioner of the Bureau of Customs and
Border Protection.

(i) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated $10,000,000 for each
of the fiscal years 2007 through 2011 to carry out this
section.

SEC. 105. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary shall provide appro-
priate officers of the Bureau of Customs and Border Pro-
tection of the Department with training in identifying and
detecting fraudulent travel documents. Such training shall
be developed in consultation with the Forensic Document
Laboratory of the Bureau of Immigration and Customs
Enforcement of such Department.
(b) **FORENSIC DOCUMENT LABORATORY.**—The Secretary shall provide all officers of the Bureau of Customs and Border Protection with access to the Forensic Document Laboratory.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

### Subtitle B—Infrastructure

#### SEC. 111. MODERNIZATION OF BORDER INFRASTRUCTURE.

(a) **DEFINITIONS.**—In this section:

(1) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of the Bureau of Customs and Border Protection of the Department.

(2) **MAQUILADORA.**—The term “maquiladora” means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) **NORTHERN BORDER.**—The term “northern border” means the international border between the United States and Canada.

(4) **SOUTHERN BORDER.**—The term “southern border” means the international border between the United States and Mexico.
(b) Border Technologies, Assets, and Construction.—

(1) Acquisition.—The Secretary shall procure technologies necessary to support the mission of the Department to achieve operational control of the international borders of the United States. In determining what technologies to procure, the Secretary shall consult with the Secretary of Defense and the head of the National Laboratories and Technology Centers of the Department of Energy.

(2) Construction of Border Control Facilities.—The Secretary shall construct roads, acquire vehicle barriers, and construct fencing necessary to support such mission.

(3) Assets.—The Secretary shall acquire unmanned aerial vehicles, police-type vehicles, helicopters, all terrain vehicles, interoperable communications equipment, firearms, sensors, cameras, lighting and such other equipment and assets as may be necessary to support such mission.

(4) Facilities.—The Secretary shall construct such facilities as may be necessary to support the number of employees of the Department who are hired pursuant to any provision of this Act or of subtitle B of title V of the Intelligence Reform and

(5) CHECKPOINTS.—The Secretary may construct and maintain temporary or permanent checkpoints on roadways located in close proximity to the northern border or the southern border to support such mission.

(c) PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—

(1) REQUIREMENT TO UPDATE.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, page 67) and submit such updated study to Congress.
(2) Consultation.—In preparing the updated studies required by paragraph (1), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(3) Content.—Each updated study required by paragraph (1) shall—

(A) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(B) include the projects identified in the National Land Border Security Plan required by subsection (d); and

(C) prioritize each project described in subparagraph (A) or (B) based on the likelihood that the project will—

(i) fulfill immediate security requirements; and

(ii) facilitate trade across the borders of the United States.

(4) Project Implementation.—

(A) In General.—The Commissioner shall implement the infrastructure and technology improvement projects described in each
updated study required by paragraph (1) in the
order of priority assigned to each project under
paragraph (3)(C).

(B) EXCEPTION.—The Commissioner may
diverge from the priority order if the Commiss-
sioner determines that significantly changed cir-
cumstances, such as immediate security needs
or changes in infrastructure in Mexico or Can-
ada, compellingly alter the need for a project in
the United States.

(d) NATIONAL LAND BORDER SECURITY PLAN.—

(1) REQUIREMENT FOR PLAN.—In order to
carry out the mission of the Department to achieve
operational control of the international borders of
the United States, not later than January 31 of
each year, the Secretary shall prepare a National
Land Border Security Plan and submit such plan to
Congress.

(2) CONSULTATION.—In preparing the plan re-
quired by paragraph (1), the Secretary shall consult
with the Under Secretary for Information Analysis
and Infrastructure Protection and the Federal,
State, and local law enforcement agencies and pri-
ivate entities that are involved in international trade
across the northern border or the southern border.
(3) Vulnerability Assessment.—

(A) In General.—The plan required by paragraph (1) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(B) Port Security Coordinators.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(i) to assist in conducting a vulnerability assessment at such port; and

(ii) to provide other assistance with the preparation of the plan required by paragraph (1).

c) Expansion of Trade Security Programs.—

(1) Customs-Trade Partnership Against Terrorism.—

(A) In General.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope (including personnel needs) of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—
(i) the Business Anti-Smuggling Coalition;
(ii) the Carrier Initiative Program;
(iii) the Americas Counter Smuggling Initiative;
(iv) the Free and Secure Trade Initiative; and
(v) other Industry Partnership Programs administered by the Commissioner.

(2) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system with maquiladoras to improve supply chain security.

(f) PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) Establishment.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, the Secretary shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions. The Commissioner
of the Bureau of Customs and Border Protection
shall oversee the program in consultation and co-
operation with other divisions of the Department.

(2) TECHNOLOGY AND FACILITIES.—

(A) TECHNOLOGY TESTED.—Under the
demonstration program, the Secretary shall test
technologies that enhance port of entry oper-
ations, including those related to inspections,
communications, port tracking, identification of
persons and cargo, sensory devices, personal de-
tection, decision support, and the detection and
identification of weapons of mass destruction.

(B) FACILITIES DEVELOPED.—At a dem-
onstration site selected pursuant to paragraph
(3)(B), the Secretary shall develop facilities to
provide appropriate training to law enforcement
personnel who have responsibility for border se-
curity, including cross-training among agencies,
advanced law enforcement training, and equip-
ment orientation.

(3) DEMONSTRATION SITES.—

(A) NUMBER.—The Secretary shall carry
out the demonstration program at not less than
3 sites and not more than 5 sites.
(B) Selection criteria.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(i) have been established not more than 15 years before the date of enactment of this Act;

(ii) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(iii) have serviced an average of not more than 50,000 vehicles per month in the 12 full months preceding the date of enactment of this Act.

(4) Relationship with other agencies.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in paragraph (3) to test
technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(5) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this subsection.

(B) CONTENT.—Each report submitted pursuant to subparagraph (A) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

(g) BORDER PATROL TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United...
States, the Secretary shall carry out a technology
demonstration program to test and evaluate new
border security technologies and train personnel
under realistic conditions.

(2) TECHNOLOGY AND FACILITIES.—

(A) TECHNOLOGY TESTED.—Under the
demonstration program, the Secretary shall test
technologies that enhance border security, in-
cluding those related to communications, sen-
sory devices, personal detection, and decision
support.

(B) FACILITIES DEVELOPMENT.—At a site
where border patrol agents participate in law
enforcement training, the Secretary shall de-
velop facilities to carry out the demonstration
program, including providing appropriate train-
ing to law enforcement personnel who have re-
sponsibility for border security, including cross-
training among agencies, advanced law enforce-
ment training, and equipment orientation.

(3) RELATIONSHIP WITH OTHER AGENCIES.—
The Secretary shall permit personnel from an appro-
priate Federal or State agency to utilize the dem-
onstration site described in this subsection to test
technologies that enhance border security, including
those related to communications, sensory devices, personal detection, and decision support.

(4) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at the demonstration site under the technology demonstration program established under this subsection.

(B) CONTENT.—Each report submitted pursuant to subparagraph (A) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Department.

(h) INTERNATIONAL AGREEMENTS.—Funds authorized in this Act may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada,
agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following:

(1) For each of the fiscal years 2007 through 2011, $1,000,000,000 to carry out subsection (b).

(2) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out paragraph (1) of subsection (e).

(3) For each of the fiscal years 2007 through 2011, $100,000,000 to carry out paragraph (4) of subsection (e).

(4) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out subsection (d).

(5)(A) For fiscal year 2007, $30,000,000 to carry out paragraph (1) of subsection (e); and

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out such paragraph.

(6)(A) For fiscal year 2007, $5,000,000 to carry out paragraph (2) of subsection (e); and

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out such paragraph.
(7)(A) For fiscal year 2007, $50,000,000 to carry out subsection (f), and not more than $10,000,000 of such amount may be expended for technology demonstration program activities at any 1 port of entry demonstration site during such fiscal year.

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out subsection (f), and not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any such fiscal year.

(8) For each of the fiscal years 2007 through 2011, $10,000,000 to carry out subsection (g).

SEC. 112. DETENTION SPACE AND REMOVAL CAPACITY.

Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking “8,000” and inserting “15,000”.

SEC. 113. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FEDERAL FACILITIES IDENTIFIED FOR CLOSURE.

(a) Construction or Acquisition of Detention Facilities.—
(1) IN GENERAL.—The Secretary shall construct or acquire additional detention facilities in the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Deputy Assistant Director of the Office of Detention and Removal Operations within the Bureau of Immigration and Customs Enforcement of the Department.

(3) USE OF FEDERAL FACILITIES IDENTIFIED FOR CLOSURE.—In acquiring detention facilities under this subsection, the Secretary shall, to the maximum extent practical, request the transfer of appropriate portions of military installations approved for closure or realignment and any other Federal facilities identified for closure.

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

SEC. 114. ALTERNATIVES TO DETENTION.

The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico to
study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices and intensive supervision programs, that ensure that alien’s appearance at court and compliance with removal orders.

### Subtitle C—Grants for States

#### SEC. 121. BORDER LAW ENFORCEMENT GRANTS.

(a) **Law Enforcement Agency Defined.**—In this section, the term “law enforcement agency” means a Tribal, State, or local law enforcement agency.

(b) **Authority to Award Grants.**—The Secretary is authorized to award grants to an eligible law enforcement agency to provide assistance with costs associated with State border security efforts, including efforts to combat criminal activity that occurs in the jurisdiction of such agency by virtue of such agency’s proximity to an international border of the United States.

(c) **Criteria.**—The Secretary shall award grants under subsection (b) on a competitive basis, considering criteria including—

(1) the law enforcement agency’s distance from the international border, with communities closer to the border given priority because of their proximity;

(2) population, with smaller communities given priority;
(3) the criminal caseload of the law enforcement agency, based upon the number of felony criminal cases filed per judge in the United States district court located in the district that the law enforcement agency has jurisdiction over, with priority given to those with higher caseloads;

(4) the percentage of undocumented aliens residing in the law enforcement agency’s State compared to the total number of such aliens residing in all States, based on the most recent decennial census; and

(5) the percentage of undocumented alien apprehensions in the law enforcement agency’s State in that fiscal year compared to the total of such apprehensions for all such States for that fiscal year.

(d) USE OF FUNDS.—Grants awarded under subsection (b) shall be used to provide additional resources for a law enforcement agency to address criminal activity occurring near an international border of the United States, including—

(1) law enforcement technologies;

(2) equipment such as police-type vehicles, all-terrain vehicles, firearms, sensors, cameras, and lighting; and
(3) such other resources as are available to assist the law enforcement agency.

(c) APPLICATION.—The head of a law enforcement agency seeking to apply for a grant under this section shall submit an application to the Secretary at such time, in such manner, and with such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

TITLE II—IMMIGRATION PROVISIONS

SEC. 201. 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” and 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 on the procedures authorized under this subsection.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2007 through 2011 to carry out the amendments made by this section.

SEC. 202. CANCELLATION OF VISAS.

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

(1) in paragraph (1), by inserting “and any other nonimmigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and

(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in a consular office located in the country of the aliens nationality” and inserting “(other than a visa described in paragraph (1)) issued in a consular office located in the country of the aliens nationality or foreign residence”.

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SEC. 203. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) GROUNDS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

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

“(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who fails to comply with a lawful request for biometric data is inadmissible.”; and

(2) in subsection (d), by inserting after paragraph (1) the following:

“(2) The Secretary of Homeland Security may waive the application of subparagraph (C) of subsection (a)(7) for an individual alien or a class of aliens, at the discretion of the Secretary.”.

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

(1) by redesignating subsection (c) as subsection (g); and

(2) by inserting after subsection (b) the following:

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

(c) Inspection of Applicants for Admission.—Section 235(d) of the Immigration and Nationality Act (8 U.S.C. 1185(d)) is amended by adding at the end the following:

“(5) Authority to collect biometric data.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

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

“(B) any lawful permanent resident who is—

“(i) entering the United States; and

“(ii) not regarded as seeking an admission into the United States pursuant to section 101(a)(13)(C).”.

(d) Collection of Biometric Data From Alien Crewman.—Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) is amended by inserting “Immigration officers are authorized to collect biometric data from any alien crewman seeking permission to land temporarily in the United States.” after “this title”.
(c) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended in subsection (l)—

(1) by striking “There are authorized” and inserting the following:

“(1) IN GENERAL.—There are authorized”; and

(2) by adding at the end the following:

“(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008, 2009, and 2010 to implement the automated biometric entry and exit data system at all land border ports of entry.”.

SEC. 204. REIMBURSEMENT FOR STATES.

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

“(5) There are authorized to be appropriated to carry out this subsection—

“(A) $750,000,000 for fiscal year 2007;

“(B) $850,000,000 for fiscal year 2008;

and

“(C) $950,000,000 for each of the fiscal years 2009 through 2011.”.
(b) Reimbursement for Costs Associated With Processing Criminal Illegal Aliens.—

(1) IN GENERAL.—The Secretary shall reimburse States and units of local government for costs associated with processing illegal aliens through the criminal justice system, including—

(A) indigent defense;
(B) criminal prosecution;
(C) autopsies;
(D) translators and interpreters; and
(E) courts costs.

(2) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to carry out paragraph (1).

SEC. 205. 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. 206. RELEASE OF ALIENS FROM NONCONTIGUOUS COUNTRIES.

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

“(2) may release the alien on bond of not less than $5,000 with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security; but”.

SEC. 207. 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.”.

**TITLE III—PENALTIES**

**SEC. 301. INCREASED CRIMINAL PENALTIES FOR 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 years” 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 nor more than 20 years; or”; and

(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”.

SEC. 302. INCREASED CRIMINAL PENALTIES FOR 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 offense 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 30 years”; and

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

SEC. 303. INCREASED CRIMINAL PENALTIES FOR CERTAIN CRIMES.

(a) 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.

“(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 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 previously ordered removed under the Immigration and Nationality 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.”.
(b) 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

SEC. 304. INCREASED CRIMINAL PENALTIES FOR CRIMINAL STREET GANGS.

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

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

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

“(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is determined by a court to be a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.”.

(b) 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 determined by a court to be a member of a
criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.’’.

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

(1) in clause (i), by striking ‘‘or’’ at the end;

(2) in clause (ii), by striking the period at the end and inserting ‘‘; or’’; and

(3) by adding at the end the following:

‘‘(iii) the alien is determined by a court to be a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).’’.

TITLE IV—REMOVAL AND VIOLATION TRACKING

SEC. 401. INSTITUTIONAL REMOVAL PROGRAM.

(a) Institutional Removal Program.—

(1) Continuation.—The Secretary shall continue to operate the Institutional Removal Program of the Department to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and
(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall expand the Institutional Removal Program to every State.

(3) STATE PARTICIPATION.—The appropriate officials of each State in which the Secretary is operating the Institutional Removal Program should—

(A) cooperate with Federal officials carrying out the Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in the prison and jail populations of the State; and

(C) promptly convey the information described in subparagraph (B) to the appropriate officials carrying out the Institutional Removal Program.

(b) REPORT TO CONGRESS.—Not later than 2 years after of the date of the enactment of this Act, the Secretary shall submit a report to Congress on the participation of the States in the Institutional Removal Program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 to carry
out the expanded Institutional Removal Program authorized under subsection (a).

SEC. 402. AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.

(a) IN GENERAL.—Law enforcement officers of a State or political subdivision of a State are authorized to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien’s State or local 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 or local prison sentence to be detained by an appropriate prison until personnel from the Bureau of Immigration and Customs Enforcement can take the alien into Federal custody.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall reimburse a State or a political subdivision of a State for all reasonable expenses incurred by the State or the political subdivision for the detention of an alien as described in subsection (a).
(2) Cost Computation.—The amount of reimbursement provided for costs incurred carrying out subsection (a) shall be determined pursuant to a formula determined by the Secretary.

(c) Technology Usage.—Technology such as videoconferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens 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 are authorized to be appropriated such sums as may be necessary to reimburse a State or political subdivision of a State for the detention of an illegal alien pursuant to subsection (b).

SEC. 403. USE OF THE NATIONAL CRIME INFORMATION CENTER DATABASE TO TRACK VIOLATIONS OF IMMIGRATION LAW.

(a) Provision of Information to the National Crime Information Center.—

(1) in general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall provide the National Crime Information Center
of the Department of Justice with such information as the Director may have related to—

(A) any alien against whom a final order of removal has been issued;

(B) any alien who is subject to a voluntary departure agreement that has become invalid under section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c); and

(C) any alien whose visa has been revoked.

(2) REQUIREMENT TO PROVIDE AND USE INFORMATION.—The information described in paragraph (1) shall be provided to the National Crime Information Center, and the Center shall enter the information into the Immigration Violators File of the National Crime Information Center database if the name and date of birth are available for the individual, regardless of whether the alien received notice of a final order of removal or the alien has already been removed.

(3) REMOVAL OF INFORMATION.—Should an individual be granted cancellation of removal under section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b), or granted permission to legally enter the United States pursuant to the Immigration and Nationality Act after a voluntary depa—
ture under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), information entered into the National Crime Information Center in accordance with paragraph (1) of this section shall be promptly removed.

(b) Inclusion of Information in the National Crime Information Center 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 new paragraph:

“(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 the alien has already been removed; and”.

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