To amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2005

Mr. Nelson of Nebraska (for himself, Mr. Sessions, and Mr. Coburn) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.  
3 (a) SHORT TITLE.—This Act may be cited as the “Border Security and Interior Enforcement Improvement Act of 2005”.  
4 (b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Severability.
TITLE I—SOUTHWEST BORDER SECURITY

Sec. 101. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.
Sec. 102. Border patrol agents.
Sec. 103. Increased availability of Department of Defense equipment to assist with surveillance of southern international land border of the United States.
Sec. 104. Ports of entry.
Sec. 105. Authorization of appropriations.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources
Sec. 1. Necessary assets for controlling United States borders.
Sec. 2. Additional immigration personnel.
Sec. 3. Additional worksite enforcement and fraud detection agents.
Sec. 4. Document fraud detection.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens
Sec. 211. Entry-exit system.
Sec. 212. State and local law enforcement provision of information regarding aliens.
Sec. 213. Listing of immigration violators in the National Crime Information Center database.

Subtitle C—Detention of Aliens and Reimbursement of Costs
Sec. 221. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
Sec. 222. Federal custody of illegal aliens apprehended by State or local law enforcement.
Sec. 223. Institutional Removal Program.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws
Sec. 231. Congressional affirmation of immigration law enforcement authority by States and political subdivisions of States.
Sec. 232. Immigration law enforcement training of State and local law enforcement personnel.
Sec. 233. Immunity.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties
Sec. 501. Criminal penalties for alien smuggling.
Sec. 502. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence and misrepresentation or concealment of facts.
Sec. 503. Civil and criminal penalties for aliens unlawfully present in the United States.
Sec. 504. Increased penalties for reentry of removed aliens.
Sec. 505. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.
Sec. 506. Rendering inadmissible and deportable aliens participating in criminal street gangs.
Sec. 507. Mandatory detention of suspected criminal street gang members.
Sec. 508. Ineligibility from protection from removal and asylum.
Sec. 509. Penalties for misusing social security numbers or filing false information with Social Security Administration.

Subtitle B—Detention, Removal and Departure

Sec. 511. Voluntary departure.
Sec. 512. Release of aliens in removal proceedings.
Sec. 513. Expedited removal of criminal aliens.
Sec. 514. Reinstatement of previous removal orders.
Sec. 515. Cancellation of removal.
Sec. 516. Detention of dangerous aliens.
Sec. 517. Alternatives to detention.
Sec. 518. Release of aliens from noncontiguous countries.
Sec. 519. Curtailment of visas for aliens from countries denying or delaying repatriation of nationals.
Sec. 520. Authorization of appropriations.

SEC. 2. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, 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 holding.

TITLE I—SOUTHWEST BORDER SECURITY

SEC. 101. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—
(1) in the heading by striking “NEAR SAN DIEGO, CALIFORNIA”;

(2) by amending paragraph (1) to read as follows:

“(1) REINFORCED FENCING.—

“(A) IN GENERAL.—In carrying out subsection (a), the Secretary of Homeland Security shall provide for—

“(i) the construction along the southern international land border of the United States, starting at the Pacific Ocean and extending eastward to the Gulf of Mexico, of at least 2 layers of reinforced fencing; and

“(ii) the installation of such additional physical barriers, roads, lighting, and sensors along such border as may be necessary to eliminate illegal crossings along such border.

“(B) PRIORITY AREAS.—With respect to the border described in subparagraph (A), the Secretary shall ensure that initial fence construction occurs in high traffic and smuggling areas along such border.
“(C) CONSULTATION.—Before installing any fencing or other physical barriers, roads, lighting, or sensors under subclause (A), the Secretary shall consult with the Secretary of Defense for purposes of mitigating or limiting the impact of the fencing, barriers, roads, lighting, and sensors on military training and operations.”; and

(3) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

SEC. 102. BORDER PATROL AGENTS.

Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended—

(1) by striking “2010” each place it appears and inserting “2011”; and

(2) by striking “2,000” and inserting “3,000”.

SEC. 103. INCREASED AVAILABILITY OF DEPARTMENT OF DEFENSE EQUIPMENT TO ASSIST WITH SURVEILLANCE OF SOUTHERN INTERNATIONAL LAND BORDER OF THE UNITED STATES.

(a) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary of Defense and the Secretary of Homeland Security shall develop and implement a plan to use the au-
authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist with Department of Homeland Security surveillance activities conducted at or near the southern international land border of the United States.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall submit a report to Congress that contains—

(1) a description of the current use of Department of Defense equipment to assist with Department of Homeland Security surveillance of the southern international land border of the United States;

(2) the plan developed under subsection (a) to increase the use of Department of Defense equipment to assist with such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by Department of Defense under such plan during the one-year period beginning after submission of the report.
SEC. 104. PORTS OF ENTRY.

The Secretary of Homeland Security is authorized to—

(1) construct additional ports of entry along the international land border of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of enactment of this Act.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated $5,000,000,000 to carry out the amendment made by section 101 which shall be available until expended.

(b) Border Patrol Agents.—There are authorized to be appropriated such sums as may be necessary to carry out the amendment made by section 102.

(e) Ports of Entry.—There are authorized to be appropriated $125,000,000 to carry out section 104.

(d) Conforming Amendment.—Section 102(b)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is repealed.
SEC. 1. NECESSARY ASSETS FOR CONTROLLING UNITED STATES BORDERS.

(a) PERSONNEL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2007 through 2011, the Secretary of Homeland Security shall increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) CUSTOMS AND BORDER PROTECTION OFFICERS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out paragraph (1).

(B) TRANSPORTATION OF ALIENS.—There are authorized to be appropriated $25,000,000 for each of fiscal years 2007 through 2011 for the transportation of aliens.

(b) TECHNOLOGICAL ASSETS.—
(1) Acquisition.—The Secretary of Homeland Security shall procure unmanned aerial vehicles, cameras, poles, sensors, 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 2007 through 2011 to carry out paragraph (1).

(c) 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. 2. 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 (Public Law 108–458; 118 Stat. 3734), for each of fiscal years 2007 through 2011, 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 2007 through 2011, 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 positions 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 2007 through 2011 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. The Assistant Attorney
General 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 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 above the number of such positions for which funds were made available during the preceding fiscal year.

(3) UNITED STATES ATTORNEYS.—In 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 50 the number of attorneys in the United States Attorneys’ office to litigate immigration cases in the Federal courts above the number of such positions for
which funds were made available during the pre-
ceeding fiscal year.

(4) Immigration Judges.—In 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 50 the num-
ber of immigration judges above the number of such
positions for which funds were made available during
the preceding fiscal year.

(5) Authorization of Appropriations.—
There are authorized to be appropriated to the De-
partment of Justice for each of fiscal years 2007
through 2011 such sums as may be necessary to
carry out this subsection, including the hiring of
necessary support staff.

SEC. 3. ADDITIONAL WORKSITE ENFORCEMENT AND
FRAUD DETECTION AGENTS.

(a) Worksite Enforcement.—The Secretary of
Homeland Security shall, subject to the availability of ap-
propriations for such purpose, annually increase, by not
less than 2,000, the number of positions for investigators
dedicated to enforcing compliance with sections 274 and
274A of the Immigration and Nationality Act (8 U.S.C.
1324, 1324a) during the 5-year period beginning on Octo-
ber 1, 2006.
(b) Fraud Detection.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for Immigration Enforcement Agents dedicated to immigration fraud detection during the 5-year period beginning on October 1, 2006.

(c) Authorization of Appropriations.—There are authorized to be appropriated during each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 4. 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 2007 through 2011 to carry out this section.
Subtitle B—Maintaining Accurate Enforcement Data on Aliens

SEC. 211. ENTRY-EXIT SYSTEM.

(a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Section 110(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(b)(1)) is amended to read as follows:

“(1) provides access to, and integrates, arrival and departure data of all aliens who arrive and depart at ports of entry, in an electronic format and in a database of the Department of Homeland Security or the Department of State (including those created or used at ports of entry and at consular offices);”.

(b) CONSTRUCTION.—Section 110(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(c)) is amended to read as follows:

“(c) CONSTRUCTION.—Nothing in this section shall be construed to reduce or curtail any authority of the Secretary of Homeland Security or the Secretary of State under any other provision of law.”.

(c) DEADLINES.—Section 110(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(d)) is amended—
(1) in paragraph (1), by striking “December 31, 2003” and inserting “October 1, 2006”; and

(2) by amending paragraph (2) to read as follows:

“(2) LAND BORDER PORTS OF ENTRY.—Not later than October 1, 2006, the Secretary of Homeland Security shall implement the integrated entry and exit data system using the data described in paragraph (1) and available alien arrival and departure data described in subsection (b)(1) pertaining to aliens arriving in, or departing from, the United States at all land border ports of entry. Such implementation shall include ensuring that such data, when collected or created by an immigration officer at a port of entry, are entered into the system and can be accessed by immigration officers at airports, seaports, and other land border ports of entry.”.

(d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—Section 110(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(f)(1)) is amended by adding at the end the following:

“The Secretary of Homeland Security shall ensure that any officer or employee of the Department of Homeland Security or the Department of State having need to access
the data contained in the integrated entry and exit data
system for any lawful purpose under the Immigration and
Nationality Act has such access, including access for pur-
poses of representation of the Department of Homeland
Security in removal proceedings under section 240 of such
Act and adjudication of applications for benefits under
such Act.”.

SEC. 212. STATE AND LOCAL LAW ENFORCEMENT PROVI-
SION OF INFORMATION REGARDING ALIENS.

(a) VIOLATIONS OF FEDERAL LAW.—A statute, pol-
icy, or practice that prohibits, or restricts in any manner,
a law enforcement or administrative enforcement officer
of a State or of a political subdivision therein, from enforc-
ing Federal immigration laws or from assisting or cooper-
ating with Federal immigration law enforcement in the
course of carrying out the investigative or enforcement du-
ties of the officer or from providing information to an offi-
cial of the United States Government regarding the immi-
gration status of an individual who is believed to be ille-
gally present in the United States, is in violation of section
642(a) of the Illegal Immigration Reform and Immigrant
Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section
434 of the Personal Responsibility and Work Opportunity
(b) State and Local Law Enforcement Provision of Information About Apprehended Illegal Aliens.—

(1) Provision of Information.—

(A) In general.—Each law enforcement agency of a State or of a political subdivision therein shall provide to the Department of Homeland Security the information listed in paragraph (2) for each alien who is apprehended in the jurisdiction of such agency.

(B) Time limitation.—Not later than 15 days after an alien described in subparagraph (A) is apprehended, information required to be provided under paragraph (1) shall be provided in such form and in such manner as the Secretary of Homeland Security may, by regulation or guideline, require.

(C) Exception.—The reporting requirement in paragraph (A) shall not apply in the case of any alien determined to be lawfully present in the United States.

(2) Information required.—The information listed in this subsection is as follows:

(A) The alien’s name.
(B) The alien’s address or place of residence.

(C) A physical description of the alien.

(D) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(E) If applicable—

(i) the alien’s driver’s license number and the State of issuance of such license;

(ii) the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document;

(iii) the license number and description of any vehicle registered to, or operated by, the alien, and

(iv) a photo of the alien and the alien’s fingerprints, if available or readily obtainable.

(3) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse such law enforcement agencies for the costs, per a schedule determined by the Secretary, incurred by such agencies
in collecting and transmitting the information de-
scribed in paragraph (2).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.—

(A) TECHNICAL AMENDMENT.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(i) in subsections (a), (b)(1), and (c),

by striking “Immigration and Naturalization Service” each place it appears and in-

serting “Department of Homeland Security”; and

(ii) in the heading by striking “IMMI-

GRATION AND NATURALIZATION SERV-

ICE” and inserting “DEPARTMENT OF

HOMELAND SECURITY”.

(B) CONFORMING AMENDMENT.—Section

1(d) of the Illegal Immigration Reform and Im-
migrant Responsibility Act of 1996 (division C
of Public Law 104–208; 110 Stat. 3009–546) is amended by striking the item related to sec-
tion 642 and inserting the following:

"Sec. 642. Communication between government agencies and the Department of Homeland Security.".
(2) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) IN GENERAL.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644) is amended—

(i) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”; and

(ii) in the heading by striking “IMMIGRATION AND NATURALIZATION SERVICE” and inserting “DEPARTMENT OF HOMELAND SECURITY”.

(B) CONFORMING AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) (Public Law 104–193; 110 Stat. 2105) is amended by striking the item related to section 434 and inserting the following:

“Sec. 434. Communication between State and local government agencies and the Department of Homeland Security.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the requirements of this section.
SEC. 213. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

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

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Department of Homeland Security may have in its possession of the Department 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 detained by a Federal, State or local law enforcement agency whom a federal immigration officer has confirmed to be unlawfully present in the United States but, in the exercise of discretion, has been released from detention without transfer into the custody of a Federal immigration officer.
(2) REMOVAL OF INFORMATION.—If an individual is 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 departure under section 240B of the Immigration 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”.

S 2061 IS
(c) Permission to Depart Voluntarily.—Section 240b of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

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

(2) in subsection (a)(2)(A), by striking “120” and inserting “30”.

Subtitle C—Detention of Aliens and Reimbursement of Costs


(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 that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such alien from the United States.
(2) Determination of location.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department of Homeland Security. The detention facilities shall be located so as to enable the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(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 Realignment Act of 1990 (10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) 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 expend” and inserting “shall expend”.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.
SEC. 222. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR 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 new section:

"TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY

"Sec. 240D. (a) In General.—If the head of a law enforcement entity of 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 Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

"(1) shall—

"(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Immigration Reform and Immigrant Responsibility Act of 1996, and expeditiously inform the requesting entity whether such individual is an illegal alien; and

"(B) either—

"(i) not later than 72 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 72 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

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

“(2) shall designate at least 1 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 criminal or illegal aliens to the Department of Homeland Security.

“(b) REIMBURSEMENT.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State or a political subdivision of a State for expenses, as verified by the Secretary of Homeland Security, incurred by the State or political subdivision in the detention and transportation of a criminal or illegal alien as described in subparagraphs (A) and (B) of subsection (a)(1).
“(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (a)(1) shall be—

“(A) the product of—

“(i) the average daily 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); multiplied by

“(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

“(B) the cost of transporting the criminal or illegal alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

“(C) the cost of uncompensated emergency medical care provided to a detained illegal alien during the period between the time of transmittal of the request described in subsection (a) and the time of transfer into Federal custody.

“(c) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in a Federal facility pursuant to
this subsection are held in facilities which provide an appropriate level of security, and that, where practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

“(d) Requirement for Schedule.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended illegal aliens from the custody of those States and political subdivisions of States which routinely submit requests described in subsection (a) into Federal custody.

“(e) Authority for Contracts.—

“(1) In general.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

“(2) Determination by Secretary.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or where appropriate, the political subdivision in which the agencies are located has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Im-

The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.

“(f) ILLEGAL ALIEN DEFINED.—In this section, the term ‘illegal alien’ means an alien who—

“(1) entered the United States without inspection or at any time 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.”.
(b) Authorization of Appropriations for the Detention and Transportation to Federal Custody of Aliens Not Lawfully Present.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 223. INSTITUTIONAL REMOVAL PROGRAM.

(a) Institutional Removal Program.—

(1) Continuation.—The Secretary of Homeland Security shall continue to operate the Institutional Removal Program or develop and implement any other program 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.—The Secretary of Homeland Security shall extend the institutional removal program to all States. Each state should—

(A) cooperate with officials of the Federal Institutional Removal Program;
(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey the information collected under subparagraph (B) to officials of the Institutional Removal Program.

(b) IMPLEMENTATION OF COOPERATIVE INSTITUTIONAL REMOVAL PROGRAMS.—

(1) REDESIGNATION.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is—

(A) redesignated as section 296 of the Immigration and Nationality Act; and

(B) inserted into such Act after section 295 of such Act.

(2) AMENDMENT.—Section 296 of the Immigration and Nationality Act, as redesignated by paragraph (1), is amended by adding at the end the following:

“(d) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—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 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 de-
tained by the State prison until personnel from the
Bureau of Immigration and Customs Enforcement
can take the alien into custody.

“(e) TECHNOLOGY USAGE.—Technology such as
videoconferencing shall be used to the maximum extent
practicable in order to make the Institutional Removal
Program 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 prac-
ticable in order to make these resources available to State
and local law enforcement agencies in remote locations.

“(f) ENFORCEMENT.—

“(1) INELIGIBILITY FOR FEDERAL LAW EN-
FORCEMENT AID.—Upon a determination that any
person, or any Federal, State, or local government
agency or entity, is in violation of subsection (a) or
(b), the Attorney General shall not provide to such
person, agency, or entity any grant amount pursuant
to any law enforcement grant program carried out
by any element of the Department of Justice, includ-
ing the program under section 241(i) of the Immi-
grantion and Nationality Act (8 U.S.C. 241(i)), or
pursuant to any grant program authorized under
title I of the Housing and Community Development
Act of 1974 (42 U.S.C. 5301 et seq.), and shall en-
sure that no such grant amounts are provided, di-
rectly or indirectly, to such person, agency, or entity.

In the case of grant amounts that otherwise would
be provided to such person, agency, or entity pursu-
ant to a formula, such amounts shall be reallocated
among eligible recipients.

“(2) Violations by government officials.—In any case in which a Federal, State, or
local government official is in violation of subsection
(a) or (b), the government agency or entity that em-
ploys (or, at the time of the violation, employed) the
official shall be subject to the sanction described in
paragraph (1).

“(3) Duration.—The sanction described in
paragraph (1) shall remain in effect until the Sec-
retary of Homeland Security determines that the
person, agency, or entity has ceased violating sub-
sections (a) and (b).
“(g) Private Right of Action.—A citizen or national of the United States who is domiciled in a State or in a political subdivision of a State shall have a right of action in the United States district court of the State in which such citizen or national is domiciled to obtain declaratory and injunctive relief to remedy a violation of subsection (a) or (b) by an agency, agent, or official of the State or political subdivision.

“(h) Report to Congress.—The Secretary of Homeland Security shall submit to Congress a report on the participation of States in the Institutional Removal Program and in any other program under subsection (a).

“(i) Authorization of Appropriations.—There are authorized to be appropriated to carry out the Institutional Removal Program—

“(1) $30,000,000 for fiscal year 2007;

“(2) $40,000,000 for fiscal year 2008;

“(3) $50,000,000 for fiscal year 2009;

“(4) $60,000,000 for fiscal year 2010; and

“(5) $70,000,000 for fiscal year 2011.”.
Subtitle D—State, Local, and Tribal
Enforcement of Immigration Laws

SEC. 231. CONGRESSIONAL AFFIRMATION OF IMMIGRATION LAW ENFORCEMENT AUTHORITY 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 lines to detention centers), for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

SEC. 232. IMMIGRATION LAW ENFORCEMENT TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.

(a) Training Flexibility.—

(1) In general.—The Secretary 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 of the Department of Homeland Security, onsite training held at State or local police agencies or facilities, on-line training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) ON-LINE TRAINING.—The head of the Distributed Learning Program of the Federal Law Enforcement Training Center shall make training available for State and local law enforcement personnel via the Internet through a secure, encrypted distributed learning system that has all its servers based in the United States.

(3) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(b) COOPERATIVE ENFORCEMENT PROGRAMS.—The Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1375(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting,
harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

(c) Clarification.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising the inherent authority of the officer to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody illegal aliens during the normal course of carrying out the law enforcement duties of the officer.

(d) Technical Amendment.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

SEC. 233. IMMUNITY.

(a) Personal Immunity.—Notwithstanding any other provision of law, a law enforcement officer of a State, or of a political subdivision of a State, shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the enforcement of any immigration law. The immunity provided by this subsection shall only apply to an officer of a State, or of a political subdivision of a State, who is acting within the scope of such officer’s official duties.
(b) AGENCY IMMUNITY.—Notwithstanding any other provision of law, a law enforcement agency of a State, or of a political subdivision of a State, 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 that the law enforcement officer of such agency, whose action the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

**TITLE V—PENALTIES AND ENFORCEMENT**

**Subtitle A—Criminal and Civil Penalties**

**SEC. 501. 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”; and

(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”; and

(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”; 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

(iv) by striking the matter following clause (iii) and inserting the following new subparagraph:

“(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”; 

(4) in paragraph (3)(B), by striking “brought
into” and inserting “transported, harbored, shel-
tered, or encouraged or induced to enter or reside
in”; and

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

SEC. 502. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF
ALIENS AT IMPROPER TIME OR PLACE,
AVOIDANCE OF EXAMINATION OR INSPec-
TION, UNLAWFUL PRESENCE AND MISREPRE-
SENTATION OR CONCEALMENT OF FACTS.

Section 275 of the Immigration and Nationality Act
(8 U.S.C. 1325) is amended to read as follows:

“ENTRY AT IMPROPER TIME OR PLACE; AVOIDANCE OF
EXAMINATION OR INSPECTION; UNLAWFUL PRESEN-
ENCE; MISREPRESENTATION OR CONCEALMENT OF
FACTS

“Sec. 275. (a) In General.—Any alien who—

“(1) enters or attempts to enter the United
States at any time or place other than as designated
by immigration officers;
“(2) eludes examination or inspection by immigration officers; or

“(3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact,

shall, for the first commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. For each subsequent unlawful entry or attempted entry in violation of this section, an alien shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

“(b) Immigration-Related Entrepreneurship Fraud.—Any individual who knowingly established a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined not more than $500,000, or imprisoned not more than 10 years, or both.”.

SEC. 503. CIVIL AND CRIMINAL PENALTIES FOR ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.

(a) In General.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 275 the following new section:
“CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN
THE UNITED STATES

“Sec. 275A. (a) In General.—In addition to any
other violation, an alien present in the United States in
violation of this Act shall be guilty of a misdemeanor and
shall be fined under title 18, United States Code, impris-
oned not more than 1 year, or both. The assets of any
alien present in the United States in violation of this Act
shall be subject to forfeiture under title 19, United States
Code.

“(b) Affirmative Defense.—It shall be an affirm-
ative defense to a violation of subsection (a) that the alien
overstayed the time allotted under the alien’s 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.”.

(b) Increase in Criminal Penalties for Illegal
Entry.—Section 275(a) of the Immigration and Nation-
ality Act (8 U.S.C. 1325(a)) is amended by striking “6
months,” and inserting “1 year,.”.

(c) Rule of Construction.—Nothing in this sec-
tion shall be construed to limit the authority of any State
or political subdivision therein to enforce criminal trespass
laws against aliens whom a law enforcement agency has
verified to be present in the United States in violation of this Act.

SEC. 504. INCREASED PENALTIES FOR REENTRY OF REMOVED ALIENS.

(a) In General.—Subsection (a) of section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

“(a) Subject to subsection (b), any alien shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both, who—

“(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

“(2) thereafter enters, attempts to enter, or is at any time found in, the United States, unless, in the case of an alien previously denied admission and removed, the alien establishes that the alien was not required to obtain from the Secretary of Homeland Security advance consent to reapply for admission under this Act or any prior Act.”.

(b) Criminal Penalties for Reentry of Certain Removed Aliens.—Subsection (b) of such section is amended—
(1) in paragraph (3), by striking “sentence.” and inserting “sentence;”; and
(2) in paragraph (4), by striking “(unless the Attorney General has expressly consented to such alien’s reentry)”.

(c) REENTRY OF ALIENS REMOVED PRIOR TO COMPLETION OF IMPRISONMENT.—Subsection (c) of such section is amended—

(1) by inserting “(as in effect before the effective date of the amendments made by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), or removed under section 241(a)(4),” after “242(h)(2)”; (2) by striking “(unless the Attorney General has expressly consented to such alien’s reentry)”;
(3) by inserting “or removal” after “time of deportation”; and
(4) by inserting “or removed” after “reentry of deported”.

(d) CHALLENGE TO VALIDITY OF ORDER.—Subsection (d) of such section is amended—

(1) in the matter before paragraph (1), by striking “deportation order” and inserting “deportation or removal order”; and
(2) in paragraph (2), by inserting “or removal” after “deportation”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to criminal proceedings involving aliens who enter, attempt to enter, or are found in the United States, after such date.

SEC. 505. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS OF CITIZENSHIP.

(a) Civil Penalties for Document Fraud.—Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended—

(1) in subparagraph (A), by striking “$250 and not more than $2,000” and inserting “$500 and not more than $4,000”; and

(2) in subparagraph (B), by striking “$2,000 and not more than $5,000” and inserting “$4,000 and not more than $10,000”.

(b) Fraud and False Statements.—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1015, by striking “not more than 5 years” and inserting “not more than 10 years”; and

(2) in section 1028(b)—
(A) in paragraph (1), by striking “15 years” and inserting “20 years”;  
(B) in paragraph (2), by striking “three years” and inserting “6 years”;  
(C) in paragraph (3), by striking “20 years” and inserting “25 years”; and  
(D) in paragraph (6), by striking “one year” and inserting “2 years”.  

(e) 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”.

•S 2061 IS
(d) 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.

“(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.”.

(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:

“CHAPTER 52—ILLEGAL ALIENS

‘1131. Enhanced penalties for certain crimes committed by illegal aliens.’.”
SEC. 506. RENDERING INADMISSIBLE AND DEPORTABLE
ALIENS PARTICIPATING IN CRIMINAL STREET GANGS.
(a) INADMISSIBLE.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

“(J) CRIMINAL STREET GANG PARTICIPATION.—

“(i) IN GENERAL.—Any alien is inadmissible if—

“(I) the alien has been removed under section 237(a)(2)(F); or

“(II) the consular officer or the Secretary of Homeland Security knows, or has reasonable ground to believe that the alien—

“(aa) is a member of a criminal street gang and has committed, conspired, or threatened to commit, or seeks to enter the United States to engage solely, principally, or incidentally in, a gang crime or any other unlawful activity; or
“(bb) is a member of a criminal street gang designated under section 219A.

“(ii) DEFINITIONS.—In this subpara-

graph:

“(I) CRIMINAL STREET GANG.—
The term ‘criminal street gang’ means an ongoing group, club organization or informal association of 5 or more persons who engage, or have engaged within the past 5 years in a con-
tinuing series of 3 or more gang crimes (one of which is a crime of vio-

lence, as defined in section 16 of title 18, United States Code).

“(II) GANG CRIME.—The term ‘gang crime’ means conduct constit-
tuting any Federal or State crime, punishable by imprisonment for 1 year or more, in any of the following categories:

“(aa) A crime of violence (as defined in section 16 of title 18, United States Code).
“(bb) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

“(cc) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(dd) Any conduct punishable under section 844 of title 18, United States Code (relating to explosive materials), subsection (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of such title) or is a serious drug offense (as defined in section 924(e)(2)(A)), (i), (j), (k), (o), (p), (q), (u), or (x) of
section 922 of such title (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 of such title (relating to penalties), section 930 of such title (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 of such title (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 of such title (relating to fraud and related activity in connection with identification documents or access devices), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived
from specified unlawful activity),
or sections 2312 through 2315 of
such title (relating to interstate
transportation of stolen motor ve-
hicles or stolen property).

“(ee) Any conduct punish-
able under section 274 (relating
to bringing in and harboring cer-
tain aliens), section 277 (relating
to aiding or assisting certain
aliens to enter the United
States), or section 278 (relating
to importation of alien for im-
moral purpose) of this Act.”.

(b) DEPORTABLE.—Section 237(a)(2) of the Immi-
gration and Nationality Act (8 U.S.C. 1227(a)(2)) is
amended by adding at the end the following:

“(F) CRIMINAL STREET GANG PARTICIPA-
TION.—

“(i) IN GENERAL.—An alien is deport-
able if the alien—

“(I) is a member of a criminal
street gang and is convicted of com-
mitting, or conspiring, threatening, or
attempting to commit, a gang crime;
or

“(II) is determined by the Secretary of Homeland Security to be a member of a criminal street gang designated under section 219A.

“(ii) Definitions.—For purposes of this subparagraph, the terms ‘criminal street gang’ and ‘gang crime’ have the meaning given such terms in section 212(a)(2)(J)(ii).”.

(c) Designation of Criminal Street Gangs.—

(1) In general.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

“DESIGNATION OF CRIMINAL STREET GANGS

“Sec. 219A. (a) Designation.—

“(1) In general.—The Attorney General is authorized to designate a group or association as a criminal street gang in accordance with this subsection if the Attorney General finds that the group or association meets the criteria described in section 212(a)(2)(J)(ii)(I).

“(2) Procedure.—

“(A) Notice.—

“
“(i) TO CONGRESSIONAL LEADERS.—

Seven days before making a designation under this subsection, the Attorney General shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, in writing, of the intent to designate a group or association under this subsection, together with the findings made under paragraph (1) with respect to that group or association, and the factual basis therefore.

“(ii) PUBLICATION IN FEDERAL REGISTER.—The Attorney shall publish the designation in the Federal Register 7 days after providing the notification under clause (i).

“(B) EFFECT OF DESIGNATION.—

“(i) A designation under this subsection shall take effect upon publication under subparagraph (A)(ii).
“(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

“(3) RECORD.—In making a designation under this subsection, the Attorney General shall create an administrative record.

“(4) PERIOD OF DESIGNATION.—

“(A) IN GENERAL.—A designation under this subsection shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside pursuant to subsection (b).

“(B) REVIEW OF DESIGNATION UPON PETITION.—

“(i) IN GENERAL.—The Attorney General shall review the designation of a criminal street gang under the procedures set forth in clauses (iii) and (iv) if the designated gang or association files a petition for revocation within the petition period described in clause (ii).

“(ii) PETITION PERIOD.—For purposes of clause (i)—

“(I) if the designated gang or association has not previously filed a pe-
petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

“(II) if the designated gang or association has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

“(iii) PROCEDURES.—Any criminal street gang that submits a petition for revocation under this subparagraph shall provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the gang is warranted.

“(iv) DETERMINATION.—

“(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Attorney Gen-
eral shall make a determination as to such revocation.

“(II) Publication of Determination.—A determination made by the Attorney General under this clause shall be published in the Federal Register.

“(III) Procedures.—Any revocation by the Attorney General shall be made in accordance with paragraph (6).

“(C) Other Review of Designation.—

“(i) In General.—If in a 4-year period no review has taken place under subparagraph (B), the Attorney General shall review the designation of the criminal street gang in order to determine whether such designation should be revoked pursuant to paragraph (6).

“(ii) Procedures.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established
by the Attorney General. The results of such review and the applicable procedures shall not be reviewable in any court.

“(iii) Publication of results of review.—The Attorney General shall publish any determination made pursuant to this subparagraph in the Federal Register.

“(5) Revocation by act of Congress.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

“(6) Revocation based on change in circumstances.—

“(A) In general.—The Attorney General may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (b) and (c) of paragraph (4) if the Attorney General finds that—

“(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation; or

“(ii) the national security of the United States warrants a revocation.

“(B) Procedure.—The procedural requirements of paragraphs (2) and (3) shall
apply to a revocation under this paragraph. Any
revocation shall take effect on the date specified
in the revocation or upon publication in the
Federal Register if no effective date is specified.

“(7) Effect of Revocation.—The revocation
of a designation under paragraph (5) or (6) shall
not affect any action or proceeding based on conduct
committed prior to the effective date of such revoca-
tion.

“(8) Use of Designation in Hearing.—If a
designation under this subsection has become effec-
tive under paragraph (2)(B), an alien in a removal
proceeding shall not be permitted to raise any ques-
tion concerning the validity of the issuance of such
designation as a defense or an objection at any hear-
ing.

“(b) Judicial Review of Designation.—

“(1) In General.—Not later than 60 days
after publication of the designation in the Federal
Register, a group or association designated as a
criminal street gang may seek judicial review of the
designation in the United States Court of Appeals
for the District of Columbia Circuit.
“(2) Basis of review.—Review under this subsection shall be based solely upon the administrative record.

“(3) Scope of review.—The court shall hold unlawful and set aside a designation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

“(B) contrary to constitutional right, power, privilege, or immunity;

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

“(D) lacking substantial support in the administrative record taken as a whole; or

“(E) not in accord with the procedures required by law.

“(4) Judicial review invoked.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

“(c) Relevant committee defined.—As used in this section, the term ‘relevant committees’ means the
Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.”.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 219 the following:

“Sec. 219A. Designation of criminal street gangs.”.

SEC. 507. MANDATORY DETENTION OF SUSPECTED CRIMINAL STREET GANG MEMBERS.

(a) IN GENERAL.—Section 236(c)(1)(d) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(d)) is amended—

(1) by inserting “or 212(a)(2)(J)” after “212(a)(3)(B)”; and

(2) by inserting “or 237(a)(2)(F)” before “237(a)(4)(B)”.

(b) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the number of aliens detained under the amendments made by subsection (a).
SEC. 508. INELIGIBILITY FROM PROTECTION FROM REMOVAL AND ASYLUM.

(a) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is” after “to an alien”.

(b) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of such act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) in clause (v), by striking “or” at the end;

(2) by redesignating clause (vi) as clause (vii);

and

(3) by inserting after clause (v) the following:

“(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) (relating to participation in criminal street gangs); or”.

(c) DENIAL OF REVIEW OF DETERMINATION OF INELIGIBILITY FOR TEMPORARY PROTECTED STATUS.—Section 244(c)(2) of such Act (8 U.S.C. 1254(c)(2)) is amended by adding at the end the following:

“(C) LIMITATION ON JUDICIAL REVIEW.—

There shall be no judicial review of any finding
under subparagraph (B) that an alien is described in section 208(b)(2)(A)(vi).”.

SEC. 509. PENALTIES FOR MISUSING SOCIAL SECURITY NUMBERS OR FILING FALSE INFORMATION WITH SOCIAL SECURITY ADMINISTRATION.

(a) Misuse of Social Security Numbers.—

(1) In general.—Section 208(a) of the Social
Security Act (42 U.S.C. 408(a)) is amended—

(A) in paragraph (7), by adding after sub-
paragraph (C) the following:

“(D) with intent to deceive, discloses, sells,
or transfers his own social security account
number, assigned to him by the Commissioner
of Social Security (in the exercise of the Com-
missioner’s authority under section 205(c)(2) to
establish and maintain records), to any person;
or”;

(B) in paragraph (8), by adding “or” at
the end; and

(C) by inserting after paragraph (8) the
following:

“(9) without lawful authority, offers, for a fee,
to acquire for any individual, or to assist in acquir-
ing for any individual, an additional social security
account number or a number that purports to be a
social security account number;

“(10) willfully acts or fails to act so as to cause
a violation of section 205(c)(2)(C)(xii);

“(11) being an officer or employee of any exec-
utive, legislative, or judicial agency or instrumen-
tality of the Federal Government or of a State or
political subdivision thereof (or a person acting as
an agent of such an agency or instrumentality) in
possession of any individual’s social security account
number (or an officer or employee thereof or a per-
son acting as an agent thereof), willfully acts or fails
to act so as to cause a violation of clause (vi)(II),
(x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C);
or

“(12) being a trustee appointed in a case under
title 11, United States Code (or an officer or em-
ployee thereof or a person acting as an agent there-
of), willfully acts or fails to act so as to cause a vio-
lation of clause (x) or (xi) of section 205(c)(2)(C).”.

(2) EFFECTIVE DATES.—Paragraphs (7)(D)
and (9) of section 208(a) of the Social Security Act,
as added by paragraph (1), shall apply with respect
to each violation occurring after the date of enact-
ment of this Act. Paragraphs (10), (11), and (12)
of section 208(a) of such Act, as added by para-
graph (1)(C), shall apply with respect to each viola-
tion occurring on or after the effective date of this
Act.

(b) Report on Enforcement Efforts Con-
cerning Employers Filing False Information Re-
turns.—The Commissioner of Internal Revenue and the
Commissioner of Social Security shall submit an annual
report to the appropriate congressional committees on ef-
forts taken to identify and enforce penalties against em-
ployers that file incorrect information returns.

Subtitle B—Detention, Removal
and Departure

SEC. 511. VOLUNTARY DEPARTURE.

(a) In General.—Section 240B of the Immigration
and Nationality Act (8 U.S.C. 1229c) is amended to read
as follows:

"VOLUNTARY DEPARTURE

"Sec. 240B. (a) In Lieu of Proceedings.—The
Secretary of Homeland Security may permit an alien vol-
untarily to depart the United States at the alien’s own
expense under this subsection, in lieu of being subject to
proceedings under section 240 and in lieu of applying for
another form of relief from removal, if the alien is not
deportable under paragraph (2)(A)(iii) or (4)(B) of section
237(a). Permission to depart voluntarily under this sub-
section shall not be valid for a period exceeding 90 days and cannot be extended. The Secretary of Homeland Secu-

rity shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will de-
part, to be surrendered upon proof that the alien has de-
parted the United States within the time specified.

“(b) Prior to Scheduling Merits Hearing.—

The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection prior to the scheduling of the first merits hearing, in lieu of applying for another form of relief from removal, if the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a).

Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days and cannot be extended. The Secretary shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(c) Once First Merits Hearing Scheduled.—

“(1) In General.—Once the first merits hear-
ing has been scheduled under section 240, the Sec-
retary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of pursuing another form of relief from removal, if the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

“(A) the alien has been physically present in the United States for a period of at least 1 year immediately preceding the date the notice to appear was served under section 239(a);

“(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien’s application for voluntary departure;

“(C) the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a); and

“(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

“(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 45 days and cannot be extended.
“(3) **BOND.**—The Secretary of Homeland Security shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(d) **ALIENS NOT ELIGIBLE.**—The Secretary of Homeland Security shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to depart voluntarily under section 244(e) or this section, or to voluntarily return, at any time.

“(e) **CIVIL PENALTY FOR FAILURE TO DEPART.**—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

“(f) **ADDITIONAL CONDITIONS.**—The Secretary of Homeland Security may by regulation limit eligibility for voluntary departure under this section for any class or
classes of aliens. No court may review any regulation
issued under this subsection.

“(g) Treatment of Aliens Arriving in the
United States.—In the case of an alien who is arriving
in the United States and with respect to whom pro-
ceedings under section 240 are (or would otherwise be)
initiated at the time of such alien’s arrival, subsections
(a) through (c) shall not apply. Nothing in this paragraph
shall be construed as preventing such an alien from with-
drawing the application for admission in accordance with
section 235(a)(4).

“(h) Review.—There shall be no administrative or
judicial review of a denial of a request for an order of
voluntary departure. No court or agency shall order a stay
of an alien’s removal pending consideration of any claim
with respect to voluntary departure. The order permitting
the alien to depart voluntarily shall inform the alien that
the alien has no right to appeal any issue relating to the
removal proceeding.

“(i) Voluntary Departure Agreements Negotiated by State or Local Courts.—

“(1) In general.—The Secretary of Homeland
Security may permit an alien voluntarily to depart
the United States at the alien’s own expense under
this subsection at any time prior to the scheduling
of the first merits hearing, in lieu of applying for an-
other form of relief from removal, if the alien—

“(A) is deportable under section 237(a)(1);
“(B) is charged in a criminal proceeding in
a State or local court for which conviction
would subject the alien to deportation under
paragraphs (2) through (6) of section 237(a);
and
“(C) has accepted a plea bargain in such
proceeding which stipulates that the alien, after
consultation with counsel in such proceeding—
“(i) voluntarily waives application for
another form of relief from removal;
“(ii) consents to transportation, under
custody of a law enforcement officer of the
State or local court, to an appropriate
international port of entry where departure
from the United States will occur;
“(iii) possesses or will promptly obtain
travel documents issued by the foreign
state of which the alien is a national or
legal resident; and
“(iv) possesses the means to purchase
transportation from the port of entry to
the foreign state to which the alien will depart from the United States.

“(2) REVIEW.—The Secretary shall promptly review an application for voluntary departure for compliance with the requirements of paragraph (1). The Secretary shall permit voluntary departure under this subsection unless the State or local jurisdiction is informed in writing not later than 30 days after such application is filed, that the Secretary intends to seek removal under section 240.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after such date if those proceedings have not resulted in a final administrative order before such date.

SEC. 512. 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 enactment of this Act.

SEC. 513. EXPEDITED REMOVAL OF CRIMINAL ALIENS.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended—

(1) by amending the section heading to read as follows: “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

(2) in subsection (a), by amending the subsection heading to read as follows: “EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES”;

(3) in subsection (b), by amending the subsection heading to read as follows: “REMOVAL OF CRIMINAL ALIENS”;

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—The Secretary may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.
“(2) Aliens described.—An alien is described in this paragraph if the alien, whether or not admitted into the United States, was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).”;

(5) in the first subsection (c) (relating to presumption of deportability), by striking “convicted of an aggravated felony” and inserting “described in paragraph (b)(2)”;

(6) by redesignating the second subsection (c) (relating to judicial removal) as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking “, who is deportable under this Act,”.

(b) Limit on Injunctive Relief.—Section 242(f)(2) of such Act (8 U.S.C. 1252(f)(2)) is amended by inserting “or stay, whether temporarily or otherwise,” after “enjoin”.

SEC. 514. REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.

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.”.
SEC. 515. CANCELLATION OF REMOVAL.

Section 240A(c) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

“(7) An alien who is inadmissible under section 212(a)(9)(B)(i).”.

SEC. 516. 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) (8 U.S.C. 1158(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”;

1 75
2 SEC. 515. CANCELLATION OF REMOVAL.
3 Section 240A(c) of the Immigration and Nationality
4 Act (8 U.S.C. 1229b(c)) is amended by adding at the end
5 the following:
6 “(7) An alien who is inadmissible under section
7 212(a)(9)(B)(i).”.
8 SEC. 516. DETENTION OF DANGEROUS ALIENS.
9 (a) Removal of Terrorist Aliens.—
10 (1) In general.—Title II of the Immigration
11 and Nationality Act (8 U.S.C. 1151 et seq.) is
12 amended—
13 (A) in section 208(b)(2)(A) (8 U.S.C.
14 1158(b)(2)(A)), by amending clause (v) to read
15 as follows:
16 “(v) the alien is described in section
17 212(a)(3)(B), 212(a)(3)(F), or
18 237(a)(4)(B) unless, in the case only of an
19 alien described in section
20 212(a)(3)(B)(i)(IV), the Secretary of
21 Homeland Security or the Attorney Gen-
22 eral determines that there are not reason-
23 able grounds for regarding the alien as a
24 danger to the security of the United
25 States; or”;
(B) in section 240A(c) (8 U.S.C. 1229b(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) (8 U.S.C. 1229e(b)(1)(C)), by striking “deportable under” and inserting “described in”;

(D) in section 241(b)(3)(B) (8 U.S.C. 1251(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 (8 U.S.C. 1259)—

(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 Immig-

(2) EFFECTIVE DATE.—The amendments made

(A) by striking “Attorney General” and in-

(2) EFFECTIVE DATE.—The amendments made

(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 admin-

(C) in paragraph (6), by striking “removal
period and, if released,” and inserting “removal
period, in the discretion of the Secretary, with-

period and, if released,” and inserting “removal
period, in the discretion of the Secretary, with-
out any limitations other than those specified
by the Secretary of Homeland Security by regu-

(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. 517. ALTERNATIVES TO DETENTION.
The Secretary of Homeland Security shall implement
pilot programs in 6 States with the largest estimated pop-
ulations of deportable aliens 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 or-
ders.

SEC. 518. RELEASE OF ALIENS FROM NONCONTIGUOUS
COUNTRIES.
(a) MINIMUM BOND.—Section 236(a)(2) of the Im-
migration and Nationality Act (8 U.S.C. 1226(a)(2)) is
amended—
(1) by striking “on”;
(2) in subparagraph (a)—
   (A) by inserting “except as provided under
   subparagraph (B), upon the giving of a” before
   “bond”; and
   (B) by striking “or” at the end;
(3) by redesignating subparagraph (B) as sub-
   paragraph (C); and
   (4) by inserting after subparagraph (A) the fol-
      lowing:
“(B) if the alien is a national of a non-contiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security, upon the giving of a bond of at least $5,000 with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security or the Attorney General; or.”

(b) REPORT.—Two years after the effective date of this Act, the Secretary of Homeland Security shall submit a report to Congress on the number of aliens from non-contiguous countries who are apprehended between land border ports of entry.

SEC. 519. CURTAILMENT OF VISAS FOR ALIENS FROM COUNTRIES DENYING OR DELAYING REPATRIATION OF NATIONALS.

Section 244 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended by adding at the end the following new subsection:

“(e) Public Listing of Aliens With No Significant Likelihood of Removal.—
“(1) IN GENERAL.—The Secretary of Homeland Security shall establish and maintain a public listing of every alien who is subject to a final order of removal and with respect to whom the Secretary or any Federal court has determined that there is no significant likelihood of removal in the reasonably foreseeable future due to the refusal, or unreasonable delay, of all countries designated by the alien under this section to receive the alien. The public listing shall indicate whether such alien has been released from Federal custody, and the city and State in which such alien resides.

“(2) DISCONTINUATION OF VISAS.—If 24 or more of the citizens, subjects, or nationals of any foreign state remain on the public listing described in paragraph (1) throughout any month—

“(A) such foreign state shall be deemed to have denied or unreasonably delayed the acceptance of such aliens;

“(B) the Secretary of Homeland Security shall make the notification to the Secretary of State prescribed in subsection (d) of this section; and

“(C) the Secretary of State shall discontinue the issuance of nonimmigrant visas to
citizens, subjects, or nationals of such foreign state until such time as the number of aliens on the public listing from such foreign state has—
“(i) declined to fewer than 6; or
“(ii) remained below 25 for at least 30 days.”.

SEC. 520. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.