

110TH CONGRESS
1ST SESSION

S. 330

To authorize secure borders and comprehensive immigration reform, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 2007

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

A BILL

To authorize secure borders and comprehensive immigration
reform, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Border Security and Immigration Reform Act of 2007”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to the Immigration and Nationality Act.
- Sec. 3. Definitions.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

- Sec. 101. Enforcement personnel.
- Sec. 102. Technological assets.
- Sec. 103. Infrastructure.
- Sec. 104. Border Patrol checkpoints.
- Sec. 105. Ports of entry.
- Sec. 106. Construction of strategic border fencing and vehicle barriers.

Subtitle B—Border Security Plans, Strategies, and Reports

- Sec. 111. Surveillance plan.
- Sec. 112. National Strategy for Border Security.
- Sec. 113. Reports on improving the exchange of information on North American security.
- Sec. 114. Improving the security of Mexico's southern border.
- Sec. 115. Combating human smuggling.
- Sec. 116. Deaths at United States-Mexico border.
- Sec. 117. Cooperation with the Government of Mexico.

Subtitle C—Other Border Security Initiatives

- Sec. 121. Biometric data enhancements.
- Sec. 122. Secure communication.
- Sec. 123. Border Patrol training capacity review.
- Sec. 124. US-VISIT System.
- Sec. 125. Document fraud detection.
- Sec. 126. Improved document integrity.
- Sec. 127. Cancellation of visas.
- Sec. 128. Biometric entry-exit system.
- Sec. 129. Border study.
- Sec. 130. Secure Border Initiative financial accountability.
- Sec. 131. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 132. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.
- Sec. 133. Temporary National Guard support for securing the southern land border of the United States.
- Sec. 134. Report on incentives to encourage certain Members and former Members of the Armed Forces to serve in the Bureau of Customs and Border Protection.
- Sec. 135. Western Hemisphere Travel Initiative.
- Sec. 136. Recruitment and retention program.

Subtitle D—Border Law Enforcement Relief Act

- Sec. 141. Short title.
- Sec. 142. Findings.
- Sec. 143. Border relief grant program.
- Sec. 144. Enforcement of Federal immigration law.

Subtitle E—Rapid Response Measures

- Sec. 151. Deployment of Border Patrol agents.
- Sec. 152. Border Patrol major assets.
- Sec. 153. Electronic equipment.
- Sec. 154. Personal equipment.
- Sec. 155. Authorization of appropriations.

TITLE II—INTERIOR ENFORCEMENT

- Sec. 201. Removal and denial of benefits to terrorist aliens.
- Sec. 202. Detention and removal of aliens ordered removed.
- Sec. 203. Aggravated felony.
- Sec. 204. Terrorist bars.
- Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
- Sec. 206. Illegal entry.
- Sec. 207. Illegal reentry.
- Sec. 208. Reform of passport, visa, and immigration fraud offenses.
- Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
- Sec. 210. Incarceration of criminal aliens.
- Sec. 211. Encouraging aliens to depart voluntarily.
- Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
- Sec. 213. Prohibition of the sale of firearms to, or the possession of, firearms by certain aliens.
- Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 215. Diplomatic security service.
- Sec. 216. Field agent allocation and background checks.
- Sec. 217. Construction.
- Sec. 218. State Criminal Alien Assistance Program.
- Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
- Sec. 220. Reducing illegal immigration and alien smuggling on tribal lands.
- Sec. 221. Alternatives to detention.
- Sec. 222. Conforming amendment.
- Sec. 223. Reporting requirements.
- Sec. 224. State and local enforcement of Federal immigration laws.
- Sec. 225. Removal of drunk drivers.
- Sec. 226. Medical services in underserved areas.
- Sec. 227. Expedited removal.
- Sec. 228. Protecting immigrants from convicted sex offenders.
- Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
- Sec. 230. Laundering of monetary instruments.
- Sec. 231. Listing of immigration violators in the National Crime Information Center database.
- Sec. 232. Cooperative enforcement programs.
- Sec. 233. 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. 234. Determination of Immigration status of individuals charged with Federal offenses.
- Sec. 235. Expansion of the Justice Prisoner and Alien Transfer System.

TITLE III—ILLEGAL ALIEN REGISTRATION

- Sec. 301. Registration for illegal workers.
- Sec. 302. Guest worker program.
- Sec. 303. Effective date.

TITLE IV—PENALTIES

- Sec. 401. Increased criminal penalties for document fraud.
 Sec. 402. Increased criminal penalties for certain crimes.
 Sec. 403. Additional penalties.

TITLE V—REMOVAL AND VIOLATION TRACKING

- Sec. 501. Institutional removal program.
 Sec. 502. Authorization for detention after completion of state or local prison sentence.
 Sec. 503. Use of the National Crime Information Center Database to track violations of immigration law.

TITLE VI—BORDER SECURITY CERTIFICATION

- Sec. 601. Border security certification.

1 **SEC. 2. REFERENCE TO THE IMMIGRATION AND NATION-**
 2 **ALITY ACT.**

3 Except as otherwise expressly provided, whenever in
 4 this Act an amendment or repeal is expressed in terms
 5 of an amendment to, or repeal of, a section or other provi-
 6 sion, the reference shall be considered to be made to a
 7 section or other provision of the Immigration and Nation-
 8 ality Act (8 U.S.C. 1101 et seq.).

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) DEPARTMENT.—Except as otherwise pro-
 12 vided, the term “Department” means the Depart-
 13 ment of Homeland Security.

14 (2) SECRETARY.—Except as otherwise provided,
 15 the term “Secretary” means the Secretary of Home-
 16 land Security.

1 **TITLE I—BORDER**
2 **ENFORCEMENT**
3 **Subtitle A—Assets for Controlling**
4 **United States Borders**

5 **SEC. 101. ENFORCEMENT PERSONNEL.**

6 (a) **ADDITIONAL PERSONNEL.—**

7 (1) **PORT OF ENTRY INSPECTORS.—**In each of
8 the fiscal years 2008 through 2012, the Secretary
9 shall, subject to the availability of appropriations, in-
10 crease by not less than 500 the number of positions
11 for full-time active duty port of entry inspectors and
12 provide appropriate training, equipment, and sup-
13 port to such additional inspectors.

14 (2) **INVESTIGATIVE PERSONNEL.—**

15 (A) **IMMIGRATION AND CUSTOMS EN-**
16 **FORCEMENT INVESTIGATORS.—**Section 5203 of
17 the Intelligence Reform and Terrorism Preven-
18 tion Act of 2004 (Public Law 108–458; 118
19 Stat. 3734) is amended by striking “800” and
20 inserting “1000”.

21 (B) **ADDITIONAL PERSONNEL.—**In addi-
22 tion to the positions authorized under section
23 5203 of the Intelligence Reform and Terrorism
24 Prevention Act of 2004, as amended by sub-
25 paragraph (A), during each of the fiscal years

1 2008 through 2012, the Secretary shall, subject
2 to the availability of appropriations, increase by
3 not less than 200 the number of positions for
4 personnel within the Department assigned to
5 investigate alien smuggling.

6 (3) DEPUTY UNITED STATES MARSHALS.—In
7 each of the fiscal years 2008 through 2012, the At-
8 torney General shall, subject to the availability of
9 appropriations, increase by not less than 50 the
10 number of positions for full-time active duty Deputy
11 United States Marshals that investigate criminal
12 matters related to immigration.

13 (4) RECRUITMENT OF FORMER MILITARY PER-
14 SONNEL.—

15 (A) IN GENERAL.—The Commissioner of
16 United States Customs and Border Protection,
17 in conjunction with the Secretary of Defense or
18 a designee of the Secretary of Defense, shall es-
19 tablish a program to actively recruit members
20 of the Army, Navy, Air Force, Marine Corps,
21 and Coast Guard who have elected to separate
22 from active duty.

23 (B) REPORT.—Not later than 180 days
24 after the date of the enactment of this Act, the
25 Commissioner shall submit a report on the im-

1 for full-time active-duty border patrol agents within the
2 Department of Homeland Security (above the number of
3 such positions for which funds were appropriated for the
4 preceding fiscal year), by—

5 “(1) 2,800 in fiscal year 2008;

6 “(2) 2,800 in fiscal year 2009;

7 “(3) 2,800 in fiscal year 2010;

8 “(4) 2,800 in fiscal year 2011; and

9 “(5) 2,800 in fiscal year 2012;

10 “(b) NORTHERN BORDER.—In each of the fiscal
11 years 2008 through 2012, in addition to the border patrol
12 agents assigned along the northern border of the United
13 States during the previous fiscal year, the Secretary shall
14 assign a number of border patrol agents equal to not less
15 than 20 percent of the net increase in border patrol agents
16 during each such fiscal year.

17 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated such sums as may be
19 necessary for each of fiscal years 2008 through 2012 to
20 carry out this section.”.

21 **SEC. 102. TECHNOLOGICAL ASSETS.**

22 (a) ACQUISITION.—

23 (1) IN GENERAL.—Subject to the availability of
24 appropriations, the Secretary shall procure addi-
25 tional unmanned aerial vehicles and related equip-

1 ment as described in paragraph (2), cameras, poles,
2 sensors, and other technologies necessary to achieve
3 operational control of the international borders of
4 the United States and to establish a security perim-
5 eter known as a “virtual fence” along such inter-
6 national borders to provide a barrier to illegal immi-
7 gration.

8 (2) UNMANNED AERIAL VEHICLES.—The un-
9 manned aerial vehicles and related equipment de-
10 scribed in this paragraph are MQ-9 unmanned aerial
11 vehicles and related equipment including—

- 12 (A) additional sensors;
13 (B) critical spares;
14 (C) satellite command and control; and
15 (D) other necessary equipment for oper-
16 ational support.

17 (b) INCREASED AVAILABILITY OF EQUIPMENT.—The
18 Secretary and the Secretary of Defense shall develop and
19 implement a plan to use authorities provided to the Sec-
20 retary of Defense under chapter 18 of title 10, United
21 States Code, to increase the availability and use of Depart-
22 ment of Defense equipment, including unmanned aerial
23 vehicles, tethered aerostat radars, and other surveillance
24 equipment, to assist the Secretary in carrying out surveil-
25 lance activities conducted at or near the international land

1 borders of the United States to prevent illegal immigra-
2 tion.

3 (c) REPORT.—Not later than 6 months after the date
4 of enactment of this Act, the Secretary and the Secretary
5 of Defense shall submit to Congress a report that con-
6 tains—

7 (1) a description of the current use of Depart-
8 ment of Defense equipment to assist the Secretary
9 in carrying out surveillance of the international land
10 borders of the United States and assessment of the
11 risks to citizens of the United States and foreign
12 policy interests associated with the use of such
13 equipment;

14 (2) the plan developed under subsection (b) to
15 increase the use of Department of Defense equip-
16 ment to assist such surveillance activities; and

17 (3) a description of the types of equipment and
18 other support to be provided by the Secretary of De-
19 fense under such plan during the 1-year period be-
20 ginning on the date of the submission of the report.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to the Secretary such sums as may be
24 necessary for each of the fiscal years 2008 through

1 2012 to carry out subsection (a), including to carry
2 out paragraph (2) of such subsection—

3 (A) \$178,400,000 for fiscal year 2008; and

4 (B) \$276,000,000 for fiscal year 2009.

5 (2) AVAILABILITY OF FUNDS.—Amounts appro-
6 priated pursuant to the authorization of appropria-
7 tions set out in subparagraphs (A) and (B) of para-
8 graph (1) are authorized to remain available until
9 expended.

10 (e) UNMANNED AERIAL VEHICLE PILOT PRO-
11 GRAM.—During the 1-year period beginning on the date
12 on which the report is submitted under subsection (c), the
13 Secretary shall conduct a pilot program to test unmanned
14 aerial vehicles for border surveillance along the inter-
15 national border between Canada and the United States.

16 (f) CONSTRUCTION.—Nothing in this section may be
17 construed as altering or amending the prohibition on the
18 use of any part of the Army or the Air Force as a posse
19 comitatus under section 1385 of title 18, United States
20 Code.

21 **SEC. 103. INFRASTRUCTURE.**

22 (a) CONSTRUCTION OF BORDER CONTROL FACILI-
23 TIES.—Subject to the availability of appropriations, the
24 Secretary shall construct all-weather roads and acquire
25 additional vehicle barriers and facilities necessary to

1 achieve operational control of the international borders of
2 the United States.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary such
5 sums as may be necessary for each of the fiscal years 2008
6 through 2012 to carry out subsection (a).

7 **SEC. 104. BORDER PATROL CHECKPOINTS.**

8 The Secretary may maintain temporary or permanent
9 checkpoints on roadways in border patrol sectors that are
10 located in proximity to the international border between
11 the United States and Mexico.

12 **SEC. 105. PORTS OF ENTRY.**

13 The Secretary is authorized to—

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

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

20 **SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENC-**
21 **ING AND VEHICLE BARRIERS.**

22 (a) TUCSON SECTOR.—The Secretary shall—

23 (1) replace all aged, deteriorating, or damaged
24 primary fencing in the Tucson Sector located proximi-
25 mate to population centers in Douglas, Nogales,

1 Naco, and Lukeville, Arizona with double- or triple-
2 layered fencing running parallel to the international
3 border between the United States and Mexico;

4 (2) extend the double- or triple-layered fencing
5 for a distance of not less than 2 miles beyond urban
6 areas, except that the double- or triple-layered fence
7 shall extend west of Naco, Arizona, for a distance of
8 10 miles; and

9 (3) construct not less than 150 miles of vehicle
10 barriers and all-weather roads in the Tucson Sector
11 running parallel to the international border between
12 the United States and Mexico in areas that are
13 known transit points for illegal cross-border traffic.

14 (b) YUMA SECTOR.—The Secretary shall—

15 (1) replace all aged, deteriorating, or damaged
16 primary fencing in the Yuma Sector located proximi-
17 mate to population centers in Yuma, Somerton, and
18 San Luis, Arizona with double- or triple-layered
19 fencing running parallel to the international border
20 between the United States and Mexico;

21 (2) extend the double- or triple-layered fencing
22 for a distance of not less than 2 miles beyond urban
23 areas in the Yuma Sector; and

24 (3) construct not less than 50 miles of vehicle
25 barriers and all-weather roads in the Yuma Sector

1 running parallel to the international border between
2 the United States and Mexico in areas that are
3 known transit points for illegal cross-border traffic.

4 (c) OTHER HIGH TRAFFICKED AREAS.—The Sec-
5 retary shall construct not less than 370 miles of triple-
6 layered fencing which may include portions already con-
7 structed in San Diego Tucson and Yuma Sectors, and 500
8 miles of vehicle barriers in other areas along the southwest
9 border that the Secretary determines are areas that are
10 most often used by smugglers and illegal aliens attempting
11 to gain illegal entry into the United States.

12 (d) CONSTRUCTION DEADLINE.—The Secretary shall
13 immediately commence construction of the fencing, bar-
14 riers, and roads described in subsections (a), (b), and (c)
15 and shall complete such construction not later than 2
16 years after the date of the enactment of this Act.

17 (e) REPORT.—Not later than 1 year after the date
18 of the enactment of this Act, the Secretary shall submit
19 a report to the Committee on the Judiciary of the Senate
20 and the Committee on the Judiciary of the House of Rep-
21 resentatives that describes the progress that has been
22 made in constructing the fencing, barriers, and roads de-
23 scribed in subsections (a), (b), and (c).

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

4 **Subtitle B—Border Security Plans,**
5 **Strategies, and Reports**

6 **SEC. 111. SURVEILLANCE PLAN.**

7 (a) REQUIREMENT FOR PLAN.—The Secretary shall
8 develop a comprehensive plan for the systematic surveil-
9 lance of the international land and maritime borders of
10 the United States.

11 (b) CONTENT.—The plan required by subsection (a)
12 shall include the following:

13 (1) An assessment of existing technologies em-
14 ployed on the international land and maritime bor-
15 ders of the United States.

16 (2) A description of the compatibility of new
17 surveillance technologies with surveillance tech-
18 nologies in use by the Secretary on the date of the
19 enactment of this Act.

20 (3) A description of how the Commissioner of
21 the United States Customs and Border Protection of
22 the Department is working, or is expected to work,
23 with the Under Secretary for Science and Tech-
24 nology of the Department to identify and test sur-
25 veillance technology.

1 (4) A description of the specific surveillance
2 technology to be deployed.

3 (5) Identification of any obstacles that may im-
4 pede such deployment.

5 (6) A detailed estimate of all costs associated
6 with such deployment and with continued mainte-
7 nance of such technologies.

8 (7) A description of how the Secretary is work-
9 ing with the Administrator of the Federal Aviation
10 Administration on safety and airspace control issues
11 associated with the use of unmanned aerial vehicles.

12 (c) SUBMISSION TO CONGRESS.—Not later than 6
13 months after the date of the enactment of this Act, the
14 Secretary shall submit to Congress the plan required by
15 this section.

16 **SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.**

17 (a) REQUIREMENT FOR STRATEGY.—The Secretary,
18 in consultation with the heads of other appropriate Fed-
19 eral agencies, shall develop a National Strategy for Border
20 Security that describes actions to be carried out to achieve
21 operational control over all ports of entry into the United
22 States and the international land and maritime borders
23 of the United States.

24 (b) CONTENT.—The National Strategy for Border
25 Security shall include the following:

1 (1) The implementation schedule for the com-
2 prehensive plan for systematic surveillance described
3 in section 111.

4 (2) An assessment of the threat posed by ter-
5 rorists and terrorist groups that may try to infiltrate
6 the United States at locations along the inter-
7 national land and maritime borders of the United
8 States.

9 (3) A risk assessment for all United States
10 ports of entry and all portions of the international
11 land and maritime borders of the United States that
12 includes a description of activities being under-
13 taken—

14 (A) to prevent the entry of terrorists, other
15 unlawful aliens, instruments of terrorism, nar-
16 cotics, and other contraband into the United
17 States; and

18 (B) to protect critical infrastructure at or
19 near such ports of entry or borders.

20 (4) An assessment of the legal requirements
21 that prevent achieving and maintaining operational
22 control over the entire international land and mari-
23 time borders of the United States.

24 (5) An assessment of the most appropriate,
25 practical, and cost-effective means of defending the

1 international land and maritime borders of the
2 United States against threats to security and illegal
3 transit, including intelligence capacities, technology,
4 equipment, personnel, and training needed to ad-
5 dress security vulnerabilities.

6 (6) An assessment of staffing needs for all bor-
7 der security functions, taking into account threat
8 and vulnerability information pertaining to the bor-
9 ders and the impact of new security programs, poli-
10 cies, and technologies.

11 (7) A description of the border security roles
12 and missions of Federal, State, regional, local, and
13 tribal authorities, and recommendations regarding
14 actions the Secretary can carry out to improve co-
15 ordination with such authorities to enable border se-
16 curity and enforcement activities to be carried out in
17 a more efficient and effective manner.

18 (8) An assessment of existing efforts and tech-
19 nologies used for border security and the effect of
20 the use of such efforts and technologies on civil
21 rights, personal property rights, privacy rights, and
22 civil liberties, including an assessment of efforts to
23 take into account asylum seekers, trafficking vic-
24 tims, unaccompanied minor aliens, and other vulner-
25 able populations.

1 (9) A prioritized list of research and develop-
2 ment objectives to enhance the security of the inter-
3 national land and maritime borders of the United
4 States.

5 (10) A description of ways to ensure that the
6 free flow of travel and commerce is not diminished
7 by efforts, activities, and programs aimed at secur-
8 ing the international land and maritime borders of
9 the United States.

10 (11) An assessment of additional detention fa-
11 cilities and beds that are needed to detain unlawful
12 aliens apprehended at United States ports of entry
13 or along the international land borders of the United
14 States.

15 (12) A description of the performance metrics
16 to be used to ensure accountability by the bureaus
17 of the Department in implementing such Strategy.

18 (13) A schedule for the implementation of the
19 security measures described in such Strategy, includ-
20 ing a prioritization of security measures, realistic
21 deadlines for addressing the security and enforce-
22 ment needs, an estimate of the resources needed to
23 carry out such measures, and a description of how
24 such resources should be allocated.

1 (c) CONSULTATION.—In developing the National
2 Strategy for Border Security, the Secretary shall consult
3 with representatives of—

4 (1) State, local, and tribal authorities with re-
5 sponsibility for locations along the international land
6 and maritime borders of the United States; and

7 (2) appropriate private sector entities, non-
8 governmental organizations, and affected commu-
9 nities that have expertise in areas related to border
10 security.

11 (d) COORDINATION.—The National Strategy for Bor-
12 der Security shall be consistent with the National Strategy
13 for Maritime Security developed pursuant to Homeland
14 Security Presidential Directive 13, dated December 21,
15 2004.

16 (e) SUBMISSION TO CONGRESS.—

17 (1) STRATEGY.—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary
19 shall submit to Congress the National Strategy for
20 Border Security.

21 (2) UPDATES.—The Secretary shall submit to
22 Congress any update of such Strategy that the Sec-
23 retary determines is necessary, not later than 30
24 days after such update is developed.

1 (f) IMMEDIATE ACTION.—Nothing in this section or
2 section 111 may be construed to relieve the Secretary of
3 the responsibility to take all actions necessary and appro-
4 priate to achieve and maintain operational control over the
5 entire international land and maritime borders of the
6 United States.

7 **SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF IN-**
8 **FORMATION ON NORTH AMERICAN SECU-**
9 **RITY.**

10 (a) REQUIREMENT FOR REPORTS.—Not later than 1
11 year after the date of the enactment of this Act, and annu-
12 ally thereafter, the Secretary of State, in coordination with
13 the Secretary and the heads of other appropriate Federal
14 agencies, shall submit to Congress a report on improving
15 the exchange of information related to the security of
16 North America.

17 (b) CONTENTS.—Each report submitted under sub-
18 section (a) shall contain a description of the following:

19 (1) SECURITY CLEARANCES AND DOCUMENT IN-
20 TEGRITY.—The progress made toward the develop-
21 ment of common enrollment, security, technical, and
22 biometric standards for the issuance, authentication,
23 validation, and repudiation of secure documents, in-
24 cluding—

1 (A) technical and biometric standards
2 based on best practices and consistent with
3 international standards for the issuance, au-
4 thentication, validation, and repudiation of trav-
5 el documents, including—

6 (i) passports;

7 (ii) visas; and

8 (iii) permanent resident cards;

9 (B) working with Canada and Mexico to
10 encourage foreign governments to enact laws to
11 combat alien smuggling and trafficking, and
12 laws to forbid the use and manufacture of
13 fraudulent travel documents and to promote in-
14 formation sharing;

15 (C) applying the necessary pressures and
16 support to ensure that other countries meet
17 proper travel document standards and are com-
18 mitted to travel document verification before
19 the citizens of such countries travel internation-
20 ally, including travel by such citizens to the
21 United States; and

22 (D) providing technical assistance for the
23 development and maintenance of a national
24 database built upon identified best practices for

1 biometrics associated with visa and travel docu-
2 ments.

3 (2) IMMIGRATION AND VISA MANAGEMENT.—

4 The progress of efforts to share information regard-
5 ing high-risk individuals who may attempt to enter
6 Canada, Mexico, or the United States, including the
7 progress made—

8 (A) in implementing the Statement of Mu-
9 tual Understanding on Information Sharing,
10 signed by Canada and the United States in
11 February 2003; and

12 (B) in identifying trends related to immi-
13 gration fraud, including asylum and document
14 fraud, and to analyze such trends.

15 (3) VISA POLICY COORDINATION AND IMMIGRA-
16 TION SECURITY.—The progress made by Canada,
17 Mexico, and the United States to enhance the secu-
18 rity of North America by cooperating on visa policy
19 and identifying best practices regarding immigration
20 security, including the progress made—

21 (A) in enhancing consultation among offi-
22 cials who issue visas at the consulates or em-
23 bassies of Canada, Mexico, or the United States
24 throughout the world to share information,
25 trends, and best practices on visa flows;

1 (B) in comparing the procedures and poli-
2 cies of Canada and the United States related to
3 visitor visa processing, including—

4 (i) application process;

5 (ii) interview policy;

6 (iii) general screening procedures;

7 (iv) visa validity;

8 (v) quality control measures; and

9 (vi) access to appeal or review;

10 (C) in exploring methods for Canada, Mex-
11 ico, and the United States to waive visa re-
12 quirements for nationals and citizens of the
13 same foreign countries;

14 (D) in providing technical assistance for
15 the development and maintenance of a national
16 database built upon identified best practices for
17 biometrics associated with immigration viola-
18 tors;

19 (E) in developing and implementing an im-
20 migration security strategy for North America
21 that works toward the development of a com-
22 mon security perimeter by enhancing technical
23 assistance for programs and systems to support
24 advance automated reporting and risk targeting
25 of international passengers;

1 (F) in sharing information on lost and sto-
2 len passports on a real-time basis among immi-
3 gration or law enforcement officials of Canada,
4 Mexico, and the United States; and

5 (G) in collecting 10 fingerprints from each
6 individual who applies for a visa.

7 (4) NORTH AMERICAN VISITOR OVERSTAY PRO-
8 GRAM.—The progress made by Canada and the
9 United States in implementing parallel entry-exit
10 tracking systems that, while respecting the privacy
11 laws of both countries, share information regarding
12 third country nationals who have overstayed their
13 period of authorized admission in either Canada or
14 the United States.

15 (5) TERRORIST WATCH LISTS.—The progress
16 made in enhancing the capacity of the United States
17 to combat terrorism through the coordination of
18 counterterrorism efforts, including the progress
19 made—

20 (A) in developing and implementing bilat-
21 eral agreements between Canada and the
22 United States and between Mexico and the
23 United States to govern the sharing of terrorist
24 watch list data and to comprehensively enu-

1 merate the uses of such data by the govern-
2 ments of each country;

3 (B) in establishing appropriate linkages
4 among Canada, Mexico, and the United States
5 Terrorist Screening Center; and

6 (C) in exploring with foreign governments
7 the establishment of a multilateral watch list
8 mechanism that would facilitate direct coordina-
9 tion between the country that identifies an indi-
10 vidual as an individual included on a watch list,
11 and the country that owns such list, including
12 procedures that satisfy the security concerns
13 and are consistent with the privacy and other
14 laws of each participating country.

15 (6) MONEY LAUNDERING, CURRENCY SMUG-
16 GLING, AND ALIEN SMUGGLING.—The progress made
17 in improving information sharing and law enforce-
18 ment cooperation in combating organized crime, in-
19 cluding the progress made—

20 (A) in combating currency smuggling,
21 money laundering, alien smuggling, and traf-
22 ficking in alcohol, firearms, and explosives;

23 (B) in implementing the agreement be-
24 tween Canada and the United States known as
25 the Firearms Trafficking Action Plan;

1 (C) in determining the feasibility of formu-
2 lating a firearms trafficking action plan be-
3 tween Mexico and the United States;

4 (D) in developing a joint threat assessment
5 on organized crime between Canada and the
6 United States;

7 (E) in determining the feasibility of formu-
8 lating a joint threat assessment on organized
9 crime between Mexico and the United States;

10 (F) in developing mechanisms to exchange
11 information on findings, seizures, and capture
12 of individuals transporting undeclared currency;
13 and

14 (G) in developing and implementing a plan
15 to combat the transnational threat of illegal
16 drug trafficking.

17 (7) LAW ENFORCEMENT COOPERATION.—The
18 progress made in enhancing law enforcement co-
19 operation among Canada, Mexico, and the United
20 States through enhanced technical assistance for the
21 development and maintenance of a national database
22 built upon identified best practices for biometrics as-
23 sociated with known and suspected criminals or ter-
24 rorists, including exploring the formation of law en-
25 forcement teams that include personnel from the

1 United States and Mexico, and appropriate proce-
2 dures for such teams.

3 **SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTH-**
4 **ERN BORDER.**

5 (a) TECHNICAL ASSISTANCE.—The Secretary of
6 State, in coordination with the Secretary, shall work to
7 cooperate with the head of Foreign Affairs Canada and
8 the appropriate officials of the Government of Mexico to
9 establish a program—

10 (1) to assess the specific needs of Guatemala
11 and Belize in maintaining the security of the inter-
12 national borders of such countries;

13 (2) to use the assessment made under para-
14 graph (1) to determine the financial and technical
15 support needed by Guatemala and Belize from Can-
16 ada, Mexico, and the United States to meet such
17 needs;

18 (3) to provide technical assistance to Guatemala
19 and Belize to promote issuance of secure passports
20 and travel documents by such countries; and

21 (4) to encourage Guatemala and Belize—

22 (A) to control alien smuggling and traf-
23 ficking;

24 (B) to prevent the use and manufacture of
25 fraudulent travel documents; and

1 (C) to share relevant information with
2 Mexico, Canada, and the United States.

3 (b) BORDER SECURITY FOR BELIZE, GUATEMALA,
4 AND MEXICO.—The Secretary, in consultation with the
5 Secretary of State, shall work to cooperate—

6 (1) with the appropriate officials of the Govern-
7 ment of Guatemala and the Government of Belize to
8 provide law enforcement assistance to Guatemala
9 and Belize that specifically addresses immigration
10 issues to increase the ability of the Government of
11 Guatemala to dismantle human smuggling organiza-
12 tions and gain additional control over the inter-
13 national border between Guatemala and Belize; and

14 (2) with the appropriate officials of the Govern-
15 ment of Belize, the Government of Guatemala, the
16 Government of Mexico, and the governments of
17 neighboring contiguous countries to establish a pro-
18 gram to provide needed equipment, technical assist-
19 ance, and vehicles to manage, regulate, and patrol
20 the international borders between Mexico and Guate-
21 mala and between Mexico and Belize.

22 (c) TRACKING CENTRAL AMERICAN GANGS.—The
23 Secretary of State, in coordination with the Secretary and
24 the Director of the Federal Bureau of Investigation, shall
25 work to cooperate with the appropriate officials of the

1 Government of Mexico, the Government of Guatemala, the
2 Government of Belize, and the governments of other Cen-
3 tral American countries—

4 (1) to assess the direct and indirect impact on
5 the United States and Central America of deporting
6 violent criminal aliens;

7 (2) to establish a program and database to
8 track individuals involved in Central American gang
9 activities;

10 (3) to develop a mechanism that is acceptable
11 to the governments of Belize, Guatemala, Mexico,
12 the United States, and other appropriate countries
13 to notify such a government if an individual sus-
14 pected of gang activity will be deported to that coun-
15 try prior to the deportation and to provide support
16 for the reintegration of such deportees into that
17 country; and

18 (4) to develop an agreement to share all rel-
19 evant information related to individuals connected
20 with Central American gangs.

21 (d) LIMITATIONS ON ASSISTANCE.—Any funds made
22 available to carry out this section shall be subject to the
23 limitations contained in section 551 of the Foreign Oper-
24 ations, Export Financing, and Related Programs Appro-

1 priations Act of 2006 (Public Law 109–102; 119 Stat.
2 2218).

3 **SEC. 115. COMBATING HUMAN SMUGGLING.**

4 (a) REQUIREMENT FOR PLAN.—The Secretary shall
5 develop and implement a plan to improve coordination be-
6 tween the Bureau of Immigration and Customs Enforce-
7 ment and the Bureau of Customs and Border Protection
8 of the Department and any other Federal, State, local,
9 or tribal authorities, as determined appropriate by the
10 Secretary, to improve coordination efforts to combat
11 human smuggling.

12 (b) CONTENT.—In developing the plan required by
13 subsection (a), the Secretary shall consider—

14 (1) the interoperability of databases utilized to
15 prevent human smuggling;

16 (2) adequate and effective personnel training;

17 (3) methods and programs to effectively target
18 networks that engage in such smuggling;

19 (4) effective utilization of—

20 (A) visas for victims of trafficking and
21 other crimes; and

22 (B) investigatory techniques, equipment,
23 and procedures that prevent, detect, and pros-
24 ecute international money laundering and other
25 operations that are utilized in smuggling;

1 (5) joint measures, with the Secretary of State,
2 to enhance intelligence sharing and cooperation with
3 foreign governments whose citizens are preyed on by
4 human smugglers; and

5 (6) other measures that the Secretary considers
6 appropriate to combating human smuggling.

7 (c) REPORT.—Not later than 1 year after imple-
8 menting the plan described in subsection (a), the Sec-
9 retary shall submit to Congress a report on such plan, in-
10 cluding any recommendations for legislative action to im-
11 prove efforts to combating human smuggling.

12 (d) SAVINGS PROVISION.—Nothing in this section
13 may be construed to provide additional authority to any
14 State or local entity to enforce Federal immigration laws.

15 **SEC. 116. DEATHS AT UNITED STATES-MEXICO BORDER.**

16 (a) COLLECTION OF STATISTICS.—The Commis-
17 sioner of the Bureau of Customs and Border Protection
18 shall collect statistics relating to deaths occurring at the
19 border between the United States and Mexico, including—

20 (1) the causes of the deaths; and

21 (2) the total number of deaths.

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, and annually thereafter, the
24 Commissioner of the Bureau of Customs and Border Pro-
25 tection shall submit to the Secretary a report that—

1 (5) the reduction of violence against women in
2 the United States and Mexico; and

3 (6) the reduction of other violence and criminal
4 activity.

5 (b) COOPERATION REGARDING EDUCATION ON IMMI-
6 GRATION LAWS.—The Secretary of State, in cooperation
7 with other appropriate Federal officials, shall work with
8 the appropriate officials from the Government of Mexico
9 to carry out activities to educate citizens and nationals
10 of Mexico regarding eligibility for status as a non-
11 immigrant under Federal law to ensure that the citizens
12 and nationals are not exploited while working in the
13 United States.

14 (c) COOPERATION REGARDING CIRCULAR MIGRA-
15 TION.—The Secretary of State, in cooperation with the
16 Secretary of Labor and other appropriate Federal offi-
17 cials, shall work with the appropriate officials from the
18 Government of Mexico to improve coordination between
19 the United States and Mexico to encourage circular migra-
20 tion, including assisting in the development of economic
21 opportunities and providing job training for citizens and
22 nationals in Mexico.

23 (d) CONSULTATION REQUIREMENT.—Federal, State,
24 and local representatives in the United States shall consult
25 with their counterparts in Mexico concerning the construc-

1 tion of additional fencing and related border security
2 structures along the international border between the
3 United States and Mexico, as authorized by this title, be-
4 fore the commencement of any such construction in order
5 to—

- 6 (1) solicit the views of affected communities;
- 7 (2) lessen tensions; and
- 8 (3) foster greater understanding and stronger
9 cooperation on this and other important security
10 issues of mutual concern.

11 (e) ANNUAL REPORT.—Not later than 180 days after
12 the date of enactment of this Act, and annually thereafter,
13 the Secretary of State shall submit to Congress a report
14 on the actions taken by the United States and Mexico
15 under this section.

16 **Subtitle C—Other Border Security** 17 **Initiatives**

18 **SEC. 121. BIOMETRIC DATA ENHANCEMENTS.**

19 Not later than October 1, 2008, the Secretary shall—

- 20 (1) in consultation with the Attorney General,
21 enhance connectivity between the Automated Bio-
22 metric Fingerprint Identification System (IDENT)
23 of the Department and the Integrated Automated
24 Fingerprint Identification System (IAFIS) of the

1 Federal Bureau of Investigation to ensure more ex-
2 peditious data searches; and

3 (2) in consultation with the Secretary of State,
4 collect all fingerprints from each alien required to
5 provide fingerprints during the alien's initial enroll-
6 ment in the integrated entry and exit data system
7 described in section 110 of the Illegal Immigration
8 Reform and Immigrant Responsibility Act of 1996
9 (8 U.S.C. 1365a).

10 **SEC. 122. SECURE COMMUNICATION.**

11 The Secretary shall, as expeditiously as practicable,
12 develop and implement a plan to improve the use of sat-
13 ellite communications and other technologies to ensure
14 clear and secure 2-way communication capabilities—

15 (1) among all Border Patrol agents conducting
16 operations between ports of entry;

17 (2) between Border Patrol agents and their re-
18 spective Border Patrol stations;

19 (3) between Border Patrol agents and residents
20 in remote areas along the international land borders
21 of the United States; and

22 (4) between all appropriate border security
23 agencies of the Department and State, local, and
24 tribal law enforcement agencies.

1 **SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.**

2 (a) IN GENERAL.—The Comptroller General of the
3 United States shall conduct a review of the basic training
4 provided to Border Patrol agents by the Secretary to en-
5 sure that such training is provided as efficiently and cost-
6 effectively as possible.

7 (b) COMPONENTS OF REVIEW.—The review under
8 subsection (a) shall include the following components:

9 (1) An evaluation of the length and content of
10 the basic training curriculum provided to new Bor-
11 der Patrol agents by the Federal Law Enforcement
12 Training Center, including a description of how such
13 curriculum has changed since September 11, 2001,
14 and an evaluation of language and cultural diversity
15 training programs provided within such curriculum.

16 (2) A review and a detailed breakdown of the
17 costs incurred by the Bureau of Customs and Bor-
18 der Protection and the Federal Law Enforcement
19 Training Center to train 1 new Border Patrol agent.

20 (3) A comparison, based on the review and
21 breakdown under paragraph (2), of the costs, effec-
22 tiveness, scope, and quality, including geographic
23 characteristics, with other similar training programs
24 provided by State and local agencies, nonprofit orga-
25 nizations, universities, and the private sector.

1 (4) An evaluation of whether utilizing com-
2 parable non-Federal training programs, proficiency
3 testing, and long-distance learning programs may af-
4 fect—

5 (A) the cost-effectiveness of increasing the
6 number of Border Patrol agents trained per
7 year;

8 (B) the per agent costs of basic training;
9 and

10 (C) the scope and quality of basic training
11 needed to fulfill the mission and duties of a
12 Border Patrol agent.

13 **SEC. 124. US-VISIT SYSTEM.**

14 Not later than 6 months after the date of the enact-
15 ment of this Act, the Secretary, in consultation with the
16 heads of other appropriate Federal agencies, shall submit
17 to Congress a schedule for—

18 (1) equipping all land border ports of entry of
19 the United States with the U.S.-Visitor and Immig-
20 grant Status Indicator Technology (US-VISIT) sys-
21 tem implemented under section 110 of the Illegal
22 Immigration Reform and Immigrant Responsibility
23 Act of 1996 (8 U.S.C. 1365a);

1 (2) developing and deploying at such ports of
2 entry the exit component of the US–VISIT system;
3 and

4 (3) making interoperable all immigration
5 screening systems operated by the Secretary.

6 **SEC. 125. DOCUMENT FRAUD DETECTION.**

7 (a) TRAINING.—Subject to the availability of appro-
8 priations, the Secretary shall provide all Customs and
9 Border Protection officers with training in identifying and
10 detecting fraudulent travel documents. Such training shall
11 be developed in consultation with the head of the Forensic
12 Document Laboratory of the Bureau of Immigration and
13 Customs Enforcement.

14 (b) FORENSIC DOCUMENT LABORATORY.—The Sec-
15 retary shall provide all Customs and Border Protection of-
16 ficers with access to the Forensic Document Laboratory.

17 (c) ASSESSMENT.—

18 (1) REQUIREMENT FOR ASSESSMENT.—The In-
19 spector General of the Department shall conduct an
20 independent assessment of the accuracy and reli-
21 ability of the Forensic Document Laboratory.

22 (2) REPORT TO CONGRESS.—Not later than 6
23 months after the date of the enactment of this Act,
24 the Inspector General shall submit to Congress the

1 findings of the assessment required by paragraph
2 (1).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary such
5 sums as may be necessary for each of fiscal years 2008
6 through 2012 to carry out this section.

7 **SEC. 126. IMPROVED DOCUMENT INTEGRITY.**

8 (a) IN GENERAL.—Section 303 of the Enhanced Bor-
9 der Security and Visa Entry Reform Act of 2002 (8
10 U.S.C. 1732) is amended—

11 (1) by striking “Attorney General” each place
12 it appears and inserting “Secretary of Homeland Se-
13 curity”;

14 (2) in the heading, by striking “**ENTRY AND**
15 **EXIT DOCUMENTS**” and inserting “**TRAVEL AND**
16 **ENTRY DOCUMENTS AND EVIDENCE OF STA-**
17 **TUS**”;

18 (3) in subsection (b)(1)—

19 (A) by striking “Not later than October
20 26, 2004, the” and inserting “The”; and

21 (B) by striking “visas and” both places it
22 appears and inserting “visas, evidence of status,
23 and”;

24 (4) by redesignating subsection (d) as sub-
25 section (e); and

1 (5) by inserting after subsection (c) the fol-
2 lowing:

3 “(d) OTHER DOCUMENTS.—Not later than October
4 26, 2008, every document, other than an interim docu-
5 ment, issued by the Secretary of Homeland Security,
6 which may be used as evidence of an alien’s status as an
7 immigrant, nonimmigrant, parolee, asylee, or refugee,
8 shall be machine-readable and tamper-resistant, and shall
9 incorporate a biometric identifier to allow the Secretary
10 of Homeland Security to verify electronically the identity
11 and status of the alien.”.

12 **SEC. 127. CANCELLATION OF VISAS.**

13 Section 222(g) (8 U.S.C. 1202(g)) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “Attorney General” and in-
16 serting “Secretary of Homeland Security”; and

17 (B) by inserting “and any other non-
18 immigrant visa issued by the United States that
19 is in the possession of the alien” after “such
20 visa”; and

21 (2) in paragraph (2)(A), by striking “(other
22 than the visa described in paragraph (1)) issued in
23 a consular office located in the country of the alien’s
24 nationality” and inserting “(other than a visa de-
25 scribed in paragraph (1)) issued in a consular office

1 located in the country of the alien’s nationality or
2 foreign residence”.

3 **SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.**

4 (a) COLLECTION OF BIOMETRIC DATA FROM ALIENS
5 DEPARTING THE UNITED STATES.—Section 215 (8
6 U.S.C. 1185) is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (g);

9 (2) by moving subsection (g), as redesignated
10 by paragraph (1), to the end; and

11 (3) by inserting after subsection (b) the fol-
12 lowing:

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

17 (b) INSPECTION OF APPLICANTS FOR ADMISSION.—
18 Section 235(d) (8 U.S.C. 1225(d)) is amended by adding
19 at the end the following:

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

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

1 “(B) any lawful permanent resident who is
2 entering the United States and who is not re-
3 garded as seeking admission pursuant to sec-
4 tion 101(a)(13)(C).”.

5 (c) COLLECTION OF BIOMETRIC DATA FROM ALIEN
6 CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by
7 adding at the end the following:

8 “(d) An immigration officer is authorized to collect
9 biometric data from an alien crewman seeking permission
10 to land temporarily in the United States.”.

11 (d) GROUNDS OF INADMISSIBILITY.—Section 212 (8
12 U.S.C. 1182) is amended—

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

15 “(C) WITHHOLDERS OF BIOMETRIC
16 DATA.—Any alien who knowingly fails to com-
17 ply with a lawful request for biometric data
18 under section 215(c) or 235(d) is inadmis-
19 sible.”; and

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

22 “(2) The Secretary of Homeland Security shall
23 determine whether a ground for inadmissibility ex-
24 ists with respect to an alien described in subpara-
25 graph (C) of subsection (a)(7) and may waive the

1 application of such subparagraph for an individual
2 alien or a class of aliens, at the discretion of the
3 Secretary.”.

4 (e) IMPLEMENTATION.—Section 7208 of the 9/11
5 Commission Implementation Act of 2004 (8 U.S.C.
6 1365b) is amended—

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

9 “(3) IMPLEMENTATION.—In fully implementing
10 the automated biometric entry and exit data system
11 under this section, the Secretary is not required to
12 comply with the requirements of chapter 5 of title 5,
13 United States Code (commonly referred to as the
14 Administrative Procedure Act) or any other law re-
15 lating to rulemaking, information collection, or pub-
16 lication in the Federal Register.”; and

17 (2) in subsection (l)—

18 (A) by striking “There are authorized”
19 and inserting the following:

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

21 (B) by adding at the end the following:

22 “(2) IMPLEMENTATION AT ALL LAND BORDER
23 PORTS OF ENTRY.—There are authorized to be ap-
24 propriated such sums as may be necessary for each
25 of fiscal years 2008 and 2009 to implement the

1 automated biometric entry and exit data system at
2 all land border ports of entry.”.

3 **SEC. 129. BORDER STUDY.**

4 (a) SOUTHERN BORDER STUDY.—The Secretary, in
5 consultation with the Attorney General, the Secretary of
6 the Interior, the Secretary of Agriculture, the Secretary
7 of Defense, the Secretary of Commerce, and the Adminis-
8 trator of the Environmental Protection Agency, shall con-
9 duct a study on the construction of a system of physical
10 barriers along the southern international land and mari-
11 time border of the United States. The study shall in-
12 clude—

13 (1) an assessment of the necessity of con-
14 structing such a system, including the identification
15 of areas of high priority for the construction of such
16 a system determined after consideration of factors
17 including the amount of narcotics trafficking and
18 the number of illegal immigrants apprehended in
19 such areas;

20 (2) an assessment of the feasibility of con-
21 structing such a system;

22 (3) an assessment of the international, national,
23 and regional environmental impact of such a system,
24 including the impact on zoning, global climate

1 change, ozone depletion, biodiversity loss, and
2 transboundary pollution;

3 (4) an assessment of the necessity for ports of
4 entry along such a system;

5 (5) an assessment of the impact such a system
6 would have on international trade, commerce, and
7 tourism;

8 (6) an assessment of the effect of such a system
9 on private property rights including issues of emi-
10 nent domain and riparian rights;

11 (7) an estimate of the costs associated with
12 building a barrier system, including costs associated
13 with excavation, construction, and maintenance;

14 (8) an assessment of the effect of such a system
15 on Indian reservations and units of the National
16 Park System;

17 (9) an assessment of the necessity of con-
18 structing such a system after the implementation of
19 provisions of this Act relating to guest workers, visa
20 reform, and interior and worksite enforcement, and
21 the likely effect of such provisions on undocumented
22 immigration and the flow of illegal immigrants
23 across the international border of the United States;

24 (10) an assessment of the impact of such a sys-
25 tem on diplomatic relations between the United

1 States and Mexico, Central America, and South
2 America, including the likely impact of such a sys-
3 tem on existing and potential areas of bilateral and
4 multilateral cooperative enforcement efforts;

5 (11) an assessment of the impact of such a sys-
6 tem on the quality of life within border communities
7 in the United States and Mexico, including its im-
8 pact on noise and light pollution, housing, transpor-
9 tation, security, and environmental health;

10 (12) an assessment of the likelihood that such
11 a system would lead to increased violations of the
12 human rights, health, safety, or civil rights of indi-
13 viduals in the region near the southern international
14 border of the United States, regardless of the immi-
15 gration status of such individuals;

16 (13) an assessment of the effect such a system
17 would have on violence near the southern inter-
18 national border of the United States; and

19 (14) an assessment of the effect of such a sys-
20 tem on the vulnerability of the United States to in-
21 filtration by terrorists or other agents intending to
22 inflict direct harm on the United States.

23 (b) REPORT.—Not later than 9 months after the date
24 of the enactment of this Act, the Secretary shall submit

1 to Congress a report on the study described in subsection
2 (a).

3 **SEC. 130. SECURE BORDER INITIATIVE FINANCIAL AC-**
4 **COUNTABILITY.**

5 (a) IN GENERAL.—The Inspector General of the De-
6 partment shall review each contract action relating to the
7 Secure Border Initiative having a value of more than
8 \$20,000,000, to determine whether each such action fully
9 complies with applicable cost requirements, performance
10 objectives, program milestones, inclusion of small, minor-
11 ity, and women-owned business, and time lines. The In-
12 spector General shall complete a review under this sub-
13 section with respect to each contract action—

14 (1) not later than 60 days after the date of the
15 initiation of the action; and

16 (2) upon the conclusion of the performance of
17 the contract.

18 (b) INSPECTOR GENERAL.—

19 (1) ACTION.—If the Inspector General becomes
20 aware of any improper conduct or wrongdoing in the
21 course of conducting a contract review under sub-
22 section (a), the Inspector General shall, as expedi-
23 tiously as practicable, refer information relating to
24 such improper conduct or wrongdoing to the Sec-
25 retary, or to another appropriate official of the De-

1 department, who shall determine whether to tempo-
2 rarily suspend the contractor from further participa-
3 tion in the Secure Border Initiative.

4 (2) REPORT.—Upon the completion of each re-
5 view described in subsection (a), the Inspector Gen-
6 eral shall submit to the Secretary a report con-
7 taining the findings of the review, including findings
8 regarding—

9 (A) cost overruns;

10 (B) significant delays in contract execu-
11 tion;

12 (C) lack of rigorous departmental contract
13 management;

14 (D) insufficient departmental financial
15 oversight;

16 (E) bundling that limits the ability of
17 small businesses to compete; or

18 (F) other high risk business practices.

19 (c) REPORTS BY THE SECRETARY.—

20 (1) IN GENERAL.—Not later than 30 days after
21 the receipt of each report required under subsection
22 (b)(2), the Secretary shall submit a report, to the
23 Committee on the Judiciary of the Senate and the
24 Committee on the Judiciary of the House of Rep-
25 resentatives, that describes—

1 (A) the findings of the report received
2 from the Inspector General; and

3 (B) the steps the Secretary has taken, or
4 plans to take, to address the problems identified
5 in such report.

6 (2) CONTRACTS WITH FOREIGN COMPANIES.—

7 Not later than 60 days after the initiation of each
8 contract action with a company whose headquarters
9 is not based in the United States, the Secretary
10 shall submit a report to the Committee on the Judi-
11 ciary of the Senate and the Committee on the Judi-
12 ciary of the House of Representatives, regarding the
13 Secure Border Initiative.

14 (d) REPORTS ON UNITED STATES PORTS.—Not later
15 that 30 days after receiving information regarding a pro-
16 posed purchase of a contract to manage the operations of
17 a United States port by a foreign entity, the Committee
18 on Foreign Investment in the United States shall submit
19 a report to Congress that describes—

20 (1) the proposed purchase;

21 (2) any security concerns related to the pro-
22 posed purchase; and

23 (3) the manner in which such security concerns
24 have been addressed.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to amounts that are otherwise authorized to be appro-
3 priated to the Office of the Inspector General of the De-
4 partment, there are authorized to be appropriated to the
5 Office, to enable the Office to carry out this section—

6 (1) for fiscal year 2008, not less than 5 percent
7 of the overall budget of the Office for such fiscal
8 year;

9 (2) for fiscal year 2009, not less than 6 percent
10 of the overall budget of the Office for such fiscal
11 year; and

12 (3) for fiscal year 2010, not less than 7 percent
13 of the overall budget of the Office for such fiscal
14 year.

15 **SEC. 131. MANDATORY DETENTION FOR ALIENS APPRE-**
16 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

17 (a) IN GENERAL.—Beginning on October 1, 2008, an
18 alien (other than a national of Mexico) who is attempting
19 to illegally enter the United States and who is appre-
20 hended at a United States port of entry or along the inter-
21 national land and maritime border of the United States
22 shall be detained until removed or a final decision granting
23 admission has been determined, unless the alien—

24 (1) is permitted to withdraw an application for
25 admission under section 235(a)(4) of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and
2 immediately departs from the United States pursu-
3 ant to such section; or

4 (2) is paroled into the United States by the
5 Secretary for urgent humanitarian reasons or sig-
6 nificant public benefit in accordance with section
7 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

8 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-
9 ginning 60 days after the date of the enactment of this
10 Act and before October 1, 2008, an alien described in sub-
11 section (a) may be released with a notice to appear only
12 if—

13 (1) the Secretary determines, after conducting
14 all appropriate background and security checks on
15 the alien, that the alien does not pose a national se-
16 curity risk; and

17 (2) the alien provides a bond of not less than
18 \$5,000.

19 (c) RULES OF CONSTRUCTION.—

20 (1) ASYLUM AND REMOVAL.—Nothing in this
21 section shall be construed as limiting the right of an
22 alien to apply for asylum or for relief or deferral of
23 removal based on a fear of persecution.

24 (2) TREATMENT OF CERTAIN ALIENS.—The
25 mandatory detention requirement in subsection (a)

1 does not apply to any alien who is a native or citizen
 2 of a country in the Western Hemisphere with whose
 3 government the United States does not have full dip-
 4 lomatic relations.

5 (3) DISCRETION.—Nothing in this section shall
 6 be construed as limiting the authority of the Sec-
 7 retary, in the Secretary’s sole unreviewable discre-
 8 tion, to determine whether an alien described in
 9 clause (ii) of section 235(b)(1)(B) of the Immigra-
 10 tion and Nationality Act shall be detained or re-
 11 leased after a finding of a credible fear of persecu-
 12 tion (as defined in clause (v) of such section).

13 **SEC. 132. EVASION OF INSPECTION OR VIOLATION OF AR-**
 14 **RIVAL, REPORTING, ENTRY, OR CLEARANCE**
 15 **REQUIREMENTS.**

16 (a) IN GENERAL.—Chapter 27 of title 18, United
 17 States Code, is amended by adding at the end the fol-
 18 lowing:

19 **“§ 556. Evasion of inspection or during violation of**
 20 **arrival, reporting, entry, or clearance re-**
 21 **quirements**

22 “(a) PROHIBITION.—A person shall be punished as
 23 described in subsection (b) if such person attempts to
 24 elude or eludes customs, immigration, or agriculture in-
 25 spection or fails to stop at the command of an officer or

1 employee of the United States charged with enforcing the
2 immigration, customs, or other laws of the United States
3 at a port of entry or customs or immigration checkpoint.

4 “(b) PENALTIES.—A person who commits an offense
5 described in subsection (a) shall be—

6 “(1) fined under this title;

7 “(2)(A) imprisoned for not more than 3 years,
8 or both;

9 “(B) imprisoned for not more than 10 years, or
10 both, if in commission of this violation, attempts to
11 inflict or inflicts bodily injury (as defined in section
12 1365(g) of this title); or

13 “(C) imprisoned for any term of years or for
14 life, or both, if death results, and may be sentenced
15 to death; or

16 “(3) both fined and imprisoned under this sub-
17 section.

18 “(c) CONSPIRACY.—If 2 or more persons conspire to
19 commit an offense described in subsection (a), and 1 or
20 more of such persons do any act to effect the object of
21 the conspiracy, each shall be punishable as a principal, ex-
22 cept that the sentence of death may not be imposed.

23 “(d) PRIMA FACIE EVIDENCE.—For the purposes of
24 seizure and forfeiture under applicable law, in the case of
25 use of a vehicle or other conveyance in the commission

1 of this offense, or in the case of disregarding or disobeying
2 the lawful authority or command of any officer or em-
3 ployee of the United States under section 111(b) of this
4 title, such conduct shall constitute prima facie evidence of
5 smuggling aliens or merchandise.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tions for chapter 27 of title 18, United States Code, is
8 amended by inserting at the end:

“556. Evasion of inspection or during violation of arrival, reporting, entry, or
clearance requirements.”.

9 (c) FAILURE TO OBEY BORDER ENFORCEMENT OF-
10 FICERS.—Section 111 of title 18, United States Code, is
11 amended by inserting after subsection (b) the following:

12 “(c) FAILURE TO OBEY LAWFUL ORDERS OF BOR-
13 DER ENFORCEMENT OFFICERS.—Whoever willfully dis-
14 regards or disobeys the lawful authority or command of
15 any officer or employee of the United States charged with
16 enforcing the immigration, customs, or other laws of the
17 United States while engaged in, or on account of, the per-
18 formance of official duties shall be fined under this title
19 or imprisoned for not more than 5 years, or both.”.

20 (d) TECHNICAL AMENDMENTS.—

21 (1) IN GENERAL.—Chapter 27 of title 18,
22 United States Code, is amended by redesignating the
23 section 554 added by section 551(a) of the Depart-
24 ment of Homeland Security Appropriations Act,

1 2007 (Public Law 109–295; 120 Stat. 1389) (relat-
 2 ing to border tunnels and passages) as section 555.

3 (2) TABLE OF SECTIONS.—The table of sections
 4 for chapter 27 of title 18, United States Code, is
 5 amended—

6 (A) by striking the following:

“554. Border tunnels and passages.”;

7 and

8 (B) inserting the following:

“555. Border tunnels and passages.”.

9 (3) CRIMINAL FORFEITURE.—Section 982(a)(6)
 10 of title 18, United States Code, is amended by strik-
 11 ing “554” and inserting “555”.

12 (4) DIRECTIVE TO THE UNITED STATES SEN-
 13 TENCING COMMISSION.—Section 551(d) of the De-
 14 partment of Homeland Security Appropriations Act,
 15 2007 (Public Law 109–295; 120 Stat. 1390) is
 16 amended in paragraphs (1) and (2)(A) by striking
 17 “554” and inserting “555”.

18 **SEC. 133. TEMPORARY NATIONAL GUARD SUPPORT FOR SE-**
 19 **CURING THE SOUTHERN LAND BORDER OF**
 20 **THE UNITED STATES.**

21 (a) AUTHORITY TO PROVIDE ASSISTANCE.—

22 (1) IN GENERAL.—With the approval of the
 23 Secretary of Defense, the Governor of a State may
 24 order any units or personnel of the National Guard

1 of such State to perform annual training duty under
2 section 502(a) of title 32, United States Code, to
3 carry out in any State along the southern land bor-
4 der of the United States the activities authorized in
5 subsection (b), for the purpose of securing such bor-
6 der. Such duty shall not exceed 21 days in any year.

7 (2) SUPPORT.—With the approval of the Sec-
8 retary of Defense, the Governor of a State may
9 order any units or personnel of the National Guard
10 of such State to perform duty under section 502(f)
11 of title 32, United States Code, to provide command,
12 control, and continuity of support for units or per-
13 sonnel performing annual training duty under para-
14 graph (1).

15 (b) AUTHORIZED ACTIVITIES.—The activities author-
16 ized by this subsection are any of the following:

- 17 (1) Ground reconnaissance activities;
- 18 (2) Airborne reconnaissance activities;
- 19 (3) Logistical support;
- 20 (4) Provision of translation services and train-
21 ing;
- 22 (5) Administrative support services;
- 23 (6) Technical training services;
- 24 (7) Emergency medical assistance and services;
- 25 (8) Communications services;

1 (9) Rescue of aliens in peril;

2 (10) Construction of roadways, patrol roads,
3 fences, barriers, and other facilities to secure the
4 southern land border of the United States; and

5 (11) Ground and air transportation.

6 (c) COOPERATIVE AGREEMENTS.—Units and per-
7 sonnel of the National Guard of a State may perform ac-
8 tivities in another State under subsection (a) only pursu-
9 ant to the terms of an emergency management assistance
10 compact or other cooperative arrangement entered into be-
11 tween Governors of such States for purposes of this sec-
12 tion, and only with the approval of the Secretary of De-
13 fense.

14 (d) COORDINATION OF ASSISTANCE.—The Secretary
15 of Homeland Security shall, in consultation with the Sec-
16 retary of Defense and the Governors of the States con-
17 cerned, coordinate the performance of activities under this
18 section by units and personnel of the National Guard.

19 (e) ANNUAL TRAINING.—Annual training duty per-
20 formed by members of the National Guard under sub-
21 section (a) shall be appropriate for the units and indi-
22 vidual members concerned, taking into account the types
23 of units and military occupational specialties of individual
24 members performing such duty.

25 (f) DEFINITIONS.—In this section:

1 (1) The term “Governor of a State” means, in
2 the case of the District of Columbia, the Com-
3 manding General of the National Guard of the Dis-
4 trict of Columbia.

5 (2) The term “State” means each of the several
6 States, the District of Columbia, the Commonwealth
7 of Puerto Rico, Guam, and the Virgin Islands.

8 (3) The term “State along the southern border
9 of the United States” means each of the following:

10 (A) The State of Arizona.

11 (B) The State of California.

12 (C) The State of New Mexico.

13 (D) The State of Texas.

14 (g) DURATION OF AUTHORITY.—The authority of
15 this section shall expire on January 1, 2009.

16 (h) PROHIBITION ON DIRECT PARTICIPATION IN LAW
17 ENFORCEMENT.—Activities carried out under the author-
18 ity of this section shall not include the direct participation
19 of a member of the National Guard in a search, seizure,
20 arrest, or similar activity.

1 **SEC. 134. REPORT ON INCENTIVES TO ENCOURAGE CER-**
2 **TAIN MEMBERS AND FORMER MEMBERS OF**
3 **THE ARMED FORCES TO SERVE IN THE BU-**
4 **REAU OF CUSTOMS AND BORDER PROTEC-**
5 **TION.**

6 (a) REPORT REQUIRED.—Not later than 60 days
7 after the date of the enactment of this Act, the Secretary
8 of Homeland Security and the Secretary of Defense shall
9 jointly submit to the appropriate committees of Congress
10 a report assessing the desirability and feasibility of offer-
11 ing incentives to covered members and former members
12 of the Armed Forces for the purpose of encouraging such
13 members to serve in the Bureau of Customs and Border
14 Protection.

15 (b) COVERED MEMBERS AND FORMER MEMBERS OF
16 THE ARMED FORCES.—For purposes of this section, cov-
17 ered members and former members of the Armed Forces
18 are the following:

19 (1) Members of the reserve components of the
20 Armed Forces.

21 (2) Former members of the Armed Forces with-
22 in two years of separation from service in the Armed
23 Forces.

24 (c) REQUIREMENTS AND LIMITATIONS.—

25 (1) NATURE OF INCENTIVES.—In considering
26 incentives for purposes of the report required by

1 subsection (a), the Secretaries shall consider such
2 incentives, whether monetary or otherwise and
3 whether or not authorized by current law or regula-
4 tions, as the Secretaries jointly consider appropriate.

5 (2) TARGETING OF INCENTIVES.—In assessing
6 any incentive for purposes of the report, the Secre-
7 taries shall give particular attention to the utility of
8 such incentive in—

9 (A) encouraging service in the Bureau of
10 Customs and Border Protection after service in
11 the Armed Forces by covered members and
12 former of the Armed Forces who have provided
13 border patrol or border security assistance to
14 the Bureau as part of their duties as members
15 of the Armed Forces; and

16 (B) leveraging military training and expe-
17 rience by accelerating training, or allowing
18 credit to be applied to related areas of training,
19 required for service with the Bureau of Cus-
20 toms and Border Protection.

21 (3) PAYMENT.—In assessing incentives for pur-
22 poses of the report, the Secretaries shall assume
23 that any costs of such incentives shall be borne by
24 the Department of Homeland Security.

1 (d) ELEMENTS.—The report required by subsection
2 (a) shall include the following:

3 (1) A description of various monetary and non-
4 monetary incentives considered for purposes of the
5 report.

6 (2) An assessment of the desirability and feasi-
7 bility of utilizing any such incentive for the purpose
8 specified in subsection (a), including an assessment
9 of the particular utility of such incentive in encour-
10 aging service in the Bureau of Customs and Border
11 Protection after service in the Armed Forces by cov-
12 ered members and former members of the Armed
13 Forces described in subsection (c)(2).

14 (3) Any other matters that the Secretaries
15 jointly consider appropriate.

16 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-
17 FINED.—In this section, the term “appropriate commit-
18 tees of Congress” means—

19 (1) the Committees on Armed Services, Home-
20 land Security and Governmental Affairs, and Appro-
21 priations of the Senate; and

22 (2) the Committees on Armed Services, Home-
23 land Security, and Appropriations of the House of
24 Representatives.

1 **SEC. 135. WESTERN HEMISPHERE TRAVEL INITIATIVE.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) United States citizens make approximately
5 130,000,000 land border crossings each year be-
6 tween the United States and Canada and the United
7 States and Mexico, with approximately 23,000,000
8 individual United States citizens crossing the border
9 annually.

10 (2) Approximately 27 percent of United States
11 citizens possess United States passports.

12 (3) In fiscal year 2005, the Secretary of State
13 issued an estimated 10,100,000 passports, rep-
14 resenting an increase of 15 percent from fiscal year
15 2004.

16 (4) The Secretary of State estimates that
17 13,000,000 passports will be issued in fiscal year
18 2006, 16,000,000 passports will be issued in fiscal
19 year 2007, and 17,000,000 passports will be issued
20 in fiscal year 2008.

21 (b) EXTENSION OF WESTERN HEMISPHERE TRAVEL
22 INITIATIVE IMPLEMENTATION DEADLINE.—Section
23 7209(b)(1) of the Intelligence Reform and Terrorism Pre-
24 vention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185
25 note) is amended by striking “January 1, 2008” and in-
26 serting “the later of June 1, 2009, or 3 months after the

1 Secretary of State and the Secretary of Homeland Secu-
2 rity make the certification required in subsection (i) of sec-
3 tion 135 of the Border Security and Immigration Reform
4 Act of 2007.”.

5 (c) PASSPORT CARDS.—

6 (1) AUTHORITY TO ISSUE.—In order to facili-
7 tate travel of United States citizens to Canada, Mex-
8 ico, the countries located in the Caribbean, and Ber-
9 muda, the Secretary of State, in consultation with
10 the Secretary, is authorized to develop a travel docu-
11 ment known as a Passport Card.

12 (2) ISSUANCE.—In accordance with the West-
13 ern Hemisphere Travel Initiative carried out pursu-
14 ant to section 7209 of the Intelligence Reform and
15 Terrorism Prevention Act of 2004 (Public Law 108–
16 458; 8 U.S.C. 1185 note), the Secretary of State, in
17 consultation with the Secretary, shall be authorized
18 to issue to a citizen of the United States who sub-
19 mits an application in accordance with paragraph
20 (5) a travel document that will serve as a Passport
21 Card.

22 (3) APPLICABILITY.—A Passport Card shall be
23 deemed to be a United States passport for the pur-
24 pose of United States laws and regulations relating
25 to United States passports.

1 (4) VALIDITY.—A Passport Card shall be valid
2 for the same period as a United States passport.

3 (5) LIMITATION ON USE.—A Passport Card
4 may only be used for the purpose of international
5 travel by United States citizens through land and
6 sea ports of entry between—

7 (A) the United States and Canada;

8 (B) the United States and Mexico; and

9 (C) the United States and a country lo-
10 cated in the Caribbean or Bermuda.

11 (6) APPLICATION FOR ISSUANCE.—To be issued
12 a Passport Card, a United States citizen shall sub-
13 mit an application to the Secretary of State. The
14 Secretary of State shall require that such application
15 shall contain the same information as is required to
16 determine citizenship, identity, and eligibility for
17 issuance of a United States passport.

18 (7) TECHNOLOGY.—

19 (A) EXPEDITED TRAVELER PROGRAMS.—

20 To the maximum extent practicable, a Passport
21 Card shall be designed and produced to provide
22 a platform on which the expedited traveler pro-
23 grams carried out by the Secretary, such as
24 NEXUS, NEXUS AIR, SENTRI, FAST, and
25 Register Traveler may be added. The Secretary

1 of State and the Secretary shall notify Congress
2 not later than July 1, 2008, if the technology
3 to add expedited travel features to the Passport
4 Card is not developed by that date.

5 (B) TECHNOLOGY.—The Secretary and the
6 Secretary of State shall establish a technology
7 implementation plan that accommodates desired
8 technology requirements of the Department of
9 State and the Department, allows for future
10 technological innovations, and ensures max-
11 imum facilitation at the northern and southern
12 borders.

13 (8) SPECIFICATIONS FOR CARD.—A Passport
14 Card shall be easily portable and durable. The Sec-
15 retary of State and the Secretary shall consult re-
16 garding the other technical specifications of the
17 Card, including whether the security features of the
18 Card could be combined with other existing identity
19 documentation.

20 (9) FEE.—

21 (A) IN GENERAL.—An applicant for a
22 Passport Card shall submit an application
23 under paragraph (6) together with a nonrefund-
24 able fee in an amount to be determined by the
25 Secretary of State. Passport Card fees shall be

1 deposited as an offsetting collection to the ap-
2 propriate Department of State appropriation, to
3 remain available until expended.

4 (B) LIMITATION ON FEES.—

5 (i) IN GENERAL.—The Secretary of
6 State shall seek to make the application
7 fee under this paragraph as low as pos-
8 sible.

9 (ii) MAXIMUM FEE WITHOUT CERTIFI-
10 CATION.—Except as provided in clause
11 (iii), the application fee may not exceed
12 \$24.

13 (iii) MAXIMUM FEE WITH CERTIFI-
14 CATION.—The application fee may be not
15 more than \$34 if the Secretary of State,
16 the Secretary, and the Postmaster Gen-
17 eral—

18 (I) jointly certify to Congress
19 that the cost to produce and issue a
20 Passport Card significantly exceeds
21 \$24; and

22 (II) provide a detailed cost anal-
23 ysis for such fee.

24 (C) REDUCTION OF FEE.—The Secretary
25 of State shall reduce the fee for a Passport

1 Card for an individual who submits an applica-
2 tion for a Passport Card together with an appli-
3 cation for a United States passport.

4 (D) WAIVER OF FEE FOR CHILDREN.—
5 The Secretary of State shall waive the fee for
6 a Passport Card for a child under 18 years of
7 age.

8 (E) AUDIT.—In the event that the fee for
9 a Passport Card exceeds \$24, the Comptroller
10 General of the United States shall conduct an
11 audit to determine whether Passport Cards are
12 issued at the lowest possible cost.

13 (10) ACCESSIBILITY.—In order to make the
14 Passport Card easily obtainable, an application for a
15 Passport Card shall be accepted in the same manner
16 and at the same locations as an application for a
17 United States passport.

18 (11) RULE OF CONSTRUCTION.—Nothing in
19 this section shall be construed as limiting, altering,
20 modifying, or otherwise affecting the validity of a
21 United States passport. A United States citizen may
22 possess a United States passport and a Passport
23 Card.

24 (d) STATE ENROLLMENT DEMONSTRATION PRO-
25 GRAM.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provisions of law, the Secretary of State and the
3 Secretary shall enter into a memorandum of under-
4 standing with 1 or more appropriate States to carry
5 out at least 1 demonstration program as follows:

6 (A) A State may include an individual’s
7 United States citizenship status on a driver’s li-
8 cense which meets the requirements of section
9 202 of the REAL ID Act of 2005 (division B
10 of Public Law 109–13; 49 U.S.C. 30301 note).

11 (B) The Secretary of State shall develop a
12 mechanism to communicate with a participating
13 State to verify the United States citizenship
14 status of an applicant who voluntarily seeks to
15 have the applicant’s United States citizenship
16 status included on a driver’s license.

17 (C) All information collected about the in-
18 dividual shall be managed exclusively in the
19 same manner as information collected through
20 a passport application and no further distribu-
21 tion of such information shall be permitted.

22 (D) A State may not require an individual
23 to include the individual’s citizenship status on
24 a driver’s license.

1 (E) Notwithstanding any other provision of
2 law, a driver's license which meets the require-
3 ments of this paragraph shall be deemed to be
4 sufficient documentation to permit the bearer to
5 enter the United States from Canada or Mexico
6 through not less than at least 1 designated
7 international border crossing in each State par-
8 ticipating in the demonstration program.

9 (2) RULE OF CONSTRUCTION.—Nothing in this
10 subsection shall have the effect of creating a na-
11 tional identity card.

12 (3) AUTHORITY TO EXPAND.—The Secretary of
13 State and the Secretary may expand the demonstra-
14 tion program under this subsection so that such pro-
15 gram is carried out in additional States, through ad-
16 ditional ports of entry, for additional foreign coun-
17 tries, and in a manner that permits the use of addi-
18 tional types of identification documents to prove
19 identity under the program.

20 (4) STUDY.—Not later than 6 months after the
21 date that the demonstration program under this sub-
22 section is carried out, the Comptroller General of the
23 United States shall conduct a study of—

1 (A) the cost of the production and issuance
2 of documents that meet the requirements of the
3 program compared with other travel documents;

4 (B) the impact of the program on the flow
5 of cross-border traffic and the economic impact
6 of the program; and

7 (C) the security of travel documents that
8 meet the requirements of the program com-
9 pared with other travel documents.

10 (5) RECIPROCITY WITH CANADA.—Notwith-
11 standing any other provision of law, if the Secretary
12 of State and the Secretary certify that certain iden-
13 tity documents issued by Canada (or any of its prov-
14 inces) meet security and citizenship standards com-
15 parable to the requirements described in paragraph
16 (1), the Secretary may determine that such docu-
17 ments are sufficient to permit entry into the United
18 States. The Secretary shall work, to the maximum
19 extent possible, to ensure that identification docu-
20 ments issued by Canada that are used as described
21 in this paragraph contain the same technology as
22 identification documents issued by the United States
23 (or any State).

24 (6) ADDITIONAL PILOT PROGRAMS.—To the
25 maximum extent possible, the Secretary shall seek to

1 conduct pilot programs related to Passport Cards
2 and the State Enrollment Demonstration Program
3 described in this subsection on the international bor-
4 der between the United States and Canada and the
5 international border between the United States and
6 Mexico.

7 (e) EXPEDITED PROCESSING FOR REPEAT TRAV-
8 ELERS.—

9 (1) LAND CROSSINGS.—To the maximum extent
10 practicable at the United States border with Canada
11 and the United States border with Mexico, the Sec-
12 retary shall expand expedited traveler programs car-
13 ried out by the Secretary to all ports of entry and
14 should encourage citizens of the United States to
15 participate in the preenrollment programs, as such
16 programs assist border control officers of the United
17 States in the fight against terrorism by increasing
18 the number of known travelers crossing the border.
19 The identities of such expedited travelers should be
20 entered into a database of known travelers who have
21 been subjected to in-depth background and watch-
22 list checks to permit border control officers to focus
23 more attention on unknown travelers, potential
24 criminals, and terrorists. The Secretary, in consulta-
25 tion with the appropriate officials of the Government

1 of Canada, shall equip at least 6 additional northern
2 border crossings with NEXUS technology and 6 ad-
3 ditional southern ports of entry with SENTRI tech-
4 nology.

5 (2) SEA CROSSINGS.—The Commissioner of
6 Customs and Border Patrol shall conduct and ex-
7 pand trusted traveler programs and pilot programs
8 to facilitate expedited processing of United States
9 citizens returning from pleasure craft trips in Can-
10 ada, Mexico, the Caribbean, or Bermuda. One such
11 program shall be conducted in Florida and modeled
12 on the I-68 program.

13 (f) PROCESS FOR INDIVIDUALS LACKING APPRO-
14 PRIATE DOCUMENTS.—

15 (1) IN GENERAL.—The Secretary shall establish
16 a program that satisfies section 7209 of the Intel-
17 ligence Reform and Terrorism Prevention Act of
18 2004 (Public Law 108–458; 8 U.S.C. 1185 note)—

19 (A) to permit a citizen of the United
20 States who has not been issued a United States
21 passport or other appropriate travel document
22 to cross the international border and return to
23 the United States for a time period of not more
24 than 72 hours, on a limited basis, and at no ad-
25 ditional fee; or

1 (B) to establish a process to ascertain the
2 identity of, and make admissibility determina-
3 tions for, a citizen described in paragraph (A)
4 upon the arrival of such citizen at an inter-
5 national border of the United States.

6 (2) GRACE PERIOD.—During a time period de-
7 termined by the Secretary, officers of the United
8 States Customs and Border Patrol may permit citi-
9 zens of the United States and Canada who are un-
10 aware of the requirements of section 7209 of the In-
11 telligence Reform and Terrorism Prevention Act of
12 2004 (Public Law 108–458; 8 U.S.C. 1185 note), or
13 otherwise lacking appropriate documentation, to
14 enter the United States upon a demonstration of
15 citizenship satisfactory to the officer. Officers of the
16 United States Customs and Border Patrol shall edu-
17 cate such individuals about documentary require-
18 ments.

19 (g) TRAVEL BY CHILDREN.—Notwithstanding any
20 other provision of law, the Secretary shall develop a proce-
21 dure to accommodate groups of children traveling by land
22 across an international border under adult supervision
23 with parental consent without requiring a government-
24 issued identity and citizenship document.

1 (h) PUBLIC PROMOTION.—The Secretary of State, in
2 consultation with the Secretary, shall develop and imple-
3 ment an outreach plan to inform United States citizens
4 about the Western Hemisphere Travel Initiative and the
5 provisions of this Act, to facilitate the acquisition of ap-
6 propriate documentation to travel to Canada, Mexico, the
7 countries located in the Caribbean, and Bermuda, and to
8 educate United States citizens who are unaware of the re-
9 quirements for such travel. Such outreach plan should in-
10 clude—

11 (1) written notifications posted at or near pub-
12 lic facilities, including border crossings, schools, li-
13 braries, Amtrak stations, and United States Post
14 Offices located within 50 miles of the international
15 border between the United States and Canada or the
16 international border between the United States and
17 Mexico and other ports of entry;

18 (2) provisions to seek consent to post such noti-
19 fications on commercial property, such as offices of
20 State departments of motor vehicles, gas stations,
21 supermarkets, convenience stores, hotels, and travel
22 agencies;

23 (3) the collection and analysis of data to meas-
24 ure the success of the public promotion plan; and

25 (4) additional measures as appropriate.

1 (i) CERTIFICATION.—Notwithstanding any other pro-
2 vision of law, the Secretary may not implement the plan
3 described in section 7209(b) of the Intelligence Reform
4 and Terrorism Prevention Act of 2004 (Public Law 108–
5 458; 8 U.S.C. 1185 note) until the later of June 1, 2009,
6 or the date that is 3 months after the Secretary of State
7 and the Secretary certify to Congress that—

8 (1)(A) if the Secretary and the Secretary of
9 State develop and issue Passport Cards under this
10 section—

11 (i) such cards have been distributed to at
12 least 90 percent of the eligible United States
13 citizens who applied for such cards during the
14 6-month period beginning not earlier than the
15 date the Secretary of State began accepting ap-
16 plications for such cards and ending not earlier
17 than 10 days prior to the date of certification;

18 (ii) Passport Cards are provided to appli-
19 cants, on average, within 4 weeks of application
20 or within the same period of time required to
21 adjudicate a passport; and

22 (iii) a successful pilot has demonstrated
23 the effectiveness of the Passport Card; or

24 (B) if the Secretary and the Secretary of State
25 do not develop and issue Passport Cards under this

1 section and develop a program to issue an alter-
2 native document that satisfies the requirements of
3 section 7209 of the Intelligence Reform and Ter-
4 rorism Prevention Act of 2004, in addition to the
5 NEXUS, SENTRI, FAST and Border Crossing
6 Card programs, such alternative document is widely
7 available and well publicized;

8 (2) United States border crossings have been
9 equipped with sufficient document readers and other
10 technologies to ensure that implementation will not
11 substantially slow the flow of traffic and persons
12 across international borders;

13 (3) officers of the Bureau of Customs and Bor-
14 der Protection have received training and been pro-
15 vided the infrastructure necessary to accept Pass-
16 port Cards and all alternative identity documents at
17 all United States border crossings; and

18 (4) the outreach plan described in subsection
19 (g) has been implemented and the Secretary deter-
20 mines such plan has been successful in providing in-
21 formation to United States citizens.

22 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to the Secretary of State
24 and the Secretary such sums as may be necessary to carry
25 out this section, and the amendment made by this section.

1 **SEC. 136. RECRUITMENT AND RETENTION PROGRAM.**

2 (a) REQUIREMENT FOR PROGRAM.—The Secretary
3 shall conduct a 5-year program to facilitate the recruit-
4 ment and retention of agents of the Bureau of Customs
5 and Border Protection and of the Bureau of Immigration
6 and Customs Enforcement.

7 (b) REPORT.—Not less frequently than once every 90
8 days during the 5-year duration of the program require-
9 ment by subsection (a), the Secretary shall submit to the
10 appropriate committees of Congress a report on the re-
11 sults and progress of the program. Such report shall be
12 submitted in an unclassified form and may include a clas-
13 sified annex, if necessary.

14 (c) APPROPRIATE COMMITTEES OF CONGRESS DE-
15 FINED.—In this section, the term “appropriate commit-
16 tees of Congress” means—

17 (1) the Committees on Armed Services, Home-
18 land Security and Governmental Affairs, and Appro-
19 priations of the Senate; and

20 (2) the Committees on Armed Services, Home-
21 land Security, and Appropriations of the House of
22 Representatives.

1 **Subtitle D—Border Law**
2 **Enforcement Relief Act**

3 **SEC. 141. SHORT TITLE.**

4 This subtitle may be cited as the “Border Law En-
5 forcement Relief Act of 2007”.

6 **SEC. 142. FINDINGS.**

7 Congress finds the following:

8 (1) It is the obligation of the Federal Govern-
9 ment of the United States to adequately secure the
10 Nation’s borders and prevent the flow of undocu-
11 mented persons and illegal drugs into the United
12 States.

13 (2) Despite the fact that the United States
14 Border Patrol apprehends over 1,000,000 people
15 each year trying to illegally enter the United States,
16 according to the Congressional Research Service, the
17 net growth in the number of unauthorized aliens has
18 increased by approximately 500,000 each year. The
19 Southwest border accounts for approximately 94
20 percent of all migrant apprehensions each year. Cur-
21 rently, there are an estimated 11,000,000 unauthor-
22 ized aliens in the United States.

23 (3) The border region is also a major corridor
24 for the shipment of drugs. According to the El Paso
25 Intelligence Center, 65 percent of the narcotics that

1 are sold in the markets of the United States enter
2 the country through the Southwest Border.

3 (4) Border communities continue to incur sig-
4 nificant costs due to the lack of adequate border se-
5 curity. A 2001 study by the United States-Mexico
6 Border Counties Coalition found that law enforce-
7 ment and criminal justice expenses associated with
8 illegal immigration exceed \$89,000,000 annually for
9 the Southwest border counties.

10 (5) In August 2005, the States of New Mexico
11 and Arizona declared states of emergency in order to
12 provide local law enforcement immediate assistance
13 in addressing criminal activity along the Southwest
14 border.

15 (6) While the Federal Government provides
16 States and localities assistance in covering costs re-
17 lated to the detention of certain criminal aliens and
18 the prosecution of Federal drug cases, local law en-
19 forcement along the border are provided no assist-
20 ance in covering such expenses and must use their
21 limited resources to combat drug trafficking, human
22 smuggling, kidnappings, the destruction of private
23 property, and other border-related crimes.

24 (7) The United States shares 5,525 miles of
25 border with Canada and 1,989 miles with Mexico.

1 Many of the local law enforcement agencies located
2 along the border are small, rural departments
3 charged with patrolling large areas of land. Counties
4 along the Southwest United States-Mexico border
5 are some of the poorest in the country and lack the
6 financial resources to cover the additional costs asso-
7 ciated with illegal immigration, drug trafficking, and
8 other border-related crimes.

9 (8) Federal assistance is required to help local
10 law enforcement operating along the border address
11 the unique challenges that arise as a result of their
12 proximity to an international border and the lack of
13 overall border security in the region

14 **SEC. 143. BORDER RELIEF GRANT PROGRAM.**

15 (a) GRANTS AUTHORIZED.—

16 (1) IN GENERAL.—The Secretary is authorized
17 to award grants, subject to the availability of appro-
18 priations, to an eligible law enforcement agency to
19 provide assistance to such agency to address—

20 (A) criminal activity that occurs in the ju-
21 risdiction of such agency by virtue of such
22 agency's proximity to the United States border;
23 and

24 (B) the impact of any lack of security
25 along the United States border.

1 (2) DURATION.—Grants may be awarded under
2 this subsection during fiscal years 2008 through
3 2012.

4 (3) COMPETITIVE BASIS.—The Secretary shall
5 award grants under this subsection on a competitive
6 basis, except that the Secretary shall give priority to
7 applications from any eligible law enforcement agen-
8 cy serving a community—

9 (A) with a population of less than 50,000;

10 and

11 (B) located no more than 100 miles from
12 a United States border with—

13 (i) Canada; or

14 (ii) Mexico.

15 (b) USE OF FUNDS.—Grants awarded pursuant to
16 subsection (a) may only be used to provide additional re-
17 sources for an eligible law enforcement agency to address
18 criminal activity occurring along any such border, includ-
19 ing—

20 (1) to obtain equipment;

21 (2) to hire additional personnel;

22 (3) to upgrade and maintain law enforcement
23 technology;

24 (4) to cover operational costs, including over-
25 time and transportation costs; and

1 (5) such other resources as are available to as-
2 sist that agency.

3 (c) APPLICATION.—

4 (1) IN GENERAL.—Each eligible law enforce-
5 ment agency seeking a grant under this section shall
6 submit an application to the Secretary at such time,
7 in such manner, and accompanied by such informa-
8 tion as the Secretary may reasonably require.

9 (2) CONTENTS.—Each application submitted
10 pursuant to paragraph (1) shall—

11 (A) describe the activities for which assist-
12 ance under this section is sought; and

13 (B) provide such additional assurances as
14 the Secretary determines to be essential to en-
15 sure compliance with the requirements of this
16 section.

17 (d) DEFINITIONS.—For the purposes of this section:

18 (1) ELIGIBLE LAW ENFORCEMENT AGENCY.—
19 The term “eligible law enforcement agency” means
20 a tribal, State, or local law enforcement agency—

21 (A) located in a county no more than 100
22 miles from a United States border with—

23 (i) Canada; or

24 (ii) Mexico; or

1 (B) located in a county more than 100
2 miles from any such border, but where such
3 county has been certified by the Secretary as a
4 High Impact Area.

5 (2) HIGH IMPACT AREA.—The term “High Im-
6 pact Area” means any county designated by the Sec-
7 retary as such, taking into consideration—

8 (A) whether local law enforcement agencies
9 in that county have the resources to protect the
10 lives, property, safety, or welfare of the resi-
11 dents of that county;

12 (B) the relationship between any lack of
13 security along the United States border and the
14 rise, if any, of criminal activity in that county;
15 and

16 (C) any other unique challenges that local
17 law enforcement face due to a lack of security
18 along the United States border.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—There are authorized to be
21 appropriated \$50,000,000 for each of fiscal years
22 2008 through 2012 to carry out the provisions of
23 this section.

24 (2) DIVISION OF AUTHORIZED FUNDS.—Of the
25 amounts authorized under paragraph (1)—

1 (A) $\frac{2}{3}$ shall be set aside for eligible law en-
 2 forcement agencies located in the 6 States with
 3 the largest number of undocumented alien ap-
 4 prehensions; and

5 (B) $\frac{1}{3}$ shall be set aside for areas des-
 6 ignated as a High Impact Area under sub-
 7 section (d).

8 (f) SUPPLEMENT NOT SUPPLANT.—Amounts appro-
 9 priated for grants under this section shall be used to sup-
 10 plement and not supplant other State and local public
 11 funds obligated for the purposes provided under this title.

12 **SEC. 144. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.**

13 Nothing in this subtitle shall be construed to author-
 14 ize State or local law enforcement agencies or their officers
 15 to exercise Federal immigration law enforcement author-
 16 ity.

17 **Subtitle E—Rapid Response**
 18 **Measures**

19 **SEC. 151. DEPLOYMENT OF BORDER PATROL AGENTS.**

20 (a) EMERGENCY DEPLOYMENT OF BORDER PATROL
 21 AGENTS.—

22 (1) IN GENERAL.—If the Governor of a State
 23 on an international border of the United States de-
 24 clares an international border security emergency
 25 and requests additional United States Border Patrol

1 agents (referred to in this subtitle as “agents”) from
2 the Secretary, the Secretary, subject to paragraphs
3 (1) and (2), may provide the State with not more
4 than 1,000 additional agents for the purpose of pa-
5 trolling and defending the international border, in
6 order to prevent individuals from crossing the inter-
7 national border into the United States at any loca-
8 tion other than an authorized port of entry.

9 (2) CONSULTATION.—Upon receiving a request
10 for agents under paragraph (1), the Secretary, after
11 consultation with the President, shall grant such re-
12 quest to the extent that providing such agents will
13 not significantly impair the Department’s ability to
14 provide border security for any other State.

15 (3) COLLECTIVE BARGAINING.—Emergency de-
16 ployments under this subsection shall be made in ac-
17 cordance with all applicable collective bargaining
18 agreements and obligations.

19 (b) ELIMINATION OF FIXED DEPLOYMENT OF BOR-
20 DER PATROL AGENTS.—The Secretary shall ensure that
21 agents are not precluded from performing patrol duties
22 and apprehending violators of law, except in unusual cir-
23 cumstances if the temporary use of fixed deployment posi-
24 tions is necessary.

1 (c) INCREASE IN FULL-TIME BORDER PATROL
2 AGENTS.—Section 5202(a)(1) of the Intelligence Reform
3 and Terrorism Prevention Act of 2004 (118 Stat. 3734),
4 as amended by section 101(b)(2), is further amended by
5 striking “2,000” and inserting “3,000”.

6 **SEC. 152. BORDER PATROL MAJOR ASSETS.**

7 (a) CONTROL OF BORDER PATROL ASSETS.—The
8 United States Border Patrol shall have complete and ex-
9 clusive administrative and operational control over all the
10 assets utilized in carrying out its mission, including, air-
11 craft, watercraft, vehicles, detention space, transportation,
12 and all of the personnel associated with such assets.

13 (b) HELICOPTERS AND POWER BOATS.—

14 (1) HELICOPTERS.—The Secretary shall in-
15 crease, by not less than 100, the number of heli-
16 copters under the control of the United States Bor-
17 der Patrol. The Secretary shall ensure that appro-
18 priate types of helicopters are procured for the var-
19 ious missions being performed.

20 (2) POWER BOATS.—The Secretary shall in-
21 crease, by not less than 250, the number of power
22 boats under the control of the United States Border
23 Patrol. The Secretary shall ensure that the types of
24 power boats that are procured are appropriate for

1 both the waterways in which they are used and the
2 mission requirements.

3 (3) USE AND TRAINING.—The Secretary shall—

4 (A) establish an overall policy on how the
5 helicopters and power boats procured under this
6 subsection will be used; and

7 (B) implement training programs for the
8 agents who use such assets, including safe oper-
9 ating procedures and rescue operations.

10 (c) MOTOR VEHICLES.—

11 (1) QUANTITY.—The Secretary shall establish a
12 fleet of motor vehicles appropriate for use by the
13 United States Border Patrol that will permit a ratio
14 of not less than 1 police-type vehicle for every 3
15 agents. These police-type vehicles shall be replaced
16 not less than every 3 years. The Secretary shall en-
17 sure that there are sufficient numbers and types of
18 other motor vehicles to support the mission of the
19 United States Border Patrol.

20 (2) FEATURES.—All motor vehicles purchased
21 for the United States Border Patrol shall—

22 (A) be appropriate for the mission of the
23 United States Border Patrol; and

24 (B) have a panic button and a global posi-
25 tioning system device that is activated solely in

1 emergency situations to track the location of
2 agents in distress.

3 **SEC. 153. ELECTRONIC EQUIPMENT.**

4 (a) PORTABLE COMPUTERS.—The Secretary shall en-
5 sure that each police-type motor vehicle in the fleet of the
6 United States Border Patrol is equipped with a portable
7 computer with access to all necessary law enforcement
8 databases and otherwise suited to the unique operational
9 requirements of the United States Border Patrol.

10 (b) RADIO COMMUNICATIONS.—The Secretary shall
11 augment the existing radio communications system so that
12 all law enforcement personnel working in each area where
13 United States Border Patrol operations are conducted
14 have clear and encrypted 2-way radio communication ca-
15 pabilities at all times. Each portable communications de-
16 vice shall be equipped with a panic button and a global
17 positioning system device that is activated solely in emer-
18 gency situations to track the location of agents in distress.

19 (c) HAND-HELD GLOBAL POSITIONING SYSTEM DE-
20 VICES.—The Secretary shall ensure that each United
21 States Border Patrol agent is issued a state-of-the-art
22 hand-held global positioning system device for navigational
23 purposes.

24 (d) NIGHT VISION EQUIPMENT.—The Secretary shall
25 ensure that sufficient quantities of state-of-the-art night

1 vision equipment are procured and maintained to enable
2 each United States Border Patrol agent working during
3 the hours of darkness to be equipped with a portable night
4 vision device.

5 **SEC. 154. PERSONAL EQUIPMENT.**

6 (a) **BORDER ARMOR.**—The Secretary shall ensure
7 that every agent is issued high-quality body armor that
8 is appropriate for the climate and risks faced by the agent.
9 Each agent shall be permitted to select from among a vari-
10 ety of approved brands and styles. Agents shall be strongly
11 encouraged, but not required, to wear such body armor
12 whenever practicable. All body armor shall be replaced not
13 less than every 5 years.

14 (b) **WEAPONS.**—The Secretary shall ensure that
15 agents are equipped with weapons that are reliable and
16 effective to protect themselves, their fellow agents, and in-
17 nocent third parties from the threats posed by armed
18 criminals. The Secretary shall ensure that the policies of
19 the Department authorize all agents to carry weapons that
20 are suited to the potential threats that they face.

21 (c) **UNIFORMS.**—The Secretary shall ensure that all
22 agents are provided with all necessary uniform items, in-
23 cluding outerwear suited to the climate, footwear, belts,
24 holsters, and personal protective equipment, at no cost to
25 such agents. Such items shall be replaced at no cost to

1 such agents as they become worn, unserviceable, or no
2 longer fit properly.

3 **SEC. 155. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to the Sec-
5 retary such sums as may be necessary for each of the fis-
6 cal years 2008 through 2012 to carry out this subtitle.

7 **TITLE II—INTERIOR**
8 **ENFORCEMENT**

9 **SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TER-**
10 **RORIST ALIENS.**

11 (a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C.
12 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and
13 inserting “(V), (VI), (VII), or (VIII)”.

14 (b) CANCELLATION OF REMOVAL.—Section
15 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

16 (1) by striking “inadmissible under” and insert-
17 ing “described in”; and

18 (2) by striking “deportable under” and insert-
19 ing “described in”.

20 (c) VOLUNTARY DEPARTURE.—Section
21 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by
22 striking “deportable under section 237(a)(2)(A)(iii) or
23 section 237(a)(4)” and inserting “described in paragraph
24 (2)(A)(iii) or (4) of section 237(a)”.

1 (d) RESTRICTION ON REMOVAL.—Section
2 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

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

4 (2) in clause (iv) by striking the period at the
5 end and inserting “; or”;

6 (3) by inserting after clause (iv) the following:

7 “(v) the alien is described in section
8 237(a)(4)(B) (other than an alien de-
9 scribed in section 212(a)(3)(B)(i)(IV) if
10 the Secretary of Homeland Security deter-
11 mines that there are not reasonable
12 grounds for regarding the alien as a dan-
13 ger to the security of the United States).”;

14 and

15 (4) in the undesignated paragraph, by striking
16 “For purposes of clause (iv), an alien who is de-
17 scribed in section 237(a)(4)(B) shall be considered
18 to be an alien with respect to whom there are rea-
19 sonable grounds for regarding as a danger to the se-
20 curity of the United States.”.

21 (e) RECORD OF ADMISSION.—Section 249 (8 U.S.C.
22 1259) is amended to read as follows:

1 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESI-**
2 **DENCE IN THE CASE OF CERTAIN ALIENS**
3 **WHO ENTERED THE UNITED STATES PRIOR**
4 **TO JANUARY 1, 1972.**

5 “A record of lawful admission for permanent resi-
6 dence may be made, in the discretion of the Secretary of
7 Homeland Security and under such regulations as the Sec-
8 retary may prescribe, for any alien, as of the date of the
9 approval of the alien’s application or, if entry occurred be-
10 fore July 1, 1924, as of the date of such entry if no such
11 record is otherwise available, if the alien establishes that
12 the alien—

13 “(1) is not described in section 212(a)(3)(E) or
14 in section 212(a) (insofar as it relates to criminals,
15 procurers, other immoral persons, subversives, viola-
16 tors of the narcotics laws, or smugglers of aliens);

17 “(2) entered the United States before January
18 1, 1972;

19 “(3) has resided in the United States continu-
20 ously since such entry;

21 “(4) is a person of good moral character;

22 “(5) is not ineligible for citizenship; and

23 “(6) is not described in section 237(a)(4)(B).”.

24 (f) **EFFECTIVE DATE AND APPLICATION.**—The
25 amendments made by this section shall—

1 (1) take effect on the date of the enactment of
2 this Act; and

3 (2) apply to any act or condition constituting a
4 ground for inadmissibility, excludability, or removal
5 occurring or existing on or after the date of the en-
6 actment of this Act.

7 **SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED**

8 **REMOVED.**

9 (a) IN GENERAL.—

10 (1) AMENDMENTS.—Section 241(a) (8 U.S.C.
11 1231(a)) is amended—

12 (A) by striking “Attorney General” the
13 first place it appears and inserting “Secretary
14 of Homeland Security”;

15 (B) by striking “Attorney General” any
16 other place it appears and inserting “Sec-
17 retary”;

18 (C) in paragraph (1)—

19 (i) in subparagraph (B), by amending
20 clause (ii) to read as follows:

21 “(ii) If a court, the Board of Immi-
22 gration Appeals, or an immigration judge
23 orders a stay of the removal of the alien,
24 the expiration date of the stay of re-
25 moval.”;

1 (ii) by amending subparagraph (C) to
2 read as follows:

3 “(C) EXTENSION OF PERIOD.—The re-
4 moval period shall be extended beyond a period
5 of 90 days and the alien may remain in deten-
6 tion during such extended period if the alien
7 fails or refuses to—

8 “(i) make all reasonable efforts to
9 comply with the removal order; or

10 “(ii) fully cooperate with the Sec-
11 retary’s efforts to establish the alien’s
12 identity and carry out the removal order,
13 including failing to make timely application
14 in good faith for travel or other documents
15 necessary to the alien’s departure, or con-
16 spiring or acting to prevent the alien’s re-
17 moval.”; and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(D) TOLLING OF PERIOD.—If, at the
21 time described in subparagraph (B), the alien is
22 not in the custody of the Secretary under the
23 authority of this Act, the removal period shall
24 not begin until the alien is taken into such cus-
25 tody. If the Secretary lawfully transfers custody

1 of the alien during the removal period to an-
2 other Federal agency or to a State or local gov-
3 ernment agency in connection with the official
4 duties of such agency, the removal period shall
5 be tolled, and shall recommence on the date on
6 which the alien is returned to the custody of the
7 Secretary.”;

8 (D) in paragraph (2), by adding at the end
9 the following: “If a court, the Board of Immi-
10 gration Appeals, or an immigration judge or-
11 ders a stay of removal of an alien who is sub-
12 ject to an administrative final order of removal,
13 the Secretary, in the exercise of discretion, may
14 detain the alien during the pendency of such
15 stay of removal.”;

16 (E) in paragraph (3), by amending sub-
17 paragraph (D) to read as follows:

18 “(D) to obey reasonable restrictions on the
19 alien’s conduct or activities, or to perform af-
20 firmative acts, that the Secretary prescribes for
21 the alien—

22 “(i) to prevent the alien from ab-
23 scending;

24 “(ii) for the protection of the commu-
25 nity; or

1 “(iii) for other purposes related to the
2 enforcement of the immigration laws.”;

3 (F) in paragraph (6), by striking “removal
4 period and, if released,” and inserting “removal
5 period, in the discretion of the Secretary, with-
6 out any limitations other than those specified in
7 this section, until the alien is removed. If an
8 alien is released, the alien”;

9 (G) by redesignating paragraph (7) as
10 paragraph (10); and

11 (H) by inserting after paragraph (6) the
12 following:

13 “(7) PAROLE.—If an alien detained pursuant to
14 paragraph (6) is an applicant for admission, the
15 Secretary of Homeland Security, in the Secretary’s
16 discretion, may parole the alien under section
17 212(d)(5) and may provide, notwithstanding section
18 212(d)(5), that the alien shall not be returned to
19 custody unless either the alien violates the conditions
20 of the alien’s parole or the alien’s removal becomes
21 reasonably foreseeable, provided that in no cir-
22 cumstance shall such alien be considered admitted.

23 “(8) ADDITIONAL RULES FOR DETENTION OR
24 RELEASE OF ALIENS.—The following procedures
25 shall apply to an alien detained under this section:

1 “(A) DETENTION REVIEW PROCESS FOR
2 ALIENS WHO HAVE EFFECTED AN ENTRY AND
3 FULLY COOPERATE WITH REMOVAL.—The Sec-
4 retary of Homeland Security shall establish an
5 administrative review process to determine
6 whether an alien described in subparagraph (B)
7 should be detained or released after the removal
8 period in accordance with this paragraph.

9 “(B) ALIEN DESCRIBED.—An alien is de-
10 scribed in this subparagraph if the alien—

11 “(i) has effected an entry into the
12 United States;

13 “(ii) has made all reasonable efforts
14 to comply with the alien’s removal order;

15 “(iii) has cooperated fully with the
16 Secretary’s efforts to establish the alien’s
17 identity and to carry out the removal
18 order, including making timely application
19 in good faith for travel or other documents
20 necessary for the alien’s departure; and

21 “(iv) has not conspired or acted to
22 prevent removal.

23 “(C) EVIDENCE.—In making a determina-
24 tion under subparagraph (A), the Secretary—

1 “(i) shall consider any evidence sub-
2 mitted by the alien;

3 “(ii) may consider any other evidence,
4 including—

5 “(I) any information or assist-
6 ance provided by the Department of
7 State or other Federal agency; and

8 “(II) any other information avail-
9 able to the Secretary pertaining to the
10 ability to remove the alien.

11 “(D) AUTHORITY TO DETAIN FOR 90 DAYS
12 BEYOND REMOVAL PERIOD.—The Secretary, in
13 the exercise of the Secretary’s discretion and
14 without any limitations other than those speci-
15 fied in this section, may detain an alien for 90
16 days beyond the removal period (including any
17 extension of the removal period under para-
18 graph (1)(C)).

19 “(E) AUTHORITY TO DETAIN FOR ADDI-
20 TIONAL PERIOD.—The Secretary, in the exer-
21 cise of the Secretary’s discretion and without
22 any limitations other than those specified in
23 this section, may detain an alien beyond the 90-
24 day period authorized under subparagraph (D)
25 until the alien is removed, if the Secretary—

1 “(i) determines that there is a signifi-
2 cant likelihood that the alien will be re-
3 moved in the reasonably foreseeable future;
4 or

5 “(ii) certifies in writing—

6 “(I) in consultation with the Sec-
7 retary of Health and Human Services,
8 that the alien has a highly contagious
9 disease that poses a threat to public
10 safety;

11 “(II) after receipt of a written
12 recommendation from the Secretary of
13 State, that the release of the alien
14 would likely have serious adverse for-
15 eign policy consequences for the
16 United States;

17 “(III) based on information avail-
18 able to the Secretary (including classi-
19 fied, sensitive, or national security in-
20 formation, and regardless of the
21 grounds upon which the alien was or-
22 dered removed), that there is reason
23 to believe that the release of the alien
24 would threaten the national security
25 of the United States;

1 “(IV) that—

2 “(aa) the release of the alien
3 would threaten the safety of the
4 community or any person, and
5 conditions of release cannot rea-
6 sonably be expected to ensure the
7 safety of the community or any
8 person; and

9 “(bb) the alien—

10 “(AA) has been con-
11 victed of 1 or more aggra-
12 vated felonies (as defined in
13 section 101(a)(43)(A)), or of
14 1 or more attempts or con-
15 spiracies to commit any such
16 aggravated felonies for an
17 aggregate term of imprison-
18 ment of at least 5 years; or

19 “(BB) has committed a
20 crime of violence (as defined
21 in section 16 of title 18,
22 United States Code, but not
23 including a purely political
24 offense) and, because of a
25 mental condition or person-

1 ality disorder and behavior
2 associated with that condi-
3 tion or disorder, is likely to
4 engage in acts of violence in
5 the future; or

6 “(V) that—

7 “(aa) the release of the alien
8 would threaten the safety of the
9 community or any person, not-
10 withstanding conditions of release
11 designed to ensure the safety of
12 the community or any person;
13 and

14 “(bb) the alien has been
15 convicted of 1 or more aggra-
16 vated felonies (as defined in sec-
17 tion 101(a)(43)) for which the
18 alien was sentenced to an aggre-
19 gate term of imprisonment of not
20 less than 1 year.

21 “(F) ADMINISTRATIVE REVIEW PROC-
22 ESS.—The Secretary, without any limitations
23 other than those specified in this section, may
24 detain an alien pending a determination under
25 subparagraph (E)(ii), if the Secretary has initi-

1 ated the administrative review process identified
2 in subparagraph (A) not later than 30 days
3 after the expiration of the removal period (in-
4 cluding any extension of the removal period
5 under paragraph (1)(C)).

6 “(G) RENEWAL AND DELEGATION OF CER-
7 TIFICATION.—

8 “(i) RENEWAL.—The Secretary may
9 renew a certification under subparagraph
10 (E)(ii) every 6 months, without limitation,
11 after providing the alien with an oppor-
12 tunity to request reconsideration of the
13 certification and to submit documents or
14 other evidence in support of that request.
15 If the Secretary does not renew such cer-
16 tification, the Secretary shall release the
17 alien, pursuant to subparagraph (H).

18 “(ii) DELEGATION.—Notwithstanding
19 any other provision of law, the Secretary
20 may not delegate the authority to make or
21 renew a certification described in subclause
22 (II), (III), or (V) of subparagraph (E)(ii)
23 to any employee reporting to the Assistant
24 Secretary for Immigration and Customs
25 Enforcement.

1 “(iii) HEARING.—The Secretary may
2 request that the Attorney General, or a
3 designee of the Attorney General, provide
4 for a hearing to make the determination
5 described in subparagraph
6 (E)(ii)(IV)(bb)(BB).

7 “(H) RELEASE ON CONDITIONS.—If it is
8 determined that an alien should be released
9 from detention, the Secretary may, in the Sec-
10 retary’s discretion, impose conditions on release
11 in accordance with the regulations prescribed
12 pursuant to paragraph (3).

13 “(I) REDETENTION.—The Secretary, with-
14 out any limitations other than those specified in
15 this section, may detain any alien subject to a
16 final removal order who has previously been re-
17 leased from custody if—

18 “(i) the alien fails to comply with the
19 conditions of release;

20 “(ii) the alien fails to continue to sat-
21 isfy the conditions described in subpara-
22 graph (B); or

23 “(iii) upon reconsideration, the Sec-
24 retary determines that the alien can be de-
25 tained under subparagraph (E).

1 “(J) APPLICABILITY.—This paragraph and
2 paragraphs (6) and (7) shall apply to any alien
3 returned to custody under subparagraph (I) as
4 if the removal period terminated on the day of
5 the redetention.

6 “(K) DETENTION REVIEW PROCESS FOR
7 ALIENS WHO HAVE EFFECTED AN ENTRY AND
8 FAIL TO COOPERATE WITH REMOVAL.—The
9 Secretary shall detain an alien until the alien
10 makes all reasonable efforts to comply with a
11 removal order and to cooperate fully with the
12 Secretary’s efforts, if the alien—

13 “(i) has effected an entry into the
14 United States; and

15 “(ii)(I) and the alien faces a signifi-
16 cant likelihood that the alien will be re-
17 moved in the reasonably foreseeable future,
18 or would have been removed if the alien
19 had not—

20 “(aa) failed or refused to make
21 all reasonable efforts to comply with a
22 removal order;

23 “(bb) failed or refused to fully
24 cooperate with the Secretary’s efforts
25 to establish the alien’s identity and

1 carry out the removal order, including
2 the failure to make timely application
3 in good faith for travel or other docu-
4 ments necessary to the alien's depar-
5 ture; or

6 “(cc) conspired or acted to pre-
7 vent removal; or

8 “(II) the Secretary makes a certifi-
9 cation as specified in subparagraph (E), or
10 the renewal of a certification specified in
11 subparagraph (G).

12 “(L) DETENTION REVIEW PROCESS FOR
13 ALIENS WHO HAVE NOT EFFECTED AN
14 ENTRY.—Except as otherwise provided in this
15 subparagraph, the Secretary shall follow the
16 guidelines established in section 241.4 of title 8,
17 Code of Federal Regulations, when detaining
18 aliens who have not effected an entry. The Sec-
19 retary may decide to apply the review process
20 outlined in this paragraph.

21 “(9) JUDICIAL REVIEW.—Without regard to the
22 place of confinement, judicial review of any action or
23 decision made pursuant to paragraph (6), (7), or (8)
24 shall be available exclusively in a habeas corpus pro-
25 ceeding brought in a United States district court

1 and only if the alien has exhausted all administrative
2 remedies (statutory and nonstatutory) available to
3 the alien as of right.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1)—

6 (A) shall take effect on the date of the en-
7 actment of this Act; and

8 (B) shall apply to—

9 (i) any alien subject to a final admin-
10 istrative removal, deportation, or exclusion
11 order that was issued before, on, or after
12 the date of the enactment of this Act; and

13 (ii) any act or condition occurring or
14 existing before, on, or after the date of the
15 enactment of this Act.

16 (b) CRIMINAL DETENTION OF ALIENS.—Section
17 3142 of title 18, United States Code, is amended—

18 (1) in subsection (e)—

19 (A) by redesignating paragraphs (1), (2),
20 and (3) as subparagraphs (A), (B), and (C), re-
21 spectively;

22 (B) by inserting “(1)” before “If, after a
23 hearing”;

1 (C) in subparagraphs (B) and (C), as re-
2 designated, by striking “paragraph (1)” and in-
3 serting “subparagraph (A)”; and

4 (D) by adding after subparagraph (C), as
5 redesignated, the following:

6 “(2) Subject to rebuttal by the person, it shall be pre-
7 sumed that no condition or combination of conditions will
8 reasonably assure the appearance of the person as re-
9 quired if the judicial officer finds that there is probable
10 cause to believe that the person—

11 “(A) is an alien; and

12 “(B)(i) has no lawful immigration status in the
13 United States;

14 “(ii) is the subject of a final order of removal;
15 or

16 “(iii) has committed a felony offense under sec-
17 tion 911, 922(g)(5), 1015, 1028, 1425, or 1426 of
18 this title, chapter 75 or 77 of this title, or section
19 243, 274, 275, 276, 277, or 278 of the Immigration
20 and Nationality Act (8 U.S.C. 1253, 1324, 1325,
21 1326, 2327, and 1328).”; and

22 (2) in subsection (g)(3)—

23 (A) in subparagraph (A), by striking
24 “and” at the end; and

25 (B) by adding at the end the following:

1 “(C) the person’s immigration status;
2 and”.

3 **SEC. 203. AGGRAVATED FELONY.**

4 (a) DEFINITION OF AGGRAVATED FELONY.—Section
5 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

6 (1) by striking “The term ‘aggravated felony’
7 means—” and inserting “Notwithstanding any other
8 provision of law (except for the provision providing
9 an effective date for section 203 of the Border Secu-
10 rity and Immigration Reform Act of 2007), the term
11 ‘aggravated felony’ applies to an offense described in
12 this paragraph, whether in violation of Federal or
13 State law and to such an offense in violation of the
14 law of a foreign country, for which the term of im-
15 prisonment was completed within the previous 15
16 years, even if the length of the term of imprisonment
17 is based on recidivist or other enhancements and re-
18 gardless of whether the conviction was entered be-
19 fore, on, or after September 30, 1996, and
20 means—”;

21 (2) in subparagraph (A), by striking “murder,
22 rape, or sexual abuse of a minor;” and inserting
23 “murder, rape, or sexual abuse of a minor, whether
24 or not the minority of the victim is established by

1 evidence contained in the record of conviction or by
2 evidence extrinsic to the record of conviction;”;

3 (3) in subparagraph (N), by striking “para-
4 graph (1)(A) or (2) of”;

5 (4) in subparagraph (O), by striking “section
6 275(a) or 276 committed by an alien who was pre-
7 viously deported on the basis of a conviction for an
8 offense described in another subparagraph of this
9 paragraph” and inserting “section 275 or 276 for
10 which the term of imprisonment is at least 1 year”;

11 (5) in subparagraph (U), by striking “an at-
12 tempt or conspiracy to commit an offense described
13 in this paragraph” and inserting “aiding or abetting
14 an offense described in this paragraph, or soliciting,
15 counseling, procuring, commanding, or inducing an-
16 other, attempting, or conspiring to commit such an
17 offense”; and

18 (6) by striking the undesignated matter fol-
19 lowing subparagraph (U).

20 (b) EFFECTIVE DATE AND APPLICATION.—

21 (1) IN GENERAL.—The amendments made by
22 subsection (a) shall—

23 (A) take effect on the date of the enact-
24 ment of this Act; and

1 (B) apply to any act that occurred on or
2 after the date of the enactment of this Act.

3 (2) APPLICATION OF IIRAIRA AMENDMENTS.—

4 The amendments to section 101(a)(43) of the Immi-
5 gration and Nationality Act made by section 321 of
6 the Illegal Immigration Reform and Immigrant Re-
7 sponsibility Act of 1996 (division C of Public Law
8 104–208; 110 Stat. 3009–627) shall continue to
9 apply, whether the conviction was entered before, on,
10 or after September 30, 1996.

11 **SEC. 204. TERRORIST BARS.**

12 (a) DEFINITION OF GOOD MORAL CHARACTER.—

13 Section 101(f) (8 U.S.C. 1101(f)) is amended—

14 (1) by inserting after paragraph (1) the fol-
15 lowing:

16 “(2) an alien described in section 212(a)(3) or
17 237(a)(4), as determined by the Secretary of Home-
18 land Security or Attorney General based upon any
19 relevant information or evidence, including classified,
20 sensitive, or national security information;”;

21 (2) in paragraph (8), by striking “(as defined
22 in subsection (a)(43))” and inserting the following:
23 “, regardless of whether the crime was defined as an
24 aggravated felony under subsection (a)(43) at the
25 time of the conviction, unless—

1 “(A) the person completed the term of im-
2 prisonment and sentence not later than 10
3 years before the date of application; and

4 “(B) the Secretary of Homeland Security
5 or the Attorney General waives the application
6 of this paragraph; or”;

7 (3) in the undesignated matter following para-
8 graph (9), by striking “a finding that for other rea-
9 sons such person is or was not of good moral char-
10 acter” and inserting the following: “a discretionary
11 finding for other reasons that such a person is or
12 was not of good moral character. In determining an
13 applicant’s moral character, the Secretary of Home-
14 land Security and the Attorney General may take
15 into consideration the applicant’s conduct and acts
16 at any time and are not limited to the period during
17 which good moral character is required.”.

18 (b) PENDING PROCEEDINGS.—Section 204(b) (8
19 U.S.C. 1154(b)) is amended by adding at the end the fol-
20 lowing: “A petition may not be approved under this section
21 if there is any administrative or judicial proceeding
22 (whether civil or criminal) pending against the petitioner
23 that could directly or indirectly result in the petitioner’s
24 denaturalization or the loss of the petitioner’s lawful per-
25 manent resident status.”.

1 (c) CONDITIONAL PERMANENT RESIDENT STATUS.—

2 (1) IN GENERAL.—Section 216(e) (8 U.S.C.
3 1186a(e)) is amended by inserting “if the alien has
4 had the conditional basis removed pursuant to this
5 section” before the period at the end.

6 (2) CERTAIN ALIEN ENTREPRENEURS.—Section
7 216A(e) (8 U.S.C. 1186b(e)) is amended by insert-
8 ing “if the alien has had the conditional basis re-
9 moved pursuant to this section” before the period at
10 the end.

11 (d) JUDICIAL REVIEW OF NATURALIZATION APPLI-
12 CATIONS.—Section 310(e) (8 U.S.C. 1421(e)) is amend-
13 ed—

14 (1) by inserting “, not later than 120 days after
15 the Secretary of Homeland Security’s final deter-
16 mination,” after “may”; and

17 (2) by adding at the end the following: “Except
18 that in any proceeding, other than a proceeding
19 under section 340, the court shall review for sub-
20 stantial evidence the administrative record and find-
21 ings of the Secretary of Homeland Security regard-
22 ing whether an alien is a person of good moral char-
23 acter, understands and is attached to the principles
24 of the Constitution of the United States, or is well
25 disposed to the good order and happiness of the

1 United States. The petitioner shall have the burden
2 of showing that the Secretary’s denial of the applica-
3 tion was contrary to law.”.

4 (e) PERSONS ENDANGERING NATIONAL SECURITY.—
5 Section 316 (8 U.S.C. 1427) is amended by adding at the
6 end the following:

7 “(g) PERSONS ENDANGERING THE NATIONAL SECUR-
8 RITY.—A person may not be naturalized if the Secretary
9 of Homeland Security determines, based upon any rel-
10 evant information or evidence, including classified, sen-
11 sitive, or national security information, that the person
12 was once an alien described in section 212(a)(3) or
13 237(a)(4).”.

14 (f) CONCURRENT NATURALIZATION AND REMOVAL
15 PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended
16 by striking “the Attorney General if” and all that follows
17 and inserting: “the Secretary of Homeland Security or any
18 court if there is pending against the applicant any removal
19 proceeding or other proceeding to determine the appli-
20 cant’s inadmissibility or deportability, or to determine
21 whether the applicant’s lawful permanent resident status
22 should be rescinded, regardless of when such proceeding
23 was commenced. The findings of the Attorney General in
24 terminating removal proceedings or canceling the removal
25 of an alien under this Act shall not be deemed binding

1 in any way upon the Secretary of Homeland Security with
2 respect to the question of whether such person has estab-
3 lished eligibility for naturalization in accordance with this
4 title.”.

5 (g) DISTRICT COURT JURISDICTION.—Section
6 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

7 “(b) REQUEST FOR HEARING BEFORE DISTRICT
8 COURT.—If there is a failure to render a final administra-
9 tive decision under section 335 before the end of the 180-
10 day period beginning on the date on which the Secretary
11 of Homeland Security completes all examinations and
12 interviews required under such section, the applicant may
13 apply to the district court for the district in which the
14 applicant resides for a hearing on the matter. The Sec-
15 retary shall notify the applicant when such examinations
16 and interviews have been completed. Such district court
17 shall only have jurisdiction to review the basis for delay
18 and remand the matter, with appropriate instructions, to
19 the Secretary for the Secretary’s determination on the ap-
20 plication.”.

21 (h) EFFECTIVE DATE.—The amendments made by
22 this section—

23 (1) shall take effect on the date of the enact-
24 ment of this Act; and

1 (2) shall apply to any act that occurred on or
2 after such date of enactment.

3 **SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO**
4 **GANG VIOLENCE, REMOVAL, AND ALIEN**
5 **SMUGGLING.**

6 (a) CRIMINAL STREET GANGS.—

7 (1) INADMISSIBILITY.—Section 212(a)(2) (8
8 U.S.C. 1182(a)(2)) is amended—

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

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

13 “(F) MEMBERS OF CRIMINAL STREET
14 GANGS.—Unless the Secretary of Homeland Se-
15 curity or the Attorney General waives the appli-
16 cation of this subparagraph, any alien who a
17 consular officer, the Attorney General, or the
18 Secretary of Homeland Security knows or has
19 reason to believe—

20 “(i) is, or has been, a member of a
21 criminal street gang (as defined in section
22 521(a) of title 18, United States Code); or

23 “(ii) has participated in the activities
24 of a criminal street gang, knowing or hav-
25 ing reason to know that such activities pro-

1 moted, furthered, aided, or supported the
2 illegal activity of the criminal gang,
3 is inadmissible.”.

4 (2) DEPORTABILITY.—Section 237(a)(2) (8
5 U.S.C. 1227(a)(2)) is amended by adding at the end
6 the following:

7 “(F) MEMBERS OF CRIMINAL STREET
8 GANGS.—Unless the Secretary of Homeland Se-
9 curity or the Attorney General waives the appli-
10 cation of this subparagraph, any alien who the
11 Secretary of Homeland Security or the Attorney
12 General knows or has reason to believe—

13 “(i) is, or at any time after admission
14 has been, a member of a criminal street
15 gang (as defined in section 521(a) of title
16 18, United States Code); or

17 “(ii) has participated in the activities
18 of a criminal street gang, knowing or hav-
19 ing reason to know that such activities pro-
20 moted, furthered, aided, or supported the
21 illegal activity of the criminal gang,

22 is deportable.”.

23 (3) TEMPORARY PROTECTED STATUS.—Section
24 244 (8 U.S.C. 1254a) is amended—

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

4 (B) in subsection (b)(3)—

5 (i) in subparagraph (B), by striking
6 the last sentence and inserting the fol-
7 lowing: “Notwithstanding any other provi-
8 sion of this section, the Secretary of
9 Homeland Security may, for any reason
10 (including national security), terminate or
11 modify any designation under this section.
12 Such termination or modification is effec-
13 tive upon publication in the Federal Reg-
14 ister, or after such time as the Secretary
15 may designate in the Federal Register.”;

16 (ii) in subparagraph (C), by striking
17 “a period of 12 or 18 months” and insert-
18 ing “any other period not to exceed 18
19 months”;

20 (C) in subsection (c)—

21 (i) in paragraph (1)(B), by striking
22 “The amount of any such fee shall not ex-
23 ceed \$50.”;

24 (ii) in paragraph (2)(B)—

1 (I) in clause (i), by striking “,
2 or” at the end;

3 (II) in clause (ii), by striking the
4 period at the end and inserting “; or”;
5 and

6 (III) by adding at the end the
7 following:

8 “(iii) the alien is, or at any time after
9 admission has been, a member of a crimi-
10 nal street gang (as defined in section
11 521(a) of title 18, United States Code).”;
12 and

13 (D) in subsection (d)—

14 (i) by striking paragraph (3); and

15 (ii) in paragraph (4), by adding at the
16 end the following: “The Secretary of
17 Homeland Security may detain an alien
18 provided temporary protected status under
19 this section whenever appropriate under
20 any other provision of law.”.

21 (b) PENALTIES RELATED TO REMOVAL.—Section
22 243 (8 U.S.C. 1253) is amended—

23 (1) in subsection (a)(1)—

1 (A) in the matter preceding subparagraph
2 (A), by inserting “212(a) or” after “section”;
3 and

4 (B) in the matter following subparagraph
5 (D)—

6 (i) by striking “or imprisoned not
7 more than four years” and inserting “and
8 imprisoned for not less than 6 months or
9 more than 5 years”; and

10 (ii) by striking “, or both”;

11 (2) in subsection (b), by striking “not more
12 than \$1000 or imprisoned for not more than one
13 year, or both” and inserting “under title 18, United
14 States Code, and imprisoned for not less than 6
15 months or more than 5 years (or for not more than
16 10 years if the alien is a member of any of the class-
17 es described in paragraphs (1)(E), (2), (3), and (4)
18 of section 237(a)).”; and

19 (3) by amending subsection (d) to read as fol-
20 lows:

21 “(d) DENYING VISAS TO NATIONALS OF COUNTRY
22 DENYING OR DELAYING ACCEPTING ALIEN.—The Sec-
23 retary of Homeland Security, after making a determina-
24 tion that the government of a foreign country has denied
25 or unreasonably delayed accepting an alien who is a cit-

1 izen, subject, national, or resident of that country after
2 the alien has been ordered removed, and after consultation
3 with the Secretary of State, may instruct the Secretary
4 of State to deny a visa to any citizen, subject, national,
5 or resident of that country until the country accepts the
6 alien that was ordered removed.”.

7 (c) ALIEN SMUGGLING AND RELATED OFFENSES.—

8 (1) IN GENERAL.—Section 274 (8 U.S.C.
9 1324), is amended to read as follows:

10 **“SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

11 **“(a) CRIMINAL OFFENSES AND PENALTIES.—**

12 **“(1) PROHIBITED ACTIVITIES.—**Except as pro-
13 vided in paragraph (3), a person shall be punished
14 as provided under paragraph (2), if the person—

15 **“(A)** facilitates, encourages, directs, or in-
16 duces a person to come to or enter the United
17 States, or to cross the border to the United
18 States, knowing or in reckless disregard of the
19 fact that such person is an alien who lacks law-
20 ful authority to come to, enter, or cross the bor-
21 der to the United States;

22 **“(B)** facilitates, encourages, directs, or in-
23 duces a person to come to or enter the United
24 States, or to cross the border to the United
25 States, at a place other than a designated port

1 of entry or place other than as designated by
2 the Secretary of Homeland Security, knowing
3 or in reckless disregard of the fact that such
4 person is an alien and regardless of whether
5 such alien has official permission or lawful au-
6 thority to be in the United States;

7 “(C) transports, moves, harbors, conceals,
8 or shields from detection a person outside of
9 the United States knowing or in reckless dis-
10 regard of the fact that such person is an alien
11 in unlawful transit from 1 country to another
12 or on the high seas, under circumstances in
13 which the alien is seeking to enter the United
14 States without official permission or legal au-
15 thority;

16 “(D) encourages or induces a person to re-
17 side in the United States, knowing or in reck-
18 less disregard of the fact that such person is an
19 alien who lacks lawful authority to reside in the
20 United States;

21 “(E) transports or moves a person in the
22 United States, knowing or in reckless disregard
23 of the fact that such person is an alien who
24 lacks lawful authority to enter or be in the
25 United States, if the transportation or move-

1 ment will further the alien’s illegal entry into or
2 illegal presence in the United States;

3 “(F) harbors, conceals, or shields from de-
4 tection a person in the United States, knowing
5 or in reckless disregard of the fact that such
6 person is an alien who lacks lawful authority to
7 be in the United States; or

8 “(G) conspires or attempts to commit any
9 of the acts described in subparagraphs (A)
10 through (F).

11 “(2) CRIMINAL PENALTIES.—A person who vio-
12 lates any provision under paragraph (1)—

13 “(A) except as provided in subparagraphs
14 (C) through (G), if the offense was not com-
15 mitted for commercial advantage, profit, or pri-
16 vate financial gain, shall be fined under title 18,
17 United States Code, imprisoned for not more
18 than 5 years, or both;

19 “(B) except as provided in subparagraphs
20 (C) through (G), if the offense was committed
21 for commercial advantage, profit, or private fi-
22 nancial gain—

23 “(i) if the violation is the offender’s
24 first violation under this subparagraph,

1 shall be fined under such title, imprisoned
2 for not more than 20 years, or both; or

3 “(ii) if the violation is the offender’s
4 second or subsequent violation of this sub-
5 paragraph, shall be fined under such title,
6 imprisoned for not less than 3 years or
7 more than 20 years, or both;

8 “(C) if the offense furthered or aided the
9 commission of any other offense against the
10 United States or any State that is punishable
11 by imprisonment for more than 1 year, shall be
12 fined under such title, imprisoned for not less
13 than 5 years or more than 20 years, or both;

14 “(D) shall be fined under such title, im-
15 prisoned not less than 5 years or more than 20
16 years, or both, if the offense created a substan-
17 tial and foreseeable risk of death, a substantial
18 and foreseeable risk of serious bodily injury (as
19 defined in section 2119(2) of title 18, United
20 States Code), or inhumane conditions to an-
21 other person, including—

22 “(i) transporting the person in an en-
23 gine compartment, storage compartment,
24 or other confined space;

1 “(ii) transporting the person at an ex-
2 cessive speed or in excess of the rated ca-
3 pacity of the means of transportation; or

4 “(iii) transporting the person in, har-
5 boring the person in, or otherwise sub-
6 jecting the person to crowded or dangerous
7 conditions;

8 “(E) if the offense caused serious bodily
9 injury (as defined in section 2119(2) of title 18,
10 United States Code) to any person, shall be
11 fined under such title, imprisoned for not less
12 than 7 years or more than 30 years, or both;

13 “(F) shall be fined under such title and
14 imprisoned for not less than 10 years or more
15 than 30 years if the offense involved an alien
16 who the offender knew or had reason to believe
17 was—

18 “(i) engaged in terrorist activity (as
19 defined in section 212(a)(3)(B)); or

20 “(ii) intending to engage in terrorist
21 activity;

22 “(G) if the offense caused or resulted in
23 the death of any person, shall be punished by
24 death or imprisoned for a term of years not less

1 than 10 years and up to life, and fined under
2 title 18, United States Code.

3 “(3) LIMITATION.—It is not a violation of sub-
4 paragraph (D), (E), or (F) of paragraph (1)—

5 “(A) for a religious denomination having a
6 bona fide nonprofit, religious organization in
7 the United States, or the agents or officers of
8 such denomination or organization, to encour-
9 age, invite, call, allow, or enable an alien who
10 is present in the United States to perform the
11 vocation of a minister or missionary for the de-
12 nomination or organization in the United States
13 as a volunteer who is not compensated as an
14 employee, notwithstanding the provision of
15 room, board, travel, medical assistance, and
16 other basic living expenses, provided the min-
17 ister or missionary has been a member of the
18 denomination for at least 1 year; or

19 “(B) for an individual or organization, not
20 previously convicted of a violation of this sec-
21 tion, to provide an alien who is present in the
22 United States with humanitarian assistance, in-
23 cluding medical care, housing, counseling, vic-
24 tim services, and food, or to transport the alien

1 to a location where such assistance can be ren-
2 dered.

3 “(4) EXTRATERRITORIAL JURISDICTION.—

4 There is extraterritorial Federal jurisdiction over the
5 offenses described in this subsection.

6 “(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

7 “(1) CRIMINAL OFFENSE AND PENALTIES.—

8 Any person who, during any 12-month period, know-
9 ingly employs 10 or more individuals with actual
10 knowledge or in reckless disregard of the fact that
11 the individuals are aliens described in paragraph (2),
12 shall be fined under title 18, United States Code,
13 imprisoned for not more than 10 years, or both.

14 “(2) DEFINITION.—An alien described in this
15 paragraph is an alien who—

16 “(A) is an unauthorized alien (as defined
17 in section 274A);

18 “(B) is present in the United States with-
19 out lawful authority; and

20 “(C) has been brought into the United
21 States in violation of this subsection.

22 “(c) SEIZURE AND FORFEITURE.—

23 “(1) IN GENERAL.—Any real or personal prop-
24 erty used to commit or facilitate the commission of
25 a violation of this section, the gross proceeds of such

1 violation, and any property traceable to such prop-
2 erty or proceeds, shall be subject to forfeiture.

3 “(2) APPLICABLE PROCEDURES.—Seizures and
4 forfeitures under this subsection shall be governed
5 by the provisions of chapter 46 of title 18, United
6 States Code, relating to civil forfeitures, except that
7 such duties as are imposed upon the Secretary of
8 the Treasury under the customs laws described in
9 section 981(d) shall be performed by such officers,
10 agents, and other persons as may be designated for
11 that purpose by the Secretary of Homeland Security.

12 “(3) PRIMA FACIE EVIDENCE IN DETERMINA-
13 TIONS OF VIOLATIONS.—In determining whether a
14 violation of subsection (a) has occurred, prima facie
15 evidence that an alien involved in the alleged viola-
16 tion lacks lawful authority to come to, enter, reside
17 in, remain in, or be in the United States or that
18 such alien had come to, entered, resided in, re-
19 mained in, or been present in the United States in
20 violation of law shall include—

21 “(A) any order, finding, or determination
22 concerning the alien’s status or lack of status
23 made by a Federal judge or administrative ad-
24 judicator (including an immigration judge or
25 immigration officer) during any judicial or ad-

1 ministrative proceeding authorized under Fed-
2 eral immigration law;

3 “(B) official records of the Department of
4 Homeland Security, the Department of Justice,
5 or the Department of State concerning the
6 alien’s status or lack of status; and

7 “(C) testimony by an immigration officer
8 having personal knowledge of the facts con-
9 cerning the alien’s status or lack of status.

10 “(d) AUTHORITY TO ARREST.—No officer or person
11 shall have authority to make any arrests for a violation
12 of any provision of this section except—

13 “(1) officers and employees designated by the
14 Secretary of Homeland Security, either individually
15 or as a member of a class; and

16 “(2) other officers responsible for the enforce-
17 ment of Federal criminal laws.

18 “(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TES-
19 TIMONY.—Notwithstanding any provision of the Federal
20 Rules of Evidence, the videotaped or otherwise audio-
21 visually preserved deposition of a witness to a violation
22 of subsection (a) who has been deported or otherwise ex-
23 pelled from the United States, or is otherwise unavailable
24 to testify, may be admitted into evidence in an action
25 brought for that violation if—

1 “(1) the witness was available for cross exam-
2 ination at the deposition by the party, if any, oppos-
3 ing admission of the testimony; and

4 “(2) the deposition otherwise complies with the
5 Federal Rules of Evidence.

6 “(f) OUTREACH PROGRAM.—

7 “(1) IN GENERAL.—The Secretary of Homeland
8 Security, in consultation with the Attorney General
9 and the Secretary of State, as appropriate, shall—

10 “(A) develop and implement an outreach
11 program to educate people in and out of the
12 United States about the penalties for bringing
13 in and harboring aliens in violation of this sec-
14 tion; and

15 “(B) establish the American Local and In-
16 terior Enforcement Needs (ALIEN) Task Force
17 to identify and respond to the use of Federal,
18 State, and local transportation infrastructure to
19 further the trafficking of unlawful aliens within
20 the United States.

21 “(2) FIELD OFFICES.—The Secretary of Home-
22 land Security, after consulting with State and local
23 government officials, shall establish such field offices
24 as may be necessary to carry out this subsection.

1 “(3) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 are necessary for the fiscal years 2008 through 2012
4 to carry out this subsection.

5 “(g) DEFINITIONS.—In this section:

6 “(1) CROSSED THE BORDER INTO THE UNITED
7 STATES.—An alien is deemed to have crossed the
8 border into the United States regardless of whether
9 the alien is free from official restraint.

10 “(2) LAWFUL AUTHORITY.—The term ‘lawful
11 authority’ means permission, authorization, or li-
12 cense that is expressly provided for in the immigra-
13 tion laws of the United States or accompanying reg-
14 ulations. The term does not include any such au-
15 thority secured by fraud or otherwise obtained in
16 violation of law or authority sought, but not ap-
17 proved. No alien shall be deemed to have lawful au-
18 thority to come to, enter, reside in, remain in, or be
19 in the United States if such coming to, entry, resi-
20 dence, remaining, or presence was, is, or would be
21 in violation of law.

22 “(3) PROCEEDS.—The term ‘proceeds’ includes
23 any property or interest in property obtained or re-
24 tained as a consequence of an act or omission in vio-
25 lation of this section.

1 “(4) UNLAWFUL TRANSIT.—The term ‘unlawful
2 transit’ means travel, movement, or temporary pres-
3 ence that violates the laws of any country in which
4 the alien is present or any country from which the
5 alien is traveling or moving.”.

6 (2) CLERICAL AMENDMENT.—The table of con-
7 tents is amended by striking the item relating to sec-
8 tion 274 and inserting the following:

“Sec. 274. Alien smuggling and related offenses.”.

9 (d) PROHIBITING CARRYING OR USING A FIREARM
10 DURING AND IN RELATION TO AN ALIEN SMUGGLING
11 CRIME.—Section 924(c) of title 18, United States Code,
12 is amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (A), by inserting “,
15 alien smuggling crime,” after “any crime of vio-
16 lence”;

17 (B) in subparagraph (A), by inserting “,
18 alien smuggling crime,” after “such crime of vi-
19 olence”; and

20 (C) in subparagraph (D)(ii), by inserting
21 “, alien smuggling crime,” after “crime of vio-
22 lence”; and

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

24 “(6) For purposes of this subsection, the term ‘alien
25 smuggling crime’ means any felony punishable under sec-

1 tion 274(a), 277, or 278 of the Immigration and Nation-
2 ality Act (8 U.S.C. 1324(a), 1327, and 1328).”.

3 **SEC. 206. ILLEGAL ENTRY.**

4 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is
5 amended to read as follows:

6 **“SEC. 275. ILLEGAL ENTRY.**

7 “(a) IN GENERAL.—

8 “(1) CRIMINAL OFFENSES.—An alien shall be
9 subject to the penalties set forth in paragraph (2) if
10 the alien—

11 “(A) knowingly enters or crosses the bor-
12 der into the United States at any time or place
13 other than as designated by the Secretary of
14 Homeland Security;

15 “(B) knowingly eludes examination or in-
16 spection by an immigration officer (including
17 failing to stop at the command of such officer),
18 or a customs or agriculture inspection at a port
19 of entry; or

20 “(C) knowingly enters or crosses the bor-
21 der to the United States by means of a know-
22 ingly false or misleading representation or the
23 knowing concealment of a material fact (includ-
24 ing such representation or concealment in the
25 context of arrival, reporting, entry, or clearance

1 requirements of the customs laws, immigration
2 laws, agriculture laws, or shipping laws).

3 “(2) CRIMINAL PENALTIES.—Any alien who
4 violates any provision under paragraph (1)—

5 “(A) shall, for the first violation, be fined
6 under title 18, United States Code, imprisoned
7 not more than 6 months, or both;

8 “(B) shall, for a second or subsequent vio-
9 lation, or following an order of voluntary depar-
10 ture, be fined under such title, imprisoned not
11 more than 2 years, or both;

12 “(C) if the violation occurred after the
13 alien had been convicted of 3 or more mis-
14 demeanors or for a felony, shall be fined under
15 such title, imprisoned not more than 10 years,
16 or both;

17 “(D) if the violation occurred after the
18 alien had been convicted of a felony for which
19 the alien received a term of imprisonment of
20 not less than 30 months, shall be fined under
21 such title, imprisoned not more than 15 years,
22 or both; and

23 “(E) if the violation occurred after the
24 alien had been convicted of a felony for which
25 the alien received a term of imprisonment of

1 not less than 60 months, such alien shall be
2 fined under such title, imprisoned not more
3 than 20 years, or both.

4 “(3) PRIOR CONVICTIONS.—The prior convic-
5 tions described in subparagraphs (C) through (E) of
6 paragraph (2) are elements of the offenses described
7 in that paragraph and the penalties in such subpara-
8 graphs shall apply only in cases in which the convic-
9 tion or convictions that form the basis for the addi-
10 tional penalty are—

11 “(A) alleged in the indictment or informa-
12 tion; and

13 “(B) proven beyond a reasonable doubt at
14 trial or admitted by the defendant.

15 “(4) DURATION OF OFFENSE.—An offense
16 under this subsection continues until the alien is dis-
17 covered within the United States by an immigration
18 officer.

19 “(5) ATTEMPT.—Whoever attempts to commit
20 any offense under this section shall be punished in
21 the same manner as for a completion of such of-
22 fense.

23 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
24 ALTIES.—

1 “(1) IN GENERAL.—Any alien who is appre-
2 hended while entering, attempting to enter, or know-
3 ingly crossing or attempting to cross the border to
4 the United States at a time or place other than as
5 designated by immigration officers shall be subject
6 to a civil penalty, in addition to any criminal or
7 other civil penalties that may be imposed under any
8 other provision of law, in an amount equal to—

9 “(A) not less than \$50 or more than \$250
10 for each such entry, crossing, attempted entry,
11 or attempted crossing; or

12 “(B) twice the amount specified in para-
13 graph (1) if the alien had previously been sub-
14 ject to a civil penalty under this subsection.

15 “(2) CROSSED THE BORDER DEFINED.—In this
16 section, an alien is deemed to have crossed the bor-
17 der if the act was voluntary, regardless of whether
18 the alien was under observation at the time of the
19 crossing.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 is amended by striking the item relating to section 275
22 and inserting the following:

 “Sec. 275. Illegal entry.”.

23 **SEC. 207. ILLEGAL REENTRY.**

24 Section 276 (8 U.S.C. 1326) is amended to read as
25 follows:

1 **“SEC. 276. REENTRY OF REMOVED ALIENS.**

2 “(a) REENTRY AFTER REMOVAL.—Any alien who
3 has been denied admission, excluded, deported, or re-
4 moved, or who has departed the United States while an
5 order of exclusion, deportation, or removal is outstanding,
6 and subsequently enters, attempts to enter, crosses the
7 border to, attempts to cross the border to, or is at any
8 time found in the United States, shall be fined under title
9 18, United States Code, imprisoned not more than 2
10 years, or both.

11 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
12 withstanding the penalty provided in subsection (a), if an
13 alien described in that subsection—

14 “(1) was convicted for 3 or more misdemeanors
15 or a felony before such removal or departure, the
16 alien shall be fined under title 18, United States
17 Code, imprisoned not more than 10 years, or both;

18 “(2) was convicted for a felony before such re-
19 moval or departure for which the alien was sen-
20 tenced to a term of imprisonment of not less than
21 30 months, the alien shall be fined under such title,
22 imprisoned not more than 15 years, or both;

23 “(3) was convicted for a felony before such re-
24 moval or departure for which the alien was sen-
25 tenced to a term of imprisonment of not less than

1 60 months, the alien shall be fined under such title,
2 imprisoned not more than 20 years, or both;

3 “(4) was convicted for 3 felonies before such re-
4 moval or departure, the alien shall be fined under
5 such title, imprisoned not more than 20 years, or
6 both; or

7 “(5) was convicted, before such removal or de-
8 parture, for murder, rape, kidnaping, or a felony of-
9 fense described in chapter 77 (relating to peonage
10 and slavery) or 113B (relating to terrorism) of such
11 title, the alien shall be fined under such title, impris-
12 oned not more than 20 years, or both.

13 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
14 alien who has been denied admission, excluded, deported,
15 or removed 3 or more times and thereafter enters, at-
16 tempts to enter, crosses the border to, attempts to cross
17 the border to, or is at any time found in the United States,
18 shall be fined under title 18, United States Code, impris-
19 oned not more than 10 years, or both.

20 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
21 convictions described in subsection (b) are elements of the
22 crimes described in that subsection, and the penalties in
23 that subsection shall apply only in cases in which the con-
24 viction or convictions that form the basis for the additional
25 penalty are—

1 “(1) alleged in the indictment or information;
2 and

3 “(2) proven beyond a reasonable doubt at trial
4 or admitted by the defendant.

5 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
6 firmative defense to a violation of this section that—

7 “(1) prior to the alleged violation, the alien had
8 sought and received the express consent of the Sec-
9 retary of Homeland Security to reapply for admis-
10 sion into the United States; or

11 “(2) with respect to an alien previously denied
12 admission and removed, the alien—

13 “(A) was not required to obtain such ad-
14 vance consent under the Immigration and Na-
15 tionality Act or any prior Act; and

16 “(B) had complied with all other laws and
17 regulations governing the alien’s admission into
18 the United States.

19 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
20 DERLYING REMOVAL ORDER.—In a criminal proceeding
21 under this section, an alien may not challenge the validity
22 of any prior removal order concerning the alien unless the
23 alien demonstrates by clear and convincing evidence
24 that—

1 “(1) the alien exhausted all administrative remedies that may have been available to seek relief
2 against the order;
3

4 “(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and
5
6

7 “(3) the entry of the order was fundamentally unfair.
8

9 “(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.
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23 “(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including
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1 emergency medical care and food, or to transport the alien
2 to a location where such assistance can be rendered with-
3 out compensation or the expectation of compensation.

4 “(i) DEFINITIONS.—In this section:

5 “(1) CROSSES THE BORDER.—The term
6 ‘crosses the border’ applies if an alien acts volun-
7 tarily, regardless of whether the alien was under ob-
8 servation at the time of the crossing.

9 “(2) FELONY.—Term ‘felony’ means any crimi-
10 nal offense punishable by a term of imprisonment of
11 more than 1 year under the laws of the United
12 States, any State, or a foreign government.

13 “(3) MISDEMEANOR.—The term ‘misdemeanor’
14 means any criminal offense punishable by a term of
15 imprisonment of not more than 1 year under the ap-
16 plicable laws of the United States, any State, or a
17 foreign government.

18 “(4) REMOVAL.—The term ‘removal’ includes
19 any denial of admission, exclusion, deportation, or
20 removal, or any agreement by which an alien stipu-
21 lates or agrees to exclusion, deportation, or removal.

22 “(5) STATE.—The term ‘State’ means a State
23 of the United States, the District of Columbia, and
24 any commonwealth, territory, or possession of the
25 United States.”.

1 **SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION**2 **FRAUD OFFENSES.**

3 (a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

4 (1) IN GENERAL.—Chapter 75 of title 18,
5 United States Code, is amended to read as follows:6 **“CHAPTER 75—PASSPORT, VISA, AND**7 **IMMIGRATION FRAUD**

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

“1555. Exception for refugees and asylees.

8 **“§ 1541. Trafficking in passports**9 “(a) MULTIPLE PASSPORTS.—Any person who, dur-
10 ing any 3-year period, knowingly—11 “(1) and without lawful authority produces,
12 issues, or transfers 10 or more passports;13 “(2) forges, counterfeits, alters, or falsely
14 makes 10 or more passports;15 “(3) secures, possesses, uses, receives, buys,
16 sells, or distributes 10 or more passports, knowing
17 the passports to be forged, counterfeited, altered,

1 falsely made, stolen, procured by fraud, or produced
2 or issued without lawful authority; or

3 “(4) completes, mails, prepares, presents, signs,
4 or submits 10 or more applications for a United
5 States passport (including any supporting docu-
6 mentation), knowing the applications to contain any
7 false statement or representation,

8 shall be fined under this title, imprisoned not more than
9 20 years, or both.

10 “(b) PASSPORT MATERIALS.—Any person who know-
11 ingly and without lawful authority produces, counterfeits,
12 secures, possesses, or uses any official paper, seal,
13 hologram, image, text, symbol, stamp, engraving, plate, or
14 other material used to make a passport shall be fined
15 under this title, imprisoned not more than 20 years, or
16 both.

17 **“§ 1542. False statement in an application for a pass-**
18 **port**

19 “Any person who knowingly—

20 “(1) makes any false statement or representa-
21 tion in an application for a United States passport
22 (including any supporting documentation);

23 “(2) completes, mails, prepares, presents, signs,
24 or submits an application for a United States pass-
25 port (including any supporting documentation)

1 knowing the application to contain any false state-
2 ment or representation; or

3 “(3) causes or attempts to cause the production
4 of a passport at a facility authorized by the Sec-
5 retary of State for the production of passports by
6 means of any fraud or false application for a United
7 States passport (including any supporting docu-
8 mentation),

9 shall be fined under this title, imprisoned not more than
10 15 years, or both.

11 **“§ 1543. Forgery and unlawful production of a pass-
12 port**

13 “(a) FORGERY.—Any person who—

14 “(1) knowingly forges, counterfeits, alters, or
15 falsely makes any passport; or

16 “(2) knowingly transfers any passport knowing
17 it to be forged, counterfeited, altered, falsely made,
18 stolen, or to have been produced or issued without
19 lawful authority,

20 shall be fined under this title, imprisoned not more than
21 15 years, or both.

22 “(b) UNLAWFUL PRODUCTION.—Any person who
23 knowingly and without lawful authority—

1 “(1) produces, issues, authorizes, or verifies a
2 passport in violation of the laws, regulations, or
3 rules governing the issuance of the passport;

4 “(2) produces, issues, authorizes, or verifies a
5 United States passport for or to any person not
6 owing allegiance to the United States; or

7 “(3) transfers or furnishes a passport to a per-
8 son for use when such person is not the person for
9 whom the passport was issued or designed,

10 shall be fined under this title, imprisoned not more than
11 15 years, or both.

12 **“§ 1544. Misuse of a passport**

13 “(a) IN GENERAL.—Any person who knowingly—

14 “(1) uses any passport issued or designed for
15 the use of another;

16 “(2) uses any passport in violation of the condi-
17 tions or restrictions therein contained, or in violation
18 of the laws, regulations, or rules governing the
19 issuance and use of the passport;

20 “(3) secures, possesses, uses, receives, buys,
21 sells, or distributes any passport knowing it to be
22 forged, counterfeited, altered, falsely made, procured
23 by fraud, or produced or issued without lawful au-
24 thority; or

1 “(4) violates the terms and conditions of any
2 safe conduct duly obtained and issued under the au-
3 thority of the United States,
4 shall be fined under this title, imprisoned not more than
5 15 years, or both.

6 “(b) ENTRY; FRAUD.—Any person who knowingly
7 uses any passport, knowing the passport to be forged,
8 counterfeited, altered, falsely made, procured by fraud,
9 produced or issued without lawful authority, or issued or
10 designed for the use of another—

11 “(1) to enter or to attempt to enter the United
12 States; or

13 “(2) to defraud the United States, a State, or
14 a political subdivision of a State,
15 shall be fined under this title, imprisoned not more than
16 15 years, or both.

17 **“§ 1545. Schemes to defraud aliens**

18 “(a) IN GENERAL.—Any person who knowingly exe-
19 cutes a scheme or artifice, in connection with any matter
20 that is authorized by or arises under Federal immigration
21 laws or any matter the offender claims or represents is
22 authorized by or arises under Federal immigration laws,
23 to—

24 “(1) defraud any person, or

1 “(2) obtain or receive money or anything else of
2 value from any person, by means of false or fraudu-
3 lent pretenses, representations, promises,
4 shall be fined under this title, imprisoned not more than
5 15 years, or both.

6 “(b) MISREPRESENTATION.—Any person who know-
7 ingly and falsely represents that such person is an attor-
8 ney in any matter arising under Federal immigration laws
9 shall be fined under this title, imprisoned not more than
10 15 years, or both.

11 **“§ 1546. Immigration and visa fraud**

12 “(a) IN GENERAL.—Any person who knowingly—

13 “(1) uses any immigration document issued or
14 designed for the use of another;

15 “(2) forges, counterfeits, alters, or falsely
16 makes any immigration document;

17 “(3) completes, mails, prepares, presents, signs,
18 or submits any immigration document knowing it to
19 contain any materially false statement or representa-
20 tion;

21 “(4) secures, possesses, uses, transfers, re-
22 ceives, buys, sells, or distributes any immigration
23 document knowing it to be forged, counterfeited, al-
24 tered, falsely made, stolen, procured by fraud, or
25 produced or issued without lawful authority;

1 “(5) adopts or uses a false or fictitious name to
2 evade or to attempt to evade the immigration laws;
3 or

4 “(6) transfers or furnishes an immigration docu-
5 ment to a person without lawful authority for use
6 if such person is not the person for whom the immi-
7 gration document was issued or designed,
8 shall be fined under this title, imprisoned not more than
9 15 years, or both.

10 “(b) MULTIPLE VIOLATIONS.—Any person who, dur-
11 ing any 3-year period, knowingly—

12 “(1) and without lawful authority produces,
13 issues, or transfers 10 or more immigration docu-
14 ments;

15 “(2) forges, counterfeits, alters, or falsely
16 makes 10 or more immigration documents;

17 “(3) secures, possesses, uses, buys, sells, or dis-
18 tributes 10 or more immigration documents, know-
19 ing the immigration documents to be forged, coun-
20 terfeited, altered, stolen, falsely made, procured by
21 fraud, or produced or issued without lawful author-
22 ity; or

23 “(4) completes, mails, prepares, presents, signs,
24 or submits 10 or more immigration documents

1 knowing the documents to contain any materially
2 false statement or representation,
3 shall be fined under this title, imprisoned not more than
4 20 years, or both.

5 “(c) IMMIGRATION DOCUMENT MATERIALS.—Any
6 person who knowingly and without lawful authority pro-
7 duces, counterfeits, secures, possesses, or uses any official
8 paper, seal, hologram, image, text, symbol, stamp, engrav-
9 ing, plate, or other material, used to make an immigration
10 document shall be fined under this title, imprisoned not
11 more than 20 years, or both.

12 **“§ 1547. Marriage fraud**

13 “(a) EVASION OR MISREPRESENTATION.—Any per-
14 son who—

15 “(1) knowingly enters into a marriage for the
16 purpose of evading any provision of the immigration
17 laws; or

18 “(2) knowingly misrepresents the existence or
19 circumstances of a marriage—

20 “(A) in an application or document author-
21 ized by the immigration laws; or

22 “(B) during any immigration proceeding
23 conducted by an administrative adjudicator (in-
24 cluding an immigration officer or examiner, a

1 consular officer, an immigration judge, or a
2 member of the Board of Immigration Appeals),
3 shall be fined under this title, imprisoned not more than
4 10 years, or both.

5 “(b) MULTIPLE MARRIAGES.—Any person who—

6 “(1) knowingly enters into 2 or more marriages
7 for the purpose of evading any immigration law; or

8 “(2) knowingly arranges, supports, or facilitates
9 2 or more marriages designed or intended to evade
10 any immigration law,

11 shall be fined under this title, imprisoned not more than
12 20 years, or both.

13 “(c) COMMERCIAL ENTERPRISE.—Any person who
14 knowingly establishes a commercial enterprise for the pur-
15 pose of evading any provision of the immigration laws
16 shall be fined under this title, imprisoned for not more
17 than 10 years, or both.

18 “(d) DURATION OF OFFENSE.—

19 “(1) IN GENERAL.—An offense under sub-
20 section (a) or (b) continues until the fraudulent na-
21 ture of the marriage or marriages is discovered by
22 an immigration officer.

23 “(2) COMMERCIAL ENTERPRISE.—An offense
24 under subsection (c) continues until the fraudulent

1 nature of commercial enterprise is discovered by an
2 immigration officer or other law enforcement officer.

3 **“§ 1548. Attempts and conspiracies**

4 “Any person who attempts or conspires to violate any
5 section of this chapter shall be punished in the same man-
6 ner as a person who completed a violation of that section.

7 **“§ 1549. Alternative penalties for certain offenses**

8 “(a) **TERRORISM.**—Any person who violates any sec-
9 tion of this chapter—

10 “(1) knowing that such violation will facilitate
11 an act of international terrorism or domestic ter-
12 rorism (as those terms are defined in section 2331);
13 or

14 “(2) with the intent to facilitate an act of inter-
15 national terrorism or domestic terrorism,
16 shall be fined under this title, imprisoned not more than
17 25 years, or both.

18 “(b) **OFFENSE AGAINST GOVERNMENT.**—Any person
19 who violates any section of this chapter—

20 “(1) knowing that such violation will facilitate
21 the commission of any offense against the United
22 States (other than an offense in this chapter) or
23 against any State, which offense is punishable by
24 imprisonment for more than 1 year; or

1 “(2) with the intent to facilitate the commission
2 of any offense against the United States (other than
3 an offense in this chapter) or against any State,
4 which offense is punishable by imprisonment for
5 more than 1 year,
6 shall be fined under this title, imprisoned not more than
7 20 years, or both.

8 **“§ 1550. Seizure and forfeiture**

9 “(a) FORFEITURE.—Any property, real or personal,
10 used to commit or facilitate the commission of a violation
11 of any section of this chapter, the gross proceeds of such
12 violation, and any property traceable to such property or
13 proceeds, shall be subject to forfeiture.

14 “(b) APPLICABLE LAW.—Seizures and forfeitures
15 under this section shall be governed by the provisions of
16 chapter 46 relating to civil forfeitures, except that such
17 duties as are imposed upon the Secretary of the Treasury
18 under the customs laws described in section 981(d) shall
19 be performed by such officers, agents, and other persons
20 as may be designated for that purpose by the Secretary
21 of Homeland Security, the Secretary of State, or the At-
22 torney General.

23 **“§ 1551. Additional jurisdiction**

24 “(a) IN GENERAL.—Any person who commits an of-
25 fense under this chapter within the special maritime and

1 territorial jurisdiction of the United States shall be pun-
2 ished as provided under this chapter.

3 “(b) EXTRATERRITORIAL JURISDICTION.—Any per-
4 son who commits an offense under this chapter outside
5 the United States shall be punished as provided under this
6 chapter if—

7 “(1) the offense involves a United States immi-
8 gration document (or any document purporting to be
9 such a document) or any matter, right, or benefit
10 arising under or authorized by Federal immigration
11 laws;

12 “(2) the offense is in or affects foreign com-
13 merce;

14 “(3) the offense affects, jeopardizes, or poses a
15 significant risk to the lawful administration of Fed-
16 eral immigration laws, or the national security of the
17 United States;

18 “(4) the offense is committed to facilitate an
19 act of international terrorism (as defined in section
20 2331) or a drug trafficking crime (as defined in sec-
21 tion 929(a)(2)) that affects or would affect the na-
22 tional security of the United States;

23 “(5) the offender is a national of the United
24 States (as defined in section 101(a)(22) of the Im-
25 migration and Nationality Act (8 U.S.C.

1 1101(a)(22))) or an alien lawfully admitted for per-
2 manent residence in the United States (as defined in
3 section 101(a)(20) of such Act); or

4 “(6) the offender is a stateless person whose
5 habitual residence is in the United States.

6 **“§ 1552. Additional venue**

7 “(a) IN GENERAL.—An offense under section 1542
8 may be prosecuted—

9 “(1) in any district in which the false statement
10 or representation was made;

11 “(2) in any district in which the passport appli-
12 cation was prepared, submitted, mailed, received,
13 processed, or adjudicated; or

14 “(3) in the case of an application prepared and
15 adjudicated outside the United States, in the district
16 in which the resultant passport was produced.

17 “(b) SAVINGS CLAUSE.—Nothing in this section lim-
18 its the venue otherwise available under sections 3237 and
19 3238.

20 **“§ 1553. Definitions**

21 “As used in this chapter:

22 “(1) The term ‘falsely make’ means to prepare
23 or complete an immigration document with knowl-
24 edge or in reckless disregard of the fact that the
25 document—

1 “(A) contains a statement or representa-
2 tion that is false, fictitious, or fraudulent;

3 “(B) has no basis in fact or law; or

4 “(C) otherwise fails to state a fact which
5 is material to the purpose for which the docu-
6 ment was created, designed, or submitted.

7 “(2) The term ‘false statement or representa-
8 tion’ includes a personation or an omission.

9 “(3) The term ‘felony’ means any criminal of-
10 fense punishable by a term of imprisonment of more
11 than 1 year under the laws of the United States, any
12 State, or a foreign government.

13 “(4) The term ‘immigration document’—

14 “(A) means—

15 “(i) any passport or visa; or

16 “(ii) any application, petition, affi-
17 davit, declaration, attestation, form, identi-
18 fication card, alien registration document,
19 employment authorization document, bor-
20 der crossing card, certificate, permit,
21 order, license, stamp, authorization, grant
22 of authority, or other evidentiary docu-
23 ment, arising under or authorized by the
24 immigration laws of the United States; and

1 “(B) includes any document, photograph,
2 or other piece of evidence attached to or sub-
3 mitted in support of an immigration document.

4 “(5) The term ‘immigration laws’ includes—

5 “(A) the laws described in section
6 101(a)(17) of the Immigration and Nationality
7 Act (8 U.S.C. 1101(a)(17));

8 “(B) the laws relating to the issuance and
9 use of passports; and

10 “(C) the regulations prescribed under the
11 authority of any law described in subparagraph
12 (A) or (B).

13 “(6) The term ‘immigration proceeding’ in-
14 cludes an adjudication, interview, hearing, or review.

15 “(7) A person does not exercise ‘lawful author-
16 ity’ if the person abuses or improperly exercises law-
17 ful authority the person otherwise holds.

18 “(8) The term ‘passport’ means a travel docu-
19 ment attesting to the identity and nationality of the
20 bearer that is issued under the authority of the Sec-
21 retary of State, a foreign government, or an inter-
22 national organization; or any instrument purporting
23 to be the same.

24 “(9) The term ‘produce’ means to make, pre-
25 pare, assemble, issue, print, authenticate, or alter.

1 effect prior to March 31, 1997) of such Act, or a credible
2 fear of persecution or torture—

3 “(1) the person shall be referred to an appro-
4 priate Federal immigration official to review such
5 claim and make a determination if such claim is
6 warranted;

7 “(2) if the Federal immigration official deter-
8 mines that the person qualifies for the claimed relief,
9 the person shall not be considered to have violated
10 any such section; and

11 “(3) if the Federal immigration official deter-
12 mines that the person does not qualify for the
13 claimed relief, the person shall be referred to an ap-
14 propriate Federal official for prosecution under this
15 chapter.

16 “(b) SAVINGS PROVISION.—Nothing in this section
17 shall be construed to diminish, increase, or alter the obli-
18 gations of refugees or the United States under article
19 31(1) of the Convention Relating to the Status of Refu-
20 gees, done at Geneva July 28, 1951 (as made applicable
21 by the Protocol Relating to the Status of Refugees, done
22 at New York January 31, 1967 (19 UST 6223)).”.

23 (2) CLERICAL AMENDMENT.—The table of
24 chapters in title 18, United States Code, is amended

1 by striking the item relating to chapter 75 and in-
 2 serting the following:

“75. Passport, visa, and immigration fraud 1541”.

3 (b) PROTECTION FOR LEGITIMATE REFUGEES AND
 4 ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is
 5 amended by adding at the end the following:

6 “(e) PROTECTION FOR LEGITIMATE REFUGEES AND
 7 ASYLUM SEEKERS.—The Attorney General, in consulta-
 8 tion with the Secretary of Homeland Security, shall de-
 9 velop binding prosecution guidelines for Federal prosecu-
 10 tors to ensure that any prosecution of an alien seeking
 11 entry into the United States by fraud is consistent with
 12 the written terms and limitations of Article 31(1) of the
 13 Convention Relating to the Status of Refugees, done at
 14 Geneva July 28, 1951 (as made applicable by the Protocol
 15 Relating to the Status of Refugees, done at New York
 16 January 31, 1967 (19 UST 6223)).”.

17 **SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT**
 18 **AND IMMIGRATION FRAUD OFFENSES.**

19 (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8
 20 U.S.C. 1182(a)(2)(A)(i)) is amended—

21 (1) in subclause (I), by striking “, or” at the
 22 end and inserting a semicolon;

23 (2) in subclause (II), by striking the comma at
 24 the end and inserting “; or”; and

1 (3) by inserting after subclause (II) the fol-
2 lowing:

3 “(III) a violation of (or a con-
4 spiracy or attempt to violate) any pro-
5 vision of chapter 75 of title 18,
6 United States Code,”.

7 (b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C.
8 1227(a)(3)(B)(iii)) is amended to read as follows:

9 “(iii) of a violation of any provision of
10 chapter 75 of title 18, United States
11 Code,”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 subsections (a) and (b) shall apply to proceedings pending
14 on or after the date of the enactment of this Act, with
15 respect to conduct occurring on or after that date.

16 **SEC. 210. INCARCERATION OF CRIMINAL ALIENS.**

17 (a) INSTITUTIONAL REMOVAL PROGRAM.—

18 (1) CONTINUATION.—The Secretary shall con-
19 tinue to operate the Institutional Removal Program
20 (referred to in this section as the “Program”) or
21 shall develop and implement another program to—

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

24 (B) ensure that such aliens are not re-
25 leased into the community; and

1 (C) remove such aliens from the United
2 States after the completion of their sentences.

3 (2) EXPANSION.—The Secretary may extend
4 the scope of the Program to all States.

5 (b) AUTHORIZATION FOR DETENTION AFTER COM-
6 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
7 enforcement officers of a State or political subdivision of
8 a State may—

9 (1) hold an illegal alien for a period not to ex-
10 ceed 14 days after the completion of the alien’s
11 State prison sentence to effectuate the transfer of
12 the alien to Federal custody if the alien is removable
13 or not lawfully present in the United States; or

14 (2) issue a detainer that would allow aliens who
15 have served a State prison sentence to be detained
16 by the State prison until authorized employees of the
17 Bureau of Immigration and Customs Enforcement
18 can take the alien into custody.

19 (c) TECHNOLOGY USAGE.—Technology, such as
20 videoconferencing, shall be used to the maximum extent
21 practicable to make the Program available in remote loca-
22 tions. Mobile access to Federal databases of aliens, such
23 as IDENT, and live scan technology shall be used to the
24 maximum extent practicable to make these resources

1 available to State and local law enforcement agencies in
2 remote locations.

3 (d) REPORT TO CONGRESS.—Not later than 6
4 months after the date of the enactment of this Act, and
5 annually thereafter, the Secretary shall submit a report
6 to Congress on the participation of States in the Program
7 and in any other program authorized under subsection (a).

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary in each of the fiscal years 2008 through 2012
11 to carry out the Program.

12 **SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUN-**
13 **TARILY.**

14 (a) IN GENERAL.—Section 240B (8 U.S.C. 1229c)
15 is amended—

16 (1) in subsection (a)—

17 (A) by amending paragraph (1) to read as
18 follows:

19 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If
20 an alien is not described in paragraph (2)(A)(iii) or
21 (4) of section 237(a), the Secretary of Homeland Se-
22 curity may permit the alien to voluntarily depart the
23 United States at the alien’s own expense under this
24 subsection instead of being subject to proceedings
25 under section 240.”;

1 (B) by striking paragraph (3);

2 (C) by redesignating paragraph (2) as
3 paragraph (3);

4 (D) by adding after paragraph (1) the fol-
5 lowing:

6 “(2) BEFORE THE CONCLUSION OF REMOVAL
7 PROCEEDINGS.—If an alien is not described in para-
8 graph (2)(A)(iii) or (4) of section 237(a), the Attor-
9 ney General may permit the alien to voluntarily de-
10 part the United States at the alien’s own expense
11 under this subsection after the initiation of removal
12 proceedings under section 240 and before the con-
13 clusion of such proceedings before an immigration
14 judge.”;

15 (E) in paragraph (3), as redesignated—

16 (i) by amending subparagraph (A) to
17 read as follows:

18 “(A) INSTEAD OF REMOVAL.—Subject to
19 subparagraph (C), permission to voluntarily de-
20 part under paragraph (1) shall not be valid for
21 any period in excess of 120 days. The Secretary
22 may require an alien permitted to voluntarily
23 depart under paragraph (1) to post a voluntary
24 departure bond, to be surrendered upon proof

1 that the alien has departed the United States
2 within the time specified.”;

3 (ii) by redesignating subparagraphs
4 (B), (C), and (D) as paragraphs (C), (D),
5 and (E), respectively;

6 (iii) by adding after subparagraph (A)
7 the following:

8 “(B) BEFORE THE CONCLUSION OF RE-
9 MOVAL PROCEEDINGS.—Permission to volun-
10 tarily depart under paragraph (2) shall not be
11 valid for any period in excess of 60 days, and
12 may be granted only after a finding that the
13 alien has the means to depart the United States
14 and intends to do so. An alien permitted to vol-
15 untarily depart under paragraph (2) shall post
16 a voluntary departure bond, in an amount nec-
17 essary to ensure that the alien will depart, to be
18 surrendered upon proof that the alien has de-
19 parted the United States within the time speci-
20 fied. An immigration judge may waive the re-
21 quirement to post a voluntary departure bond
22 in individual cases upon a finding that the alien
23 has presented compelling evidence that the
24 posting of a bond will pose a serious financial
25 hardship and the alien has presented credible

1 evidence that such a bond is unnecessary to
2 guarantee timely departure.”;

3 (iv) in subparagraph (C), as redesignated,
4 by striking “subparagraphs (C)
5 and(D)(ii)” and inserting “subparagraphs
6 (D) and (E)(ii)”;

7 (v) in subparagraph (D), as redesignated,
8 by striking “subparagraph (B)”
9 each place that term appears and inserting
10 “subparagraph (C)”;

11 (vi) in subparagraph (E), as redesignated,
12 by striking “subparagraph (B)”
13 each place that term appears and inserting
14 “subparagraph (C)”;

15 (F) in paragraph (4), by striking “para-
16 graph (1)” and inserting “paragraphs (1) and
17 (2)”;

18 (2) in subsection (b)(2), by striking “a period
19 exceeding 60 days” and inserting “any period in ex-
20 cess of 45 days”;

21 (3) by amending subsection (c) to read as fol-
22 lows:

23 “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

24 “(1) VOLUNTARY DEPARTURE AGREEMENT.—

25 Voluntary departure may only be granted as part of

1 an affirmative agreement by the alien. A voluntary
2 departure agreement under subsection (b) shall in-
3 clude a waiver of the right to any further motion,
4 appeal, application, petition, or petition for review
5 relating to removal or relief or protection from re-
6 moval.

7 “(2) CONCESSIONS BY THE SECRETARY.—In
8 connection with the alien’s agreement to depart vol-
9 untarily under paragraph (1), the Secretary of
10 Homeland Security may agree to a reduction in the
11 period of inadmissibility under subparagraph (A) or
12 (B)(i) of section 212(a)(9).

13 “(3) ADVISALS.—Agreements relating to vol-
14 untary departure granted during removal pro-
15 ceedings under section 240, or at the conclusion of
16 such proceedings, shall be presented on the record
17 before the immigration judge. The immigration
18 judge shall advise the alien of the consequences of
19 a voluntary departure agreement before accepting
20 such agreement.

21 “(4) FAILURE TO COMPLY WITH AGREE-
22 MENT.—

23 “(A) IN GENERAL.—If an alien agrees to
24 voluntary departure under this section and fails
25 to depart the United States within the time al-

1 lowed for voluntary departure or fails to comply
2 with any other terms of the agreement (includ-
3 ing failure to timely post any required bond),
4 the alien is—

5 “(i) ineligible for the benefits of the
6 agreement;

7 “(ii) subject to the penalties described
8 in subsection (d); and

9 “(iii) subject to an alternate order of
10 removal if voluntary departure was granted
11 under subsection (a)(2) or (b).

12 “(B) EFFECT OF FILING TIMELY AP-
13 PEAL.—If, after agreeing to voluntary depart-
14 ture, the alien files a timely appeal of the immi-
15 gration judge’s decision granting voluntary de-
16 parture, the alien may pursue the appeal in-
17 stead of the voluntary departure agreement.
18 Such appeal operates to void the alien’s vol-
19 untary departure agreement and the con-
20 sequences of such agreement, but precludes the
21 alien from another grant of voluntary departure
22 while the alien remains in the United States.

23 “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-
24 FECTED.—Except as expressly agreed to by the Sec-
25 retary in writing in the exercise of the Secretary’s

1 discretion before the expiration of the period allowed
2 for voluntary departure, no motion, appeal, applica-
3 tion, petition, or petition for review shall affect, rein-
4 state, enjoin, delay, stay, or toll the alien’s obligation
5 to depart from the United States during the period
6 agreed to by the alien and the Secretary.”;

7 (4) by amending subsection (d) to read as fol-
8 lows:

9 “(d) PENALTIES FOR FAILURE TO DEPART.—If an
10 alien is permitted to voluntarily depart under this section
11 and fails to voluntarily depart from the United States
12 within the time period specified or otherwise violates the
13 terms of a voluntary departure agreement, the alien will
14 be subject to the following penalties:

15 “(1) CIVIL PENALTY.—The alien shall be liable
16 for a civil penalty of \$3,000. The order allowing vol-
17 untary departure shall specify the amount of the
18 penalty, which shall be acknowledged by the alien on
19 the record. If the Secretary thereafter establishes
20 that the alien failed to depart voluntarily within the
21 time allowed, no further procedure will be necessary
22 to establish the amount of the penalty, and the Sec-
23 retary may collect the civil penalty at any time
24 thereafter and by whatever means provided by law.

1 An alien will be ineligible for any benefits under this
2 chapter until this civil penalty is paid.

3 “(2) INELIGIBILITY FOR RELIEF.—The alien
4 shall be ineligible during the time the alien remains
5 in the United States and for a period of 10 years
6 after the alien’s departure for any further relief
7 under this section and sections 240A, 245, 248, and
8 249. The order permitting the alien to depart volun-
9 tarily shall inform the alien of the penalties under
10 this subsection.

11 “(3) REOPENING.—The alien shall be ineligible
12 to reopen the final order of removal that took effect
13 upon the alien’s failure to depart, or upon the alien’s
14 other violations of the conditions for voluntary de-
15 parture, during the period described in paragraph
16 (2). This paragraph does not preclude a motion to
17 reopen to seek withholding of removal under section
18 241(b)(3) or protection against torture, if the mo-
19 tion—

20 “(A) presents material evidence of changed
21 country conditions arising after the date of the
22 order granting voluntary departure in the coun-
23 try to which the alien would be removed; and

1 “(B) makes a sufficient showing to the sat-
2 isfaction of the Attorney General that the alien
3 is otherwise eligible for such protection.

4 “(5) by amending subsection (e) to read as fol-
5 lows:”;

6 “(e) ELIGIBILITY.—

7 “(1) PRIOR GRANT OF VOLUNTARY DEPAR-
8 TURE.—An alien shall not be permitted to volun-
9 tarily depart under this section if the Secretary of
10 Homeland Security or the Attorney General pre-
11 viously permitted the alien to depart voluntarily.

12 “(2) RULEMAKING.—The Secretary may pro-
13 mulgate regulations to limit eligibility or impose ad-
14 ditional conditions for voluntary departure under
15 subsection (a)(1) for any class of aliens. The Sec-
16 retary or Attorney General may by regulation limit
17 eligibility or impose additional conditions for vol-
18 untary departure under subsections (a)(2) or (b) of
19 this section for any class or classes of aliens.”; and

20 (6) in subsection (f), by adding at the end the
21 following: “Notwithstanding section 242(a)(2)(D) of
22 this Act, sections 1361, 1651, and 2241 of title 28,
23 United States Code, any other habeas corpus provi-
24 sion, and any other provision of law (statutory or
25 nonstatutory), no court shall have jurisdiction to af-

1 fect, reinstate, enjoin, delay, stay, or toll the period
2 allowed for voluntary departure under this section.”.

3 (b) RULEMAKING.—The Secretary shall promulgate
4 regulations to provide for the imposition and collection of
5 penalties for failure to depart under section 240B(d) of
6 the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply with respect to all orders granting vol-
11 untary departure under section 240B of the Immi-
12 gration and Nationality Act (8 U.S.C. 1229c) made
13 on or after the date that is 180 days after the enact-
14 ment of this Act.

15 (2) EXCEPTION.—The amendment made by
16 subsection (a)(6) shall take effect on the date of the
17 enactment of this Act and shall apply with respect
18 to any petition for review which is filed on or after
19 such date.

20 **SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM**
21 **REMAINING IN THE UNITED STATES UNLAW-**
22 **FULLY.**

23 (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8
24 U.S.C. 1182(a)(9)(A)) is amended—

1 (1) in clause (i), by striking “seeks admission
2 within 5 years of the date of such removal (or within
3 20 years” and inserting “seeks admission not later
4 than 5 years after the date of the alien’s removal (or
5 not later than 20 years after the alien’s removal”;
6 and

7 (2) in clause (ii), by striking “seeks admission
8 within 10 years of the date of such alien’s departure
9 or removal (or within 20 years of” and inserting
10 “seeks admission not later than 10 years after the
11 date of the alien’s departure or removal (or not later
12 than 20 years after”.

13 (b) BAR ON DISCRETIONARY RELIEF.—Section 274D
14 (9 U.S.C. 324d) is amended—

15 (1) in subsection (a), by striking “Commis-
16 sioner” and inserting “Secretary of Homeland Secu-
17 rity”; and

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

19 “(c) INELIGIBILITY FOR RELIEF.—

20 “(1) IN GENERAL.—Unless a timely motion to
21 reopen is granted under section 240(c)(6), an alien
22 described in subsection (a) shall be ineligible for any
23 discretionary relief from removal (including cancella-
24 tion of removal and adjustment of status) during the
25 time the alien remains in the United States and for

1 a period of 10 years after the alien’s departure from
2 the United States.

3 “(2) SAVINGS PROVISION.—Nothing in para-
4 graph (1) shall preclude a motion to reopen to seek
5 withholding of removal under section 241(b)(3) or
6 protection against torture, if the motion—

7 “(A) presents material evidence of changed
8 country conditions arising after the date of the
9 final order of removal in the country to which
10 the alien would be removed; and

11 “(B) makes a sufficient showing to the sat-
12 isfaction of the Attorney General that the alien
13 is otherwise eligible for such protection.”.

14 (c) EFFECTIVE DATES.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act with respect to aliens who are subject to a final
17 order of removal entered on or after such date.

18 **SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
19 **THE POSSESSION OF, FIREARMS BY CERTAIN**
20 **ALIENS.**

21 Section 922 of title 18, United States Code, is
22 amended—

23 (1) in subsection (d)(5)—

24 (A) in subparagraph (A), by striking “or”
25 at the end;

1 (B) in subparagraph (B), by striking
2 “(y)(2)” and all that follows and inserting “(y),
3 is in a nonimmigrant classification; or”; and

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

5 “(C) has been paroled into the United
6 States under section 212(d)(5) of the Immigra-
7 tion and Nationality Act (8 U.S.C.
8 1182(d)(5));”;

9 (2) in subsection (g)(5)—

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

12 (B) in subparagraph (B), by striking
13 “(y)(2)” and all that follows and inserting “(y),
14 is in a nonimmigrant classification; or”; and

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

16 “(C) has been paroled into the United
17 States under section 212(d)(5) of the Immigra-
18 tion and Nationality Act (8 U.S.C.
19 1182(d)(5));” and

20 (3) in subsection (y)—

21 (A) in the header, by striking “**ADMITTED**
22 **UNDER NONIMMIGRANT VISAS**” and insert-
23 ing “**IN A NONIMMIGRANT CLASSIFICA-**
24 **TION**”;

1 (B) in paragraph (1), by amending sub-
2 paragraph (B) to read as follows:

3 “(B) the term ‘nonimmigrant classifica-
4 tion’ includes all classes of nonimmigrant aliens
5 described in section 101(a)(15) of the Immigra-
6 tion and Nationality Act (8 U.S.C.
7 1101(a)(15)), or otherwise described in the im-
8 migration laws (as defined in section
9 101(a)(17) of such Act).”;

10 (C) in paragraph (2), by striking “has
11 been lawfully admitted to the United States
12 under a nonimmigrant visa” and inserting “is
13 in a nonimmigrant classification”; and

14 (D) in paragraph (3)(A), by striking “Any
15 individual who has been admitted to the United
16 States under a nonimmigrant visa may receive
17 a waiver from the requirements of subsection
18 (g)(5)” and inserting “Any alien in a non-
19 immigrant classification may receive a waiver
20 from the requirements of subsection (g)(5)(B)”.

21 **SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
22 **TAIN IMMIGRATION, NATURALIZATION, AND**
23 **PEONAGE OFFENSES.**

24 (a) IN GENERAL.—Section 3291 of title 18, United
25 States Code, is amended to read as follows:

1 **“§ 3291. Immigration, naturalization, and peonage of-**
2 **fenses**

3 “No person shall be prosecuted, tried, or punished
4 for a violation of any section of chapters 69 (relating to
5 nationality and citizenship offenses), 75 (relating to pass-
6 port, visa, and immigration offenses), or 77 (relating to
7 peonage, slavery, and trafficking in persons), for an at-
8 tempt or conspiracy to violate any such section, for a viola-
9 tion of any criminal provision under section 243, 266, 274,
10 275, 276, 277, or 278 of the Immigration and Nationality
11 Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and
12 1328), or for an attempt or conspiracy to violate any such
13 section, unless the indictment is returned or the informa-
14 tion filed not later than 10 years after the commission
15 of the offense.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 213 of title 18, United States Code, is amend-
18 ed by striking the item relating to section 3291 and insert-
19 ing the following:

“3291. Immigration, naturalization, and peonage offenses.”.

20 **SEC. 215. DIPLOMATIC SECURITY SERVICE.**

21 Section 37(a)(1) of the State Department Basic Au-
22 thorities Act of 1956 (22 U.S.C. 2709(a)(1)) is amended
23 to read as follows:

24 “(1) conduct investigations concerning—

1 “(A) illegal passport or visa issuance or
2 use;

3 “(B) identity theft or document fraud af-
4 fecting or relating to the programs, functions,
5 and authorities of the Department of State;

6 “(C) violations of chapter 77 of title 18,
7 United States Code; and

8 “(D) Federal offenses committed within
9 the special maritime and territorial jurisdiction
10 of the United States (as defined in section 7(9)
11 of title 18, United States Code);”.

12 **SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND**

13 **CHECKS.**

14 (a) **IN GENERAL.**—Section 103 (8 U.S.C. 1103) is
15 amended—

16 (1) by amending subsection (f) to read as fol-
17 lows:

18 “(f) **MINIMUM NUMBER OF AGENTS IN STATES.**—

19 “(1) **IN GENERAL.**—The Secretary of Homeland
20 Security shall allocate to each State—

21 “(A) not fewer than 40 full-time active
22 duty agents of the Bureau of Immigration and
23 Customs Enforcement to—

24 “(i) investigate immigration viola-
25 tions; and

1 “(ii) ensure the departure of all re-
2 movable aliens; and

3 “(B) not fewer than 15 full-time active
4 duty agents of the Bureau of Citizenship and
5 Immigration Services to carry out immigration
6 and naturalization adjudication functions.

7 “(2) WAIVER.—The Secretary may waive the
8 application of paragraph (1) for any State with a
9 population of less than 2,000,000, as most recently
10 reported by the Bureau of the Census”; and

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

12 “(i) Notwithstanding any other provision of law, ap-
13 propriate background and security checks, as determined
14 by the Secretary of Homeland Security, shall be completed
15 and assessed and any suspected or alleged fraud relating
16 to the granting of any status (including the granting of
17 adjustment of status), relief, protection from removal, or
18 other benefit under this Act shall be investigated and re-
19 solved before the Secretary or the Attorney General may—

20 “(1) grant or order the grant of adjustment of
21 status of an alien to that of an alien lawfully admit-
22 ted for permanent residence;

23 “(2) grant or order the grant of any other sta-
24 tus, relief, protection from removal, or other benefit
25 under the immigration laws; or

1 “(3) issue any documentation evidencing or re-
2 lated to such grant by the Secretary, the Attorney
3 General, or any court.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a)(1) shall take effect on the date that is 90
6 days after the date of the enactment of this Act.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to the Director of the Fed-
9 eral Bureau of Investigations \$3,125,000 for each of fiscal
10 years 2008 through 2012 for improving the speed and ac-
11 curacy of background and security checks conducted by
12 the Federal Bureau of Investigations on behalf of the Bu-
13 reau of Citizenship and Immigrations Services.

14 (d) REPORT ON BACKGROUND AND SECURITY
15 CHECKS.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act, the Di-
18 rector of the Federal Bureau of Investigations shall
19 submit to the Committee on the Judiciary of the
20 Senate and the Committee on the Judiciary of the
21 House of Representatives a report on the back-
22 ground and security checks conducted by the Fed-
23 eral Bureau of Investigations on behalf of the Bu-
24 reau of Citizenship and Immigrations Services

1 (2) CONTENT.—The report required under
2 paragraph (1) shall include—

3 (A) a description of the background and
4 security check program;

5 (B) a statistical breakdown of the back-
6 ground and security check delays associated
7 with different types of immigration applications;

8 (C) a statistical breakdown of the back-
9 ground and security check delays by applicant
10 country of origin; and

11 (D) the steps the Federal Bureau of Inves-
12 tigation is taking to expedite background and
13 security checks that have been pending for
14 more than 60 days.

15 **SEC. 217. CONSTRUCTION.**

16 (a) IN GENERAL.—Chapter 4 of title III (8 U.S.C.
17 1501 et seq.) is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 362. CONSTRUCTION.**

20 “(a) IN GENERAL.—Nothing in this Act or in any
21 other provision of law shall be construed to require the
22 Secretary of Homeland Security, the Attorney General,
23 the Secretary of State, the Secretary of Labor, or any
24 other authorized head of any Federal agency to grant any
25 application, approve any petition, or grant or continue any

1 status or benefit under the immigration laws by, to, or
 2 on behalf of—

3 “(1) any alien described in subparagraph (A)(i),
 4 (A)(iii), (B), or (F) of section 212(a)(3) or subpara-
 5 graph (A)(i), (A)(iii), or (B) of section 237(a)(4);

6 “(2) any alien with respect to whom a criminal
 7 or other investigation or case is pending that is ma-
 8 terial to the alien’s inadmissibility, deportability, or
 9 eligibility for the status or benefit sought; or

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

13 “(b) DENIAL; WITHHOLDING.—An official described
 14 in subsection (a) may deny or withhold (with respect to
 15 an alien described in subsection (a)(1)) or withhold pend-
 16 ing resolution of the investigation, case, or law enforce-
 17 ment checks (with respect to an alien described in para-
 18 graph (2) or (3) of subsection (a)) any such application,
 19 petition, status, or benefit on such basis.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
 21 is amended by inserting after the item relating to section
 22 361 the following:

“Sec. 362. Construction.”.

23 **SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

24 (a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH
 25 PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary

1 shall reimburse States and units of local government for
2 costs associated with processing undocumented criminal
3 aliens through the criminal justice system, including—

- 4 (1) indigent defense;
- 5 (2) criminal prosecution;
- 6 (3) autopsies;
- 7 (4) translators and interpreters; and
- 8 (5) courts costs.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) PROCESSING CRIMINAL ILLEGAL ALIENS.—

11 There are authorized to be appropriated
12 \$400,000,000 for each of the fiscal years 2008
13 through 2013 to carry out subsection (a).

14 (2) COMPENSATION UPON REQUEST.—Section
15 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as
16 follows:

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

19 “(A) such sums as may be necessary for
20 fiscal year 2008;

21 “(B) \$750,000,000 for fiscal year 2009;

22 “(C) \$850,000,000 for fiscal year 2010;

23 and

24 “(D) \$950,000,000 for each of the fiscal
25 years 2011 through 2013.”.

1 (c) TECHNICAL AMENDMENT.—Section 501 of the
2 Immigration Reform and Control Act of 1986 (8 U.S.C.
3 1365) is amended by striking “Attorney General” each
4 place it appears and inserting “Secretary of Homeland Se-
5 curity”.

6 **SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL**
7 **ALIENS APPREHENDED BY STATE AND LOCAL**
8 **LAW ENFORCEMENT OFFICERS.**

9 (a) IN GENERAL.—The Secretary shall provide suffi-
10 cient transportation and officers to take illegal aliens ap-
11 prehended by State and local law enforcement officers into
12 custody for processing at a detention facility operated by
13 the Department.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary for each of fiscal years 2008 through 2012 to
17 carry out this section.

18 **SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN**
19 **SMUGGLING ON TRIBAL LANDS.**

20 (a) GRANTS AUTHORIZED.—The Secretary may
21 award grants to Indian tribes with lands adjacent to an
22 international border of the United States that have been
23 adversely affected by illegal immigration.

24 (b) USE OF FUNDS.—Grants awarded under sub-
25 section (a) may be used for—

- 1 (1) law enforcement activities;
- 2 (2) health care services;
- 3 (3) environmental restoration; and
- 4 (4) the preservation of cultural resources.

5 (c) REPORT.—Not later than 180 days after the date
6 of the enactment of this Act, the Secretary shall submit
7 a report to the Committee on the Judiciary of the Senate
8 and the Committee on the Judiciary of the House of Rep-
9 resentatives that—

- 10 (1) describes the level of access of Border Pa-
11 trol agents on tribal lands;
- 12 (2) describes the extent to which enforcement of
13 immigration laws may be improved by enhanced ac-
14 cess to tribal lands;
- 15 (3) contains a strategy for improving such ac-
16 cess through cooperation with tribal authorities; and
- 17 (4) identifies grants provided by the Depart-
18 ment for Indian tribes, either directly or through
19 State or local grants, relating to border security ex-
20 penses.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary for each of the fiscal years 2008 through 2012
24 to carry out this section.

1 **SEC. 221. ALTERNATIVES TO DETENTION.**

2 The Secretary shall conduct a study of—

3 (1) the effectiveness of alternatives to detention,
4 including electronic monitoring devices and intensive
5 supervision programs, in ensuring alien appearance
6 at court and compliance with removal orders;

7 (2) the effectiveness of the Intensive Super-
8 vision Appearance Program and the costs and bene-
9 fits of expanding that program to all States; and

10 (3) other alternatives to detention, including—

11 (A) release on an order of recognizance;

12 (B) appearance bonds; and

13 (C) electronic monitoring devices.

14 **SEC. 222. CONFORMING AMENDMENT.**

15 Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is
16 amended—

17 (1) by striking “(i) which either is falsely mak-
18 ing, forging, counterfeiting, mutilating, or altering a
19 passport or instrument in violation of section 1543
20 of title 18, United States Code, or is described in
21 section 1546(a) of such title (relating to document
22 fraud) and (ii)” and inserting “which is described in
23 chapter 75 of title 18, United States Code, and”;
24 and

1 (2) by inserting the following: “that is not de-
2 scribed in section 1548 of such title (relating to in-
3 creased penalties), and” after “first offense”.

4 **SEC. 223. REPORTING REQUIREMENTS.**

5 (a) CLARIFYING ADDRESS REPORTING REQUIRE-
6 MENTS.—Section 265 (8 U.S.C. 1305) is amended—

7 (1) in subsection (a)—

8 (A) by striking “notify the Attorney Gen-
9 eral in writing” and inserting “submit written
10 or electronic notification to the Secretary of
11 Homeland Security, in a manner approved by
12 the Secretary,”;

13 (B) by striking “the Attorney General may
14 require by regulation” and inserting “the Sec-
15 retary may require”; and

16 (C) by adding at the end the following: “If
17 the alien is involved in proceedings before an
18 immigration judge or in an administrative ap-
19 peal of such proceedings, the alien shall submit
20 to the Attorney General the alien’s current ad-
21 dress and a telephone number, if any, at which
22 the alien may be contacted.”;

23 (2) in subsection (b), by striking “Attorney
24 General” each place such term appears and inserting
25 “Secretary of Homeland Security”;

1 (3) in subsection (c), by striking “given to such
2 parent” and inserting “given by such parent”; and

3 (4) by adding at the end the following:

4 “(d) ADDRESS TO BE PROVIDED.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided by the Secretary under paragraph (2), an ad-
7 dress provided by an alien under this section shall
8 be the alien’s current residential mailing address,
9 and shall not be a post office box or other non-resi-
10 dential mailing address or the address of an attor-
11 ney, representative, labor organization, or employer.

12 “(2) SPECIFIC REQUIREMENTS.—The Secretary
13 may provide specific requirements with respect to—

14 “(A) designated classes of aliens and spe-
15 cial circumstances, including aliens who are em-
16 ployed at a remote location; and

17 “(B) the reporting of address information
18 by aliens who are incarcerated in a Federal,
19 State, or local correctional facility.

20 “(3) DETENTION.—An alien who is being de-
21 tained by the Secretary under this Act is not re-
22 quired to report the alien’s current address under
23 this section during the time the alien remains in de-
24 tention, but shall be required to notify the Secretary

1 of the alien's address under this section at the time
2 of the alien's release from detention.

3 “(e) USE OF MOST RECENT ADDRESS PROVIDED BY
4 THE ALIEN.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law, the Secretary may provide for the
7 appropriate coordination and cross referencing of
8 address information provided by an alien under this
9 section with other information relating to the alien's
10 address under other Federal programs, including—

11 “(A) any information pertaining to the
12 alien, which is submitted in any application, pe-
13 tition, or motion filed under this Act with the
14 Secretary of Homeland Security, the Secretary
15 of State, or the Secretary of Labor;

16 “(B) any information available to the At-
17 torney General with respect to an alien in a
18 proceeding before an immigration judge or an
19 administrative appeal or judicial review of such
20 proceeding;

21 “(C) any information collected with respect
22 to nonimmigrant foreign students or exchange
23 program participants under section 641 of the
24 Illegal Immigration Reform and Immigrant Re-
25 sponsibility Act of 1996 (8 U.S.C. 1372); and

1 “(D) any information collected from State
2 or local correctional agencies pursuant to the
3 State Criminal Alien Assistance Program.

4 “(2) RELIANCE.—The Secretary may rely on
5 the most recent address provided by the alien under
6 this section or section 264 to send to the alien any
7 notice, form, document, or other matter pertaining
8 to Federal immigration laws, including service of a
9 notice to appear. The Attorney General and the Sec-
10 retary may rely on the most recent address provided
11 by the alien under section 239(a)(1)(F) to contact
12 the alien about pending removal proceedings.

13 “(3) OBLIGATION.—The alien’s provision of an
14 address for any other purpose under the Federal im-
15 migration laws does not excuse the alien’s obligation
16 to submit timely notice of the alien’s address to the
17 Secretary under this section (or to the Attorney
18 General under section 239(a)(1)(F) with respect to
19 an alien in a proceeding before an immigration judge
20 or an administrative appeal of such proceeding).”.

21 (b) CONFORMING CHANGES WITH RESPECT TO REG-
22 ISTRATION REQUIREMENTS.—Chapter 7 of title II (8
23 U.S.C. 1301 et seq.) is amended—

1 (1) in section 262(c), by striking “Attorney
2 General” and inserting “Secretary of Homeland Se-
3 curity”;

4 (2) in section 263(a), by striking “Attorney
5 General” and inserting “Secretary of Homeland Se-
6 curity”; and

7 (3) in section 264—

8 (A) in subsections (a), (b), (c), and (d), by
9 striking “Attorney General” each place it ap-
10 pears and inserting “Secretary of Homeland
11 Security”; and

12 (B) in subsection (f)—

13 (i) by striking “Attorney General is
14 authorized” and inserting “Secretary of
15 Homeland Security and Attorney General
16 are authorized”; and

17 (ii) by striking “Attorney General or
18 the Service” and inserting “Secretary or
19 the Attorney General”.

20 (c) PENALTIES.—Section 266 (8 U.S.C. 1306) is
21 amended—

22 (1) by amending subsection (b) to read as fol-
23 lows:

24 “(b) FAILURE TO PROVIDE NOTICE OF ALIEN’S

25 CURRENT ADDRESS.—

1 “(1) CRIMINAL PENALTIES.—Any alien or any
2 parent or legal guardian in the United States of any
3 minor alien who fails to notify the Secretary of
4 Homeland Security of the alien’s current address in
5 accordance with section 265 shall be fined under
6 title 18, United States Code, imprisoned for not
7 more than 6 months, or both.

8 “(2) EFFECT ON IMMIGRATION STATUS.—Any
9 alien who violates section 265 (regardless of whether
10 the alien is punished under paragraph (1)) and does
11 not establish to the satisfaction of the Secretary that
12 such failure was reasonably excusable or was not
13 willful shall be taken into custody in connection with
14 removal of the alien. If the alien has not been in-
15 spected or admitted, or if the alien has failed on
16 more than 1 occasion to submit notice of the alien’s
17 current address as required under section 265, the
18 alien may be presumed to be a flight risk. The Sec-
19 retary or the Attorney General, in considering any
20 form of relief from removal which may be granted
21 in the discretion of the Secretary or the Attorney
22 General, may take into consideration the alien’s fail-
23 ure to comply with section 265 as a separate nega-
24 tive factor. If the alien failed to comply with the re-
25 quirements of section 265 after becoming subject to

1 a final order of removal, deportation, or exclusion,
2 the alien’s failure shall be considered as a strongly
3 negative factor with respect to any discretionary mo-
4 tion for reopening or reconsideration filed by the
5 alien.”;

6 (2) in subsection (c), by inserting “or a notice
7 of current address” before “containing statements”;
8 and

9 (3) in subsections (c) and (d), by striking “At-
10 torney General” each place it appears and inserting
11 “Secretary”.

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall apply to proceedings initiated on or after the
16 date of the enactment of this Act.

17 (2) CONFORMING AND TECHNICAL AMEND-
18 MENTS.—The amendments made by paragraphs
19 (1)(A), (1)(B), (2) and (3) of subsection (a) are ef-
20 fective as if enacted on March 1, 2003.

21 **SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL**
22 **IMMIGRATION LAWS.**

23 (a) IN GENERAL.—Section 287(g) (8 U.S.C.
24 1357(g)) is amended—

1 (1) in paragraph (2), by adding at the end the
2 following: “If such training is provided by a State or
3 political subdivision of a State to an officer or em-
4 ployee of such State or political subdivision of a
5 State, the cost of such training (including applicable
6 overtime costs) shall be reimbursed by the Secretary
7 of Homeland Security.”; and

8 (2) in paragraph (4), by adding at the end the
9 following: “The cost of any equipment required to be
10 purchased under such written agreement and nec-
11 essary to perform the functions under this sub-
12 section shall be reimbursed by the Secretary of
13 Homeland Security.”.

14 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
15 are authorized to be appropriated to the Secretary such
16 sums as may be necessary to carry out this section and
17 the amendments made by this section.

18 **SEC. 225. REMOVAL OF DRUNK DRIVERS.**

19 (a) **IN GENERAL.**—Section 101(a)(43)(F) (8 U.S.C.
20 1101(a)(43)(F)) is amended by inserting “, including a
21 third drunk driving conviction, regardless of the States in
22 which the convictions occurred or whether the offenses are
23 classified as misdemeanors or felonies under State law,”
24 after “offense)”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall—

3 (1) take effect on the date of the enactment of
4 this Act; and

5 (2) apply to convictions entered on or after
6 such date.

7 **SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.**

8 Section 220(c) of the Immigration and Nationality
9 Technical Corrections Act of 1994 (8 U.S.C. 1182 note)
10 is amended by striking “and before June 1, 2006.”.

11 **SEC. 227. EXPEDITED REMOVAL.**

12 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is
13 amended—

14 (1) by striking the section heading and insert-
15 ing “**EXPEDITED REMOVAL OF CRIMINAL**
16 **ALIENS**”;

17 (2) in subsection (a), by striking the subsection
18 heading and inserting: “**EXPEDITED REMOVAL**
19 **FROM CORRECTIONAL FACILITIES.—**”;

20 (3) in subsection (b), by striking the subsection
21 heading and inserting: “**REMOVAL OF CRIMINAL**
22 **ALIENS.—**”;

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

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security may, in the case of an alien described in
3 paragraph (2), determine the deportability of such
4 alien and issue an order of removal pursuant to the
5 procedures set forth in this subsection or section
6 240.

7 “(2) ALIENS DESCRIBED.—An alien is de-
8 scribed in this paragraph if the alien—

9 “(A) has not been lawfully admitted to the
10 United States for permanent residence; and

11 “(B) was convicted of any criminal offense
12 described in subparagraph (A)(iii), (C), or (D)
13 of section 237(a)(2).”;

14 (5) in the subsection (c) that relates to pre-
15 sumption of deportability, by striking “convicted of
16 an aggravated felony” and inserting “described in
17 subsection (b)(2)”;

18 (6) by redesignating the subsection (c) that re-
19 lates to judicial removal as subsection (d); and

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

22 (b) APPLICATION TO CERTAIN ALIENS.—

23 (1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8
24 U.S.C. 1225(b)(1)(A)(iii)) is amended—

1 (A) in subclause (I), by striking “Attorney
2 General” and inserting “Secretary of Homeland
3 Security” each place it appears; and

4 (B) by adding at the end the following new
5 subclause:

6 “(III) EXCEPTION.—Notwith-
7 standing subclauses (I) and (II), the
8 Secretary of Homeland Security shall
9 apply clauses (i) and (ii) of this sub-
10 paragraph to any alien (other than an
11 alien described in subparagraph (F))
12 who is not a national of a country
13 contiguous to the United States, who
14 has not been admitted or paroled into
15 the United States, and who is appre-
16 hended within 100 miles of an inter-
17 national land border of the United
18 States and within 14 days of entry.”.

19 (2) EXCEPTIONS.—Section 235(b)(1)(F) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1225(b)(1)(F)) is amended—

22 (A) by striking “and who arrives by air-
23 craft at a port of entry” and inserting “and—
24 ”; and

25 (B) by adding at the end the following:

1 “(i) who arrives by aircraft at a port
2 of entry; or

3 “(ii) who is present in the United
4 States and arrived in any manner at or be-
5 tween a port of entry.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act and shall apply to all aliens apprehended or
9 convicted on or after such date.

10 **SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED**
11 **SEX OFFENDERS.**

12 (a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C.
13 1154(a)(1)), is amended—

14 (1) in subparagraph (A)(i), by striking “Any”
15 and inserting “Except as provided in clause (vii),
16 any”;

17 (2) in subparagraph (A), by inserting after
18 clause (vi) the following:

19 “(vii) Clause (i) shall not apply to a citizen of the
20 United States who has been convicted of an offense de-
21 scribed in subparagraph (A), (I), or (K) of section
22 101(a)(43), unless the Secretary of Homeland Security,
23 in the Secretary’s sole and unreviewable discretion, deter-
24 mines that the citizen poses no risk to the alien with re-

1 spect to whom a petition described in clause (i) is filed.”;

2 and

3 (3) in subparagraph (B)(i)—

4 (A) by striking “Any alien” and inserting
5 the following: “(I) Except as provided in sub-
6 clause (II), any alien”; and

7 (B) by adding at the end the following:

8 “(II) Subclause (I) shall not apply in the case of an
9 alien admitted for permanent residence who has been con-
10 victed of an offense described in subparagraph (A), (I),
11 or (K) of section 101(a)(43), unless the Secretary of
12 Homeland Security, in the Secretary’s sole and
13 unreviewable discretion, determines that the alien lawfully
14 admitted for permanent residence poses no risk to the
15 alien with respect to whom a petition described in sub-
16 clause (I) is filed.”.

17 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8
18 U.S.C. 1101(a)(15)(K)), is amended by inserting “(other
19 than a citizen described in section 204(a)(1)(A)(vii))”
20 after “citizen of the United States” each place that phrase
21 appears.

1 **SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND**
2 **POLITICAL SUBDIVISIONS AND TRANSFER TO**
3 **FEDERAL CUSTODY.**

4 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.)
5 is amended by adding after section 240C the following new
6 section:

7 **“SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES**
8 **AND POLITICAL SUBDIVISIONS AND TRANS-**
9 **FER OF ALIENS TO FEDERAL CUSTODY.**

10 “(a) AUTHORITY.—Notwithstanding any other provi-
11 sion of law, law enforcement personnel of a State, or a
12 political subdivision of a State, have the inherent authority
13 of a sovereign entity to investigate, apprehend, arrest, de-
14 tain, or transfer to Federal custody (including the trans-
15 portation across State lines to detention centers) an alien
16 for the purpose of assisting in the enforcement of the
17 criminal provisions of the immigration laws of the United
18 States in the normal course of carrying out the law en-
19 forcement duties of such personnel. This State authority
20 has never been displaced or preempted by a Federal law.

21 “(b) CONSTRUCTION.—Nothing in this section shall
22 be construed to require law enforcement personnel of a
23 State or a political subdivision to assist in the enforcement
24 of the immigration laws of the United States.

25 “(c) TRANSFER.—If the head of a law enforcement
26 entity of a State (or, if appropriate, a political subdivision

1 of the State) exercising authority with respect to the ap-
2 prehension or arrest of an alien submits a request to the
3 Secretary of Homeland Security that the alien be taken
4 into Federal custody, the Secretary of Homeland Secu-
5 rity—

6 “(1) shall—

7 “(A) deem the request to include the in-
8 quiry to verify immigration status described in
9 section 642(c) of the Illegal Immigration Re-
10 form and Immigrant Responsibility Act of 1996
11 (8 U.S.C. 1373(c)), and expeditiously inform
12 the requesting entity whether such individual is
13 an alien lawfully admitted to the United States
14 or is otherwise lawfully present in the United
15 States; and

16 “(B) if the individual is an alien who is not
17 lawfully admitted to the United States or other-
18 wise is not lawfully present in the United
19 States—

20 “(i) take the illegal alien into the cus-
21 tody of the Federal Government not later
22 than 72 hours after—

23 “(I) the conclusion of the State
24 charging process or dismissal process;
25 or

1 “(II) the illegal alien is appre-
2 hended, if no State charging or dis-
3 missal process is required; or

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

8 “(2) shall designate at least 1 Federal, State,
9 or local prison or jail or a private contracted prison
10 or detention facility within each State as the central
11 facility for that State to transfer custody of aliens
12 to the Department of Homeland Security.

13 “(d) REIMBURSEMENT.—

14 “(1) IN GENERAL.—The Secretary of Homeland
15 Security shall reimburse a State, or a political sub-
16 division of a State, for expenses, as verified by the
17 Secretary, incurred by the State or political subdivi-
18 sion in the detention and transportation of an alien
19 as described in subparagraphs (A) and (B) of sub-
20 section (c)(1).

21 “(2) COST COMPUTATION.—Compensation pro-
22 vided for costs incurred under subparagraphs (A)
23 and (B) of subsection (c)(1) shall be—

24 “(A) the product of—

1 “(i) the average daily cost of incarceration
2 ation of a prisoner in the relevant State, as
3 determined by the chief executive officer of
4 a State (or, as appropriate, a political sub-
5 division of the State); multiplied by

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

9 “(B) the cost of transporting the alien
10 from the point of apprehension or arrest to the
11 location of detention, and if the location of de-
12 tention and of custody transfer are different, to
13 the custody transfer point; plus

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

19 “(e) REQUIREMENT FOR APPROPRIATE SECURITY.—
20 The Secretary of Homeland Security shall ensure that—

21 “(1) aliens incarcerated in a Federal facility
22 pursuant to this section are held in facilities which
23 provide an appropriate level of security; and

1 “(2) if practicable, aliens detained solely for
2 civil violations of Federal immigration law are sepa-
3 rated within a facility or facilities.

4 “(f) REQUIREMENT FOR SCHEDULE.—In carrying
5 out this section, the Secretary of Homeland Security shall
6 establish a regular circuit and schedule for the prompt
7 transportation of apprehended aliens from the custody of
8 those States, and political subdivisions of States, which
9 routinely submit requests described in subsection (c), into
10 Federal custody.

11 “(g) AUTHORITY FOR CONTRACTS.—

12 “(1) IN GENERAL.—The Secretary of Homeland
13 Security may enter into contracts or cooperative
14 agreements with appropriate State and local law en-
15 forcement and detention agencies to implement this
16 section.

17 “(2) DETERMINATION BY SECRETARY.—Prior
18 to entering into a contract or cooperative agreement
19 with a State or political subdivision of a State under
20 paragraph (1), the Secretary shall determine wheth-
21 er the State, or if appropriate, the political subdivi-
22 sion in which the agencies are located, has in place
23 any formal or informal policy that violates section
24 642 of the Illegal Immigration Reform and Immig-
25 grant Responsibility Act of 1996 (8 U.S.C. 1373).

1 The Secretary shall not allocate any of the funds
2 made available under this section to any State or po-
3 litical subdivision that has in place a policy that vio-
4 lates such section.”.

5 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE
6 DETENTION AND TRANSPORTATION TO FEDERAL CUS-
7 TODY OF ALIENS NOT LAWFULLY PRESENT.—There are
8 authorized to be appropriated \$850,000,000 for fiscal year
9 2008 and each subsequent fiscal year for the detention
10 and removal of aliens not lawfully present in the United
11 States under the Immigration and Nationality Act (8
12 U.S.C. 1101 et. seq.).

13 **SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.**

14 Section 1956(c)(7)(D) of title 18, United States
15 Code, is amended—

16 (1) by inserting “section 1590 (relating to traf-
17 ficking with respect to peonage, slavery, involuntary
18 servitude, or forced labor),” after “section 1363 (re-
19 lating to destruction of property within the special
20 maritime and territorial jurisdiction),”; and

21 (2) by inserting “section 274(a) of the Immi-
22 gration and Nationality Act (8 U.S.C.1324(a)) (re-
23 lating to bringing in and harboring certain aliens),”
24 after “section 590 of the Tariff Act of 1930 (19
25 U.S.C. 1590) (relating to aviation smuggling),”.

1 **SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
2 **TIONAL CRIME INFORMATION CENTER DATA-**
3 **BASE.**

4 (a) PROVISION OF INFORMATION TO THE NATIONAL
5 CRIME INFORMATION CENTER.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (3), not later than 180 days after the date of
8 the enactment of this Act, the Secretary shall pro-
9 vide to the head of the National Crime Information
10 Center of the Department of Justice the information
11 that the Secretary has or maintains related to any
12 alien—

13 (A) against whom a final order of removal
14 has been issued;

15 (B) who enters into a voluntary departure
16 agreement, or is granted voluntary departure by
17 an immigration judge, whose period for depart-
18 ure has expired under subsection (a)(3) of sec-
19 tion 240B of the Immigration and Nationality
20 Act (8 U.S.C. 1229e) (as amended by section
21 211(a)(1)(C)), subsection (b)(2) of such section
22 240B, or who has violated a condition of a vol-
23 untary departure agreement under such section
24 240B;

1 (C) whom a Federal immigration officer
2 has confirmed to be unlawfully present in the
3 United States; and

4 (D) whose visa has been revoked.

5 (2) REMOVAL OF INFORMATION.—The head of
6 the National Crime Information Center should
7 promptly remove any information provided by the
8 Secretary under paragraph (1) related to an alien
9 who is granted lawful authority to enter or remain
10 legally in the United States.

11 (3) PROCEDURE FOR REMOVAL OF ERRONEOUS
12 INFORMATION.—The Secretary, in consultation with
13 the head of the National Crime Information Center
14 of the Department of Justice, shall develop and im-
15 plement a procedure by which an alien may petition
16 the Secretary or head of the National Crime Infor-
17 mation Center, as appropriate, to remove any erro-
18 neous information provided by the Secretary under
19 paragraph (1) related to such alien. Under such pro-
20 cedures, failure by the alien to receive notice of a
21 violation of the immigration laws shall not constitute
22 cause for removing information provided by the Sec-
23 retary under paragraph (1) related to such alien, un-
24 less such information is erroneous. Notwithstanding
25 the 180-day time period set forth in paragraph (1),

1 the Secretary shall not provide the information re-
2 quired under paragraph (1) until the procedures re-
3 quired by this paragraph are developed and imple-
4 mented.

5 (b) INCLUSION OF INFORMATION IN THE NATIONAL
6 CRIME INFORMATION CENTER DATABASE.—Section
7 534(a) of title 28, United States Code, is amended—

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

10 (2) by redesignating paragraph (4) as para-
11 graph (5); and

12 (3) by inserting after paragraph (3) the fol-
13 lowing new paragraph:

14 “(4) acquire, collect, classify, and preserve
15 records of violations of the immigration laws of the
16 United States; and”.

17 **SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.**

18 Not later than 2 years after the date of the enact-
19 ment of this Act, the Secretary shall negotiate and exe-
20 cute, where practicable, a cooperative enforcement agree-
21 ment described in section 287(g) of the Immigration and
22 Nationality Act (8 U.S.C. 1357(g)) with at least 1 law
23 enforcement agency in each State, to train law enforce-
24 ment officers in the detection and apprehension of individ-
25 uals engaged in transporting, harboring, sheltering, or en-

1 couraging aliens in violation of section 274 of such Act
2 (8 U.S.C. 1324).

3 **SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND**
4 **THE UTILIZATION OF FACILITIES IDENTIFIED**
5 **FOR CLOSURES AS A RESULT OF THE DE-**
6 **FENSE BASE CLOSURE REALIGNMENT ACT**
7 **OF 1990.**

8 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
9 FACILITIES.—

10 (1) IN GENERAL.—The Secretary shall con-
11 struct or acquire, in addition to existing facilities for
12 the detention of aliens, at least 20 detention facili-
13 ties in the United States that have the capacity to
14 detain a combined total of not less than 20,000 indi-
15 viduals at any time for aliens detained pending re-
16 moval or a decision on removal of such aliens from
17 the United States subject to available appropria-
18 tions.

19 (b) CONSTRUCTION OF OR ACQUISITION OF DETEN-
20 TION FACILITIES.—

21 (1) REQUIREMENT TO CONSTRUCT OR AC-
22 QUIRE.—The Secretary shall construct or acquire
23 additional detention facilities in the United States to
24 accommodate the detention beds required by section
25 5204(a) of the Intelligence Reform and Terrorism

1 Protection Act of 2004, as amended by subsection
2 (a), subject to available appropriations.

3 (2) USE OF ALTERNATE DETENTION FACILI-
4 TIES.—Subject to the availability of appropriations,
5 the Secretary shall fully utilize all possible options to
6 cost effectively increase available detention capaci-
7 ties, and shall utilize detention facilities that are
8 owned and operated by the Federal Government if
9 the use of such facilities is cost effective.

10 (3) USE OF INSTALLATIONS UNDER BASE CLO-
11 SURE LAWS.—In acquiring additional detention fa-
12 cilities under this subsection, the Secretary shall
13 consider the transfer of appropriate portions of mili-
14 tary installations approved for closure or realign-
15 ment under the Defense Base Closure and Realign-
16 ment Act of 1990 (part A of title XXIX of Public
17 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
18 cordance with subsection (a).

19 (4) DETERMINATION OF LOCATION.—The loca-
20 tion of any detention facility constructed or acquired
21 in accordance with this subsection shall be deter-
22 mined, with the concurrence of the Secretary, by the
23 senior officer responsible for Detention and Removal
24 Operations in the Department. The detention facili-
25 ties shall be located so as to enable the officers and

1 employees of the Department to increase to the max-
2 imum extent practicable the annual rate and level of
3 removals of illegal aliens from the United States.

4 (c) ANNUAL REPORT TO CONGRESS.—Not later than
5 1 year after the date of the enactment of this Act, and
6 annually thereafter, in consultation with the heads of
7 other appropriate Federal agencies, the Secretary shall
8 submit to Congress an assessment of the additional deten-
9 tion facilities and bed space needed to detain unlawful
10 aliens apprehended at the United States ports of entry or
11 along the international land borders of the United States.

12 (d) TECHNICAL AND CONFORMING AMENDMENT.—
13 Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by
14 striking “may expend” and inserting “shall expend”.

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

18 **SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF**
19 **INDIVIDUALS CHARGED WITH FEDERAL OF-**
20 **FENSES.**

21 (a) RESPONSIBILITY OF UNITED STATES ATTOR-
22 NEYS.—Beginning not later than 2 years after the date
23 of the enactment of this Act, the office of the United
24 States Attorney that is prosecuting a criminal case in a
25 Federal court—

1 (1) shall determine, not later than 30 days
2 after filing the initial pleadings in the case, whether
3 each defendant in the case is lawfully present in the
4 United States (subject to subsequent legal pro-
5 ceedings to determine otherwise);

6 (2)(A) if the defendant is determined to be an
7 alien lawfully present in the United States, shall no-
8 tify the court in writing of the determination and
9 the current status of the alien under the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101 et seq.);
11 and

12 (B) if the defendant is determined not to be
13 lawfully present in the United States, shall notify
14 the court in writing of the determination, the de-
15 fendant's alien status, and, to the extent possible,
16 the country of origin or legal residence of the de-
17 fendant; and

18 (3) ensure that the information described in
19 paragraph (2) is included in the case file and the
20 criminal records system of the office of the United
21 States attorney.

22 (b) GUIDELINES.—A determination made under sub-
23 section (a)(1) shall be made in accordance with guidelines
24 of the Executive Office for Immigration Review of the De-
25 partment of Justice.

1 (c) RESPONSIBILITIES OF FEDERAL COURTS.—

2 (1) MODIFICATIONS OF RECORDS AND CASE
3 MANAGERMENTS SYSTEMS.—Not later than 2 years
4 after the date of the enactment of this Act, all Fed-
5 eral courts that hear criminal cases, or appeals of
6 criminal cases, shall modify their criminal records
7 and case management systems, in accordance with
8 guidelines which the Director of the Administrative
9 Office of the United States Courts shall establish, so
10 as to enable accurate reporting of information de-
11 scribed in subsection (a)(2).

12 (2) DATA ENTRIES.—Beginning not later than
13 2 years after the date of the enactment of this Act,
14 each Federal court described in paragraph (1) shall
15 enter into its electronic records the information con-
16 tained in each notification to the court under sub-
17 section (a)(2).

18 (d) CONSTRUCTION.—Nothing in this section may be
19 construed to provide a basis for admitting evidence to a
20 jury or releasing information to the public regarding an
21 alien’s immigration status.

22 (e) ANNUAL REPORT TO CONGRESS.—The Director
23 of the Administrative Office of the United States Courts
24 shall include, in the annual report filed with Congress
25 under section 604 of title 28, United States Code—

1 (1) statistical information on criminal trials of
2 aliens in the courts and criminal convictions of
3 aliens in the lower courts and upheld on appeal, in-
4 cluding the type of crime in each case and including
5 information on the legal status of the aliens; and

6 (2) recommendations on whether additional
7 court resources are needed to accommodate the vol-
8 ume of criminal cases brought against aliens in the
9 Federal courts.

10 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated for each of fiscal years
12 2008 through 2012, such sums as may be necessary to
13 carry out this Act. Funds appropriated pursuant to this
14 subsection in any fiscal year shall remain available until
15 expended.

16 **SEC. 235. EXPANSION OF THE JUSTICE PRISONER AND**
17 **ALIEN TRANSFER SYSTEM.**

18 Not later than 60 days after the date of enactment
19 of this Act, the Attorney General shall issue a directive
20 to expand the Justice Prisoner and Alien Transfer System
21 (JPATS) so that such System provides additional services
22 with respect to aliens who are illegally present in the
23 United States. Such expansion should include—

24 (1) increasing the daily operations of such Sys-
25 tem with buses and air hubs in 3 geographic regions;

1 (2) allocating a set number of seats for such
2 aliens for each metropolitan area;

3 (3) allowing metropolitan areas to trade or give
4 some of seats allocated to them under the System
5 for such aliens to other areas in their region based
6 on the transportation needs of each area; and

7 (4) requiring an annual report that analyzes of
8 the number of seats that each metropolitan area is
9 allocated under this System for such aliens and
10 modifies such allocation if necessary.

11 **TITLE III—ILLEGAL ALIEN**
12 **REGISTRATION**

13 **SEC. 301. REGISTRATION FOR ILLEGAL WORKERS.**

14 (a) REGISTRATION.—Section 262 (8 U.S.C. 1302) is
15 amended by adding at the end the following:

16 “(d) Any alien who is unlawfully employed in the
17 United States as of January 1, 2007, may not receive a
18 nonimmigrant visa under section 218A unless the alien—

19 “(1) applies for registration and fingerprinting
20 under section 221(b) not later than 1 year after the
21 effective date set out in section 601 of the Border
22 Security and Immigration Reform Act of 2007; and

23 “(2) applies for a nonimmigrant visa under sec-
24 tion 218A not later than 1 year after such effective
25 date.”.

1 (b) PENALTIES.—

2 (1) IN GENERAL.—Section 266 (8 U.S.C. 1306)

3 is amended by adding at the end the following:

4 “(e) FAILURE TO REGISTER; EMPLOYMENT OF ILLE-
5 GAL ALIENS.—

6 “(1) FAILURE TO REGISTER.—Any alien who is
7 unlawfully present in the United States is subject to
8 immediate deportation and is ineligible to receive a
9 nonimmigrant visa under section 218A.

10 “(2) EMPLOYMENT OF ILLEGAL ALIENS.—Any
11 employer who knowingly employs an alien who is un-
12 lawfully present in the United States shall be ineli-
13 gible to employ any alien in possession of a non-
14 immigrant visa issued under section 218A.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect on the date which
17 is 2 years after the effective date set out in section
18 601.

19 **SEC. 302. GUEST WORKER PROGRAM.**

20 (a) DEFINITION.—Section 101(a)(15) (8 U.S.C.
21 1101(a)(15)) is amended—

22 (1) in subparagraph (U), by striking “or” at
23 the end;

24 (2) in subparagraph (V), by striking the period
25 at the end and inserting “; or”; and

1 (3) by adding at the end the following:

2 “(W) an alien having a residence in a for-
3 eign country who is coming to the United
4 States to perform—

5 “(i) agricultural labor or services (as
6 defined by the Secretary of Labor); or

7 “(ii) any labor or services other than
8 those described in clause (i).”

9 (b) GUEST WORKER PROGRAM.—

10 (1) IN GENERAL.—Chapter 2 of title II (8
11 U.S.C. 1181 et seq.) is amended by inserting after
12 section 218 the following:

13 **“SEC. 218A. ADMISSION OF W VISA NONIMMIGRANT GUEST**
14 **WORKERS.**

15 “(a) W GUEST WORKER APPLICATIONS.—

16 “(1) IN GENERAL.—After receiving a certifi-
17 cation from the Secretary of Labor in accordance
18 with paragraph (2), an employer desiring to import
19 a nonimmigrant described in section 101(a)(15)(W)
20 (referred to in this section as a ‘guest worker’) for
21 employment in the United States shall file an appli-
22 cation with the Secretary of Homeland Security in
23 such form, in such manner, and containing such in-
24 formation as the Secretary may require.

1 “(2) APPLICABLE PROVISIONS.—The provisions
2 under subsections (a) through (e) of section 218
3 shall apply to certification petitions filed by employ-
4 ers desiring to import guest workers in the same
5 manner as they apply to H-2A workers under such
6 section.

7 “(b) APPLICATION.—Upon approval of an application
8 under subsection (a), a guest worker who, if physically
9 present in the United States on January 1, 2007, has reg-
10 istered and been fingerprinted under section 221(b), may
11 apply for a nonimmigrant visa under section
12 101(a)(15)(W) by showing such identification as the Sec-
13 retary of Homeland Security may require.

14 “(c) DURATION.—A nonimmigrant visa issued to a
15 guest worker under this section shall authorize the guest
16 worker to be employed by the employer who requested
17 such worker for an initial period not to exceed 2 years.

18 “(d) TERMS.—As a condition of continuing employ-
19 ment eligibility, a guest worker receiving a nonimmigrant
20 visa under this section shall agree to—

21 “(1) submit information to the Secretary to be
22 used—

23 “(A) to conduct a criminal background in-
24 vestigation of the alien; and

1 “(B) to verify that the alien is not listed
2 on any terrorist watch list;

3 “(2) abide by all applicable Federal, State, and
4 local laws;

5 “(3) be employed and abide by the terms of
6 such employment; and

7 “(4) complete an approved assimilation pro-
8 gram, including English and civics courses, before
9 the end of the initial 2-year employment period.

10 “(e) RENEWAL.—A nonimmigrant visa issued to a
11 guest worker under this section may be renewed for an
12 unlimited number of 2-year terms if the guest worker com-
13 plies with the terms described in subsection (d) and ap-
14 plies for renewal in the United States before the end of
15 each prior 2-year period.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents for the Immigration and Nationality Act is
18 amended by inserting after the item relating to sec-
19 tion 218 the following:

“Sec. 218A. Admission of W visa nonimmigrant guest workers.”.

20 **SEC. 303. EFFECTIVE DATE.**

21 Except as specifically provided otherwise, this title
22 and the amendments made by this title shall take effect
23 on the effective date set out in section 601.

TITLE IV—PENALTIES**SEC. 401. 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. 402. INCREASED CRIMINAL PENALTIES FOR CERTAIN CRIMES.

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

1 **“CHAPTER 52—ILLEGAL ALIENS**

2 **“SEC. 1131. ENHANCED PENALTIES FOR CERTAIN CRIMES**

3 **COMMITTED BY ILLEGAL ALIENS.**

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

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

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

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

52. Illegal aliens 1131

21 **SEC. 403. ADDITIONAL PENALTIES.**

22 (a) IN GENERAL.—Section 218A of the Immigration
23 and Nationality Act, as added by section 302, is amended
24 by adding at the end the following:

25 “(f) PENALTIES.—

1 “(1) GUEST WORKERS.—A guest worker who
2 violates any of the terms described in subsection (d)
3 shall be subject to deportation and shall be ineligible
4 to receive a nonimmigrant visa under this section.

5 “(2) EMPLOYERS.—

6 “(A) NOTIFICATION OF VIOLATION.—An
7 employer who fails to notify the Secretary of
8 Homeland Security after discovering that a
9 guest worker has violated any of the terms de-
10 scribed in subsection (d) shall be ineligible to
11 employ any alien in possession of a non-
12 immigrant visa issued under section.

13 “(B) EMPLOYMENT OF ILLEGAL WORK-
14 ERS.—Any employer who knowingly employs a
15 worker in the United States who is not author-
16 ized to work in the United States shall be sub-
17 ject to—

18 “(i) for the first violation, a civil pen-
19 alty in an amount not to exceed \$25,000;
20 and

21 “(ii) for the second or subsequent vio-
22 lation—

23 “(I) a term of imprisonment not
24 to exceed 2 years for the individual

1 who hired the unauthorized worker;
2 and

3 “(II) disqualification of the em-
4 ployer from further participation in
5 the guest worker program authorized
6 under this section.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall take effect on the date which is 2
9 years after the date of the effective date set out in section
10 601.

11 **TITLE V—REMOVAL AND** 12 **VIOLATION TRACKING**

13 **SEC. 501. INSTITUTIONAL REMOVAL PROGRAM.**

14 (a) INSTITUTIONAL REMOVAL PROGRAM.—

15 (1) CONTINUATION.—The Secretary shall con-
16 tinue to operate the Institutional Removal Program
17 of the Department to—

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

20 (B) ensure that such aliens are not re-
21 leased into the community; and

22 (C) remove such aliens from the United
23 States after the completion of their sentences.

24 (2) EXPANSION.—Not later than 5 years after
25 the date of the enactment of this Act, the Secretary

1 shall expand the Institutional Removal Program to
2 every State.

3 (3) STATE PARTICIPATION.—The appropriate
4 officials of each State in which the Secretary is oper-
5 ating the Institutional Removal Program should—

6 (A) cooperate with Federal officials car-
7 rying out the Institutional Removal Program;

8 (B) expeditiously and systematically iden-
9 tify criminal aliens in the prison and jail popu-
10 lations of the State; and

11 (C) promptly convey the information de-
12 scribed in subparagraph (B) to the appropriate
13 officials carrying out the Institutional Removal
14 Program.

15 (b) REPORT TO CONGRESS.—Not later than 2 years
16 after of the date of the enactment of this Act, the Sec-
17 retary shall submit a report to Congress on the partici-
18 pation of the States in the Institutional Removal Program.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated \$50,000,000 to carry
21 out the expanded Institutional Removal Program author-
22 ized under subsection (a).

1 **SEC. 502. AUTHORIZATION FOR DETENTION AFTER COM-**
2 **PLETION OF STATE OR LOCAL PRISON SEN-**
3 **TENCE.**

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

7 (1) hold an illegal alien for a period of up to
8 14 days after the alien has completed the alien’s
9 State or local prison sentence in order to effectuate
10 the transfer of the alien to Federal custody when the
11 alien is removable or not lawfully present in the
12 United States; or

13 (2) issue a detainer that would allow aliens who
14 have served a State or local prison sentence to be
15 detained by an appropriate prison until personnel
16 from the Bureau of Immigration and Customs En-
17 forcement can take the alien into Federal custody.

18 (b) **REIMBURSEMENT.**—

19 (1) **IN GENERAL.**—The Secretary shall reim-
20 burse a State or a political subdivision of a State for
21 all reasonable expenses incurred by the State or the
22 political subdivision for the detention of an alien as
23 described in subsection (a).

24 (2) **COST COMPUTATION.**—The amount of reim-
25 bursement provided for costs incurred carrying out

1 subsection (a) shall be determined pursuant to a for-
2 mula determined by the Secretary.

3 (c) TECHNOLOGY USAGE.—Technology such as
4 videoconferencing shall be used to the maximum extent
5 possible in order to make the Institutional Removal Pro-
6 gram available in remote locations. Mobile access to Fed-
7 eral databases of aliens and live scan technology shall be
8 used to the maximum extent practicable in order to make
9 these resources available to State and local law enforce-
10 ment agencies in remote locations.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be
13 necessary to reimburse a State or political subdivision of
14 a State for the detention of an illegal alien pursuant to
15 subsection (b).

16 **SEC. 503. USE OF THE NATIONAL CRIME INFORMATION**
17 **CENTER DATABASE TO TRACK VIOLATIONS**
18 **OF IMMIGRATION LAW.**

19 (a) PROVISION OF INFORMATION TO THE NATIONAL
20 CRIME INFORMATION CENTER.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Secretary
23 shall provide the National Crime Information Center
24 of the Department of Justice with such information
25 as the Director may have related to—

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

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

7 (C) any alien whose visa has been revoked.

8 (2) REQUIREMENT TO PROVIDE AND USE IN-
9 FORMATION.—The information described in para-
10 graph (1) shall be provided to the National Crime
11 Information Center, and the Center shall enter the
12 information into the Immigration Violators File of
13 the National Crime Information Center database if
14 the name and date of birth are available for the indi-
15 vidual, regardless of whether the alien received no-
16 tice of a final order of removal or the alien has al-
17 ready been removed.

18 (3) REMOVAL OF INFORMATION.—Should an in-
19 dividual be granted cancellation of removal under
20 section 240A of the Immigration and Nationality
21 Act (8 U.S.C. 1229b), or granted permission to le-
22 gally enter the United States pursuant to the Immi-
23 gration and Nationality Act after a voluntary depar-
24 ture under section 240B of the Immigration and
25 Nationality Act (8 U.S.C. 1229c), information en-

1 tered into the National Crime Information Center in
2 accordance with paragraph (1) of this section shall
3 be promptly removed.

4 (b) INCLUSION OF INFORMATION IN THE NATIONAL
5 CRIME INFORMATION CENTER DATABASE.—Section
6 534(a) of title 28, United States Code, is amended—

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

9 (2) by redesignating paragraph (4) as para-
10 graph (5); and

11 (3) by inserting after paragraph (3) the fol-
12 lowing new paragraph:

13 “(4) acquire, collect, classify, and preserve
14 records of violations of the immigration laws of the
15 United States, regardless of whether the alien has
16 received notice of the violation or the alien has al-
17 ready been removed; and”.

18 **TITLE VI—BORDER SECURITY** 19 **CERTIFICATION**

20 **SEC. 601. BORDER SECURITY CERTIFICATION.**

21 Any program authorized by this Act, or by any
22 amendment made by this Act, which grants legal status
23 to any individual, or adjusts the current status of any indi-
24 vidual, who enters or entered the United States in viola-
25 tion of Federal law shall be effective on the date that the

1 Secretary submits a written certification to the President
2 and Congress that the border security measures author-
3 ized under title I and the increases in Federal detention
4 space authorized under section 233 have been fully com-
5 pleted and are fully operational.

○