111TH CONGRESS  
1ST SESSION  
H. R. 3308

To provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical employer verification program.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2009

Mr. SHULER (for himself, Mr. ALTMIRE, Mr. ARCURI, Mr. BARROW, Ms. BEAN, Mr. BISHOP of Georgia, Mr. BOUCHER, Mr. DAVIS of Alabama, Mr. GORDON of Tennessee, Mr. HILL, Mr. KAGEN, Mr. KAJORSKI, Mr. MARSHALL, Mr. McINTYRE, Mr. MELANCON, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. SPACE, Mr. STUPAK, Mr. TAYLOR, Mr. VISCOLOSKY, Mr. CHILDERS, Mr. BOYD, Mr. NYE, Mr. KISSELL, Mr. KRATOVIL, Mr. GRIFFITH, Mr. BRIGHT, Mr. MINNICK, Mr. DONNELLY of Indiana, Mr. ROSS, Mr. ELLSWORTH, Mr. RODRIGUEZ, Mr. CARNEY, Mr. BARRETT of South Carolina, Mr. BOOZMAN, Mr. BRADY of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. BURTON of Indiana, Mr. BUYER, Mr. CAMPBELL, Mr. COBLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. DUNCAN, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. KING of Iowa, Mr. LINDER, Mr. McCaul, Mr. GARY G. MILLER of California, Mrs. MYRICK, Mr. POE of Texas, Mr. ROHRABACHER, Mr. ROSKAM, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. ROE of Tennessee, Mr. MCCLINTOCK, Mr. CULBERSON, Mr. OLSON, Mr. WHITFIELD, Mr. TIAHRT, Mr. LAMBORN, Mr. HUNTER, Mr. BILBRAY, Mr. McHENRY, Mr. ROYCE, Mr. GALLEGLY, Mr. DAVIS of Kentucky, Mr. GOODLATTE, Mr. GRAVES, Mr. MANZULLO, Mr. LUETKEMEYER, Mrs. CAPITO, Mr. MORAN of Kansas, and Mr. DEAL of Georgia) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, Ways and Means, Education and Labor, Oversight and Government Reform, Armed Services, Agriculture, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
A BILL

To provide immigration reform by securing America’s borders, clarifying and enforcing existing laws, and enabling a practical employer verification program.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secure America Through Verification and Enforcement Act of 2009” or as the “SAVE Act of 2009”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SECURING AMERICA’S INTERNATIONAL BORDERS

Subtitle A—Manpower, Technology, and Infrastructure Improvements

Sec. 101. Manpower.
Sec. 102. Technology.
Sec. 103. Infrastructure.
Sec. 104. Aerial vehicles and surveillance systems.

Subtitle B—Strategies and Progress Reports for Securing America’s Borders

Sec. 111. National strategy to secure the borders.
Sec. 112. Accountable financing of a secure border initiative.

Subtitle C—Rapid Response Measures

Sec. 121. Deployment of border patrol agents.
Sec. 122. Border patrol major assets.
Sec. 123. Electronic equipment.
Sec. 124. Personal equipment.
Sec. 125. Authorization of appropriations.

Subtitle D—Border Infrastructure and Technology Modernization

Sec. 131. Definitions.
Sec. 132. Expansion of commerce security programs.

Subtitle E—Other Border Security Initiatives

Sec. 141. Alien smuggling and terrorism prevention.
Sec. 142. Border security on certain Federal land.

TITLE II—ENDING UNLAWFUL EMPLOYMENT

Subtitle A—Employee Verification

Sec. 201. Mandatory employment authorization verification.
Sec. 203. Mandatory notification of SSN mismatches and multiple uses.
Sec. 204. Establishment of electronic birth and death registration systems.
Sec. 205. Penalty for failure to file correct information returns.
Sec. 206. Authorization of appropriations.

Subtitle B—Nondeductibility of Wages Paid to Unauthorized Aliens

Sec. 211. Clarification that wages paid to unauthorized aliens may not be deducted from gross income.

TITLE III—ENHANCING AND UTILIZING CURRENT INTERIOR ENFORCEMENT METHODS

Sec. 301. Increase investigative efforts.
Sec. 302. Increased oversight of agents.
Sec. 303. Border relief grant program.
Sec. 304. Authorization of Appropriations.
Sec. 305. Regulations.
Sec. 306. Rewards program.
Sec. 307. Increased detention facilities for aliens apprehended for illegal entry.
Sec. 308. Additional Immigration judgeships and law clerks.
Sec. 309. Media campaign.

1 TITLE I—SECURING AMERICA’S INTERNATIONAL BORDERS

Subtitle A—Manpower, Technology, and Infrastructure Improvements

SEC. 101. MANPOWER.

(a) Border Patrol Agents.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended to read as follows:
“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

“(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty Border Patrol agents within the Department of Homeland Security (above the number of positions for which funds were appropriated for the preceding fiscal year), by—

“(1) 2,000 in fiscal year 2010;
“(2) 1,500 in fiscal year 2011;
“(3) 1,000 in fiscal year 2012;
“(4) 1,000 in fiscal year 2013; and
“(5) 500 in fiscal year 2014.

“(b) ALLOCATIONS.—Of the Border Patrol agents hired under subsection (a), 80 percent shall be deployed along the southern border of the United States and 20 percent shall be deployed along the northern border of the United States.

“(c) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated for each of fiscal years 2010 through 2014 to carry out this section.”.

(b) INVESTIGATIVE PERSONNEL.—

(1) ADDITIONAL INVESTIGATIVE PERSONNEL FOR ALIEN SMUGGLING.—In addition to the posi-
tions authorized under section 5203 of the Intel-
ligence Reform and Terrorism Prevention Act of
2004, as amended by paragraph (1), during each of
the fiscal years 2010 through 2014, the Secretary
shall, subject to the availability of appropriations, in-
crease by not less than 350 the number of positions
for personnel within the Department assigned to
specifically investigate alien smuggling.

(2) ADDITIONAL FUNDS AND PERSONNEL FOR
THE TUNNEL TASK FORCE.—Subject to appropria-
tions, the fiscal year 2010 budget of the Tunnel
Task Force, a joint force comprised of Immigration
and Customs Enforcement (ICE), Customs and Bor-
der Patrol (CBP), and Drug Enforcement Adminis-
tration (DEA) personnel tasked to pinpoint tunnels
that are utilized by drug lords and “coyotes” to
smuggle narcotics, illegal aliens, and weapons, shall
be increased by 50 percent above the fiscal year
2007 budget. Such increase shall be used to increase
personnel, improve communication and coordination
between participant agencies, upgrade technology,
and offer cash rewards and appropriate security to
individuals who provide the Tunnel Task Force with
accurate information on existing tunnels that breach
the international borders of the United States.
(3) Authorization of Appropriations.—

The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2010 through 2014 to carry out this section.

(c) Recruitment of Former Members of the Armed Forces and Members of Reserve Components of the Armed Forces.—

(1) Requirement for Program.—The Secretary, in conjunction with the Secretary of Defense, shall establish a program to actively recruit covered members (a member of a reserve component of the Armed Forces) or former members of the Armed Forces and National Guard to serve in United States Customs and Border Protection.

(2) Report on Recruitment Incentives.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Defense shall jointly submit to the “appropriate” committees of Congress a report that shall include an assessment of the desirability and feasibility of offering an incentive to a covered member or former member of the Armed Forces for the purpose of encouraging such member to serve in United States Customs and Border Patrol and Immigration and Customs Enforcement—
(A) the Secretary must provide a description of various monetary and non-monetary incentives considered for purposes of the report; and

(B) the Secretary must provide an assessment of the desirability and feasibility of utilizing any such incentive.

(3) RECOMMENDATIONS FOR RECRUITMENT INCENTIVES.—

(A) MAXIMUM STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A TWO-YEAR COMMITMENT.—

Section 5379(b) of title 5, United States Code, is amended by adding at the end the following:

“(4) In the case of an employee (otherwise eligible for benefits under this section) who is serving as a full-time active-duty United States Border Patrol agent within the Department of Homeland Security—

“(A) paragraph (2)(A) shall be applied by substituting ‘$20,000’ for ‘$10,000’; and

“(B) paragraph (2)(B) shall be applied by substituting ‘$80,000’ for ‘$60,000’.”.

(B) RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES FOR PER-
SONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall ensure that the authority to pay recruitment and relocation bonuses under section 5753 of title 5, United States Code, the authority to pay retention bonuses under section 5754 of such title, and any other similar authorities available under any other provision of law, rule, or regulation, are exercised to the fullest extent allowable in order to encourage service in the Department of Homeland Security.

(4) DEFINITION.—The term “appropriate committees of Congress” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 102. TECHNOLOGY.

(a) EQUIPMENT SHARING BETWEEN DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF DEFENSE.—The Secretaries of these two departments shall
develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

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

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the potential risks to citizens of the United States and key foreign policy interests associated with the use of such equipment;

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

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

(c) Secure Communication.—The secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

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

(2) between Border Patrol agents and their respective Border Patrol stations; and

(3) between all appropriate law enforcement agencies of the Department and State, local, and tribal law enforcement agencies.

(d) Other Technology Upgrades.—The Secretary shall purchase and implement new technology to secure the borders, including, but not limited to drones, infrared cameras, sensors, mobile lighting units, radar and infrared heat.

(e) Authorization of Appropriations.—The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2010 through 2014 to carry out this section.
SEC. 103. INFRASTRUCTURE.

(a) INFRASTRUCTURE IMPROVEMENTS.—Subject to the availability of appropriations, the Secretary shall construct or purchase—

(1) office facilities to accommodate additional border patrol manpower;

(2) sport utility vehicles for officers;

(3) all weather roads for better vehicle access and performance on remote and rugged terrain (road construction should be done in consultation with the owner of the land and take into account any environmental or other land-use issues that are relevant);

(4) additional fencing (and aesthetic fencing in business districts) in urban areas of the border; and

(5) vehicle barriers, to support, not replace, manpower, in rural and remote areas of the border necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2010 through 2014 to carry out this section.

SEC. 104. AERIAL VEHICLES AND SURVEILLANCE SYSTEMS.

(a) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date
on which the report is submitted under section 102(b), the
Secretary shall conduct a pilot program to test unmanned
aerial vehicles for border surveillance along the inter-
national border between Canada and the United States.

(b) UNMANNED AERIAL VEHICLES AND ASSOCIATED
INFRASTRUCTURE.—The Secretary shall acquire and
maintain unmanned aerial vehicles and related equipment
for use to patrol the international borders of the United
States, including equipment such as—

(1) additional sensors;
(2) satellite command and control; and
(3) other necessary equipment for operational
support.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be
appropriated to the Secretary for each of the fiscal
years 2010 and 2011 such sums as may be nec-
essary to carry out subsection (b).

(2) AVAILABILITY OF FUNDS.—Amounts appro-
riated pursuant to the authorization of approipa-
tions in paragraph (1) are authorized to remain
available until expended.

(d) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the bor-
der surveillance plan developed under section 5201
of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each border.

(2) Assessment and consultation requirements.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which
the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to carry out this subsection.

(e) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, drones, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, that—
(A) the technologies utilized in the Integrated and Automated Surveillance Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras in a manner where a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras is able to be viewed at multiple designated communications centers;

(E) a standard process is used to collect and record, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the program is providing desired results and increasing response effectiveness in monitoring and detect-
ing illegal intrusions along the international
borders of the United States;

(H) plans are developed under the program
to streamline site selection and site validation
processes to minimize delays of installing sur-
veillance technology infrastructure;

(I) standards are developed under the pro-
gram to expand the shared use of existing pri-
ivate and governmental structures to install re-
move surveillance technology infrastructure
where possible;

(J) standards are developed under the pro-
gram to identify and deploy the use of non-
permanent or mobile surveillance platforms that
will increase the Secretary’s mobility and ability
to identify illegal border intrusions; and

(K) Border Patrol agents respond to each
reported intrusion that appears to involve aliens
or smugglers.

(3) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The
Secretary shall develop appropriate standards
to evaluate the performance of any contractor
providing goods or services to carry out the In-
tegrated and Automated Surveillance Program.
(B) Review by the comptroller general of the United States.—

(i) In general.—The Comptroller General of the United States shall review each new contract related to the Program and should report to Congress regarding contracts with a value of more than $5,000,000 in a timely manner, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules.

(ii) Reports.—The Comptroller General of the United States shall report the findings of each review carried out under clause (i) to the Secretary in a timely manner.

(4) Authorization of appropriations.—The necessary funds are authorized to be appropriated to carry out this subsection.
Subtitle B—Strategies and Progress Reports for Securing America’s Borders

SEC. 111. NATIONAL STRATEGY TO SECURE THE BORDERS.

(a) Requirement for National Strategy.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a national strategy to secure the borders that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States by December 31, 2013.

(b) Content.—The national strategy to secure the borders shall include the following:

(1) An assessment of the threats posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(2) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, nar-
otics, and other contraband into the United States; and

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

(3) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(4) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(5) A description of the border security roles and missions of Federal Government, State government, local government, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.
(6) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, refugees and other vulnerable populations, as well as the effects on Americans living in the border region and local, State, and Federal law enforcement officers working in the border region.

(7) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(8) A description of ways to ensure that the free flow of lawful travel and commerce is not unreasonably diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(9) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.
(10) A description of the performance metrics
to be used to ensure accountability by the bureaus
of the Department in implementing such strategy.

(11) A schedule for the implementation of the
security measures described in said strategy, includ-
ing a prioritization of security measures, realistic
deadlines for addressing the security and enforce-
ment needs, an estimate of the resources needed to
carry out such measures, and a description of how
such resources should be allocated.

(c) CONSULTATION.—In developing the national
strategy for border security, the Secretary shall consult
with representatives of—

(1) State, local, and tribal governmental au-
thorities with responsibility for locations along the
international land and maritime borders of the
United States; and

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

(d) COORDINATION.—The national strategy for bor-
der security shall be consistent with the National Strategy
for Maritime Security developed pursuant to Homeland

(c) Submission to Congress.—

(1) Strategy.—Not later than December 31, 2010, the Secretary shall submit to Congress the national strategy for border security.

(2) Updates.—The Secretary shall submit to Congress any update of such strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) Immediate Action.—Nothing in this section may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 112. ACCOUNTABLE FINANCING OF A SECURE BORDER INITIATIVE.

(a) Comptroller General of the United States.—

(1) Action.—If the Comptroller General of the United States becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under the Secure Border Initiative, the Comptroller General of the United States shall,
as expeditiously as practicable, refer information re-
ling to such improper conduct or wrongdoing to
Congress and to the Secretary of Homeland Secu-
ity, or to another appropriate official of the Depart-
ment of Homeland Security, who shall determine
whether to temporarily suspend the contractor from
further participation in the Secure Border Initiative
or make said contract null and void.

(2) REPORT.—Upon the completion of each re-
view described in paragraph (1), the Comptroller
General of the United States shall submit to Con-
gress and to the Secretary a report containing the
findings of the review, including findings regard-
ing—

(A) cost overruns;

(B) significant delays in contract execu-
tion;

(C) lack of rigorous departmental contract
management;

(D) insufficient departmental financial
oversight;

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

(F) other high-risk business practices.

(b) REPORTS BY THE SECRETARY.—
(1) IN GENERAL.—Not later than 30 days after
the receipt of each report required under subsection
(a)(2), the Secretary shall submit a report to the
Committee on the Judiciary and the Committee on
Homeland Security of the House of Representatives
and the Committee on the Judiciary and the Com-
mittee on Homeland Security and Governmental Af-
fairs of the Senate, that describes the steps the Sec-
retary has taken, or plans to take, to address the
problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—
Not later than 60 days after the initiation of each
contract action with a company whose headquarters
are not based in the United States, the Secretary
shall submit a report to the Committee on the Judi-
ciary of the Senate and the Committee on the Judi-
ciary of the House of Representatives, regarding the
Secure Border Initiative.

c) REPORTS ON UNITED STATES PORTS.—Not later
that 60 days after receiving information regarding a pro-
posed purchase of a contract to manage the operations of
a United States port by a foreign entity, the Secretary
of Homeland Security shall submit a report to Congress
that describes—

(1) the proposed purchase;
(2) any security concerns related to the proposed purchase; and

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

Subtitle C—Rapid Response Measures

SEC. 121. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) Emergency Deployment of Border Patrol Agents.—

(1) In general.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional agents of the Border Patrol (referred to in this subtitle as “agents”) from the Secretary, the Secretary, subject to paragraphs (2) and (3), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) Consultation.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will
not significantly impair the Department’s ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations under current law.

(b) FLEXIBLE DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

SEC. 122. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF DEPARTMENT OF HOMELAND SECURITY ASSETS.—The Department of Homeland Security shall have exclusive administrative and operational control over all the assets utilized in carrying out its mission, including aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) HELICOPTERS AND POWER BOATS.—

(1) HELICOPTERS.—The Secretary shall increase the number of helicopters under the control of the Border Patrol and Immigration and Customs Enforcement (ICE). The Secretary shall ensure that
appropriate types and quantities of helicopters are
procured for the various missions being performed.

(2) POWER BOATS.—The Secretary shall in-
crease the number of power boats under the control
of the Border Patrol. The Secretary shall ensure
that the types of power boats that are procured are
appropriate for both the waterways in which they
are used and the mission requirements.

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

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

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

(e) MOTOR VEHICLES.—

(1) QUANTITY.—The Secretary shall establish a
fleet of motor vehicles appropriate for use by the
Border Patrol that will permit a ratio of not less
than 1 police-type vehicle for every 4 agents with
safety glass and other protections. The Secretary
shall ensure that there are sufficient numbers and
types of other motor vehicles to support the mission
of the Border Patrol.
(2) FEATURES.—All motor vehicles purchased for the Border Patrol shall—

(A) be appropriate for the mission of the Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

SEC. 123. ELECTRONIC EQUIPMENT.

(a) PORTABLE COMPUTERS.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the Border Patrol.

(b) RADIO EQUIPMENT.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel, including Immigration and Customs Enforcement, working in each area where Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.
(c) **Handheld Global Positioning System Devices.**—The Secretary shall ensure that Border Patrol agents are issued a state-of-the-art handheld global positioning system device for navigational purposes.

(d) **Night Vision Equipment.**—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

**SEC. 124. PERSONAL EQUIPMENT.**

(a) **Body Armor.**—The Secretary shall ensure that every agent on duty is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Enough body armor must be purchased to cover every agent in the field.

(b) **Weapons.**—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face, and that all agents receive appropriate training in the use of such weapons.
(c) **UNIFORMS.**—The Secretary shall ensure that all
agents are provided with all necessary uniform items, in-
cluding outerwear suited to the climate, footwear, belts,
holsters, and personal protective equipment, at no cost to
such agents. Such items shall be replaced at no cost to
such agents as such items become worn or unserviceable
or no longer fit properly.

**SEC. 125. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Sec-
retary such sums as may be necessary for each of the fis-
cal years 2010 through 2014 to carry out this subtitle.

**Subtitle D—Border Infrastructure and Technology Modernization**

**SEC. 131. DEFINITIONS.**

In this subtitle:

1. **COMMISSIONER.**—The term “Commissioner” means the Commissioner of United States
   Customs and Border Protection.

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

3. **SOUTHERN BORDER.**—The term “southern border” means the international border between the
   United States and Mexico.

**HR 3308 IH**
SEC. 132. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) Customs-Trade Partnership Against Terrorism.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the programs of the Customs-Trade Partnership Against Terrorism established pursuant to section 211 of the SAFE Port Act (6 U.S.C. 961), including adding additional personnel for such programs, along the northern border and southern border, including the following programs:

(A) The Business Anti-Smuggling Coalition.

(B) The Carrier Initiative Program.

(C) The Americas Counter Smuggling Initiative.

(D) The Container Security Initiative established pursuant to section 205 of the SAFE Port Act (6 U.S.C. 945).

(E) The Free and Secure Trade Initiative.

(F) Other industry partnership programs administered by the Commissioner.
(b) Demonstration Program.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

Subtitle E—Other Border Security Initiatives

SEC. 141. ALIEN SMUGGLING AND TERRORISM PREVENTION.

(a) Checks Against Terrorist Watchlist.—The Secretary of Homeland Security shall, to the extent practicable, check against all available terrorist watchlists those persons suspected of alien smuggling and smuggled individuals who are interdicted at the land, air, and sea borders of the United States.

(b) Strengthening Prosecution and Punishment of Alien Smugglers.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

1. by amending the subsection heading to read as follows: “Bringing In, Harboring, and Smuggling of Unlawful and Terrorist Aliens.”;

2. by amending paragraphs (1) through (2) to read as follows:
“(1)(A) Whoever, knowing or in reckless disregard of
the fact that an individual is an alien who lacks lawful
authority to come to, enter, or reside in the United States,
knowingly—

“(i) brings that individual to the United States
in any manner whatsoever regardless of any future
official action which may be taken with respect to
such individual;

“(ii) recruits, encourages, or induces that indi-
vidual to come to, enter, or reside in the United
States;

“(iii) transports or moves that individual in the
United States, in furtherance of their unlawful pres-
ence; or

“(iv) harbors, conceals, or shields from detec-
tion the individual in any place in the United States,
including any building or any means of transpor-
tation;

or attempts or conspires to do so, shall be punished as
provided in subparagraph (C).

“(B) Whoever, knowing that an individual is an alien,
brings that individual to the United States in any manner
whatsoever at a place, other than a designated port of
entry or place designated by the Secretary of Homeland
Security, regardless of whether such individual has re-
ceived prior official authorization to come to, enter, or re-
side in the United States and regardless of any future offi-
cial action which may be taken with respect to such indi-
vidual, or attempts or conspires to do so, shall be punished
as provided in subparagraph (C).

“(C) Whoever commits an offense under this para-
graph shall, for each individual in respect to whom such
a violation occurs—

“(i) if the offense results in the death of any
person, be fined under title 18, United States Code,
and subject to the penalty of death or imprisonment
for any term of years or for life;

“(ii) if the offense involves kidnapping, an at-
tempt to kidnap, the conduct required for aggra-
vated sexual abuse (as defined in section 2241 of
title 18, United States Code, without regard to
where it takes place), or an attempt to commit such
abuse, or an attempt to kill, be fined under title 18,
United States Code, or imprisoned for any term of
years or life, or both;

“(iii) if the offense involves an individual who
the defendant knew was engaged in or intended to
engage in terrorist activity (as defined in section
212(a)(3)(B)), be fined under title 18, United States
Code, or imprisoned not more than 30 years, or both;

“(iv) if the offense results in serious bodily injury (as defined in section 1365 of title 18, United States Code) or places in jeopardy the life of any person, be fined under title 18, United States Code, or imprisoned not more than 20 years, or both;

“(v) if the offense is a violation of paragraph (1)(A)(i) and was committed for the purpose of profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual unlawfully brought into the United States will commit an offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under title 18, United States Code, and imprisoned, in the case of a first or second violation, not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years;

“(vi) if the offense is a violation of paragraphs (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and was committed for the purpose of profit, commercial advantage, or private financial gain, be fined under
title 18, United States Code, or imprisoned not more than 10 years, or both;

“(vii) if the offense involves the transit of the defendant’s spouse, child, sibling, parent, grandparent, or niece or nephew, and the offense is not described in any of clauses (i) through (vi), be fined under title 18, United States Code, or imprisoned not more than 1 year, or both; and

“(viii) in any other case, be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

“(2)(A) There is extraterritorial jurisdiction over the offenses described in paragraph (1).

“(B) In a prosecution for a violation of, or an attempt or conspiracy to violate, subsection (a)(1)(A)(i), (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas, no defense based on necessity can be raised unless the defendant—

“(i) as soon as practicable, reported to the Coast Guard the circumstances of the necessity, and if a rescue is claimed, the name, description, registry number, and location of the vessel engaging in the rescue; and

“(ii) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien
into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement set forth in clause (i) is satisfied by notifying the Coast Guard as soon as practicable after delivering the alien to emergency medical or law enforcement personnel ashore.

“(C) It is not a violation of, or an attempt or conspiracy to violate, clause (iii) or (iv) of paragraph (1)(A), or paragraph (1)(A)(ii) (except if a person recruits, encourages, or induces an alien to come to or enter the United States), for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officer of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.
“(D) For purposes of this paragraph and paragraph
(1)—

“(i) the term ‘United States’ means the several
States, the District of Columbia, the Commonwealth
of Puerto Rico, Guam, American Samoa, the United
States Virgin Islands, the Commonwealth of the
Northern Mariana Islands, and any other territory
or possession of the United States; and

“(ii) the term ‘lawful authority’ means permis-
sion, authorization, or waiver that is expressly pro-
vided for in the immigration laws of the United
States or the regulations prescribed under those
laws and does not include any such authority se-
cured by fraud or otherwise obtained in violation of
law or authority that has been sought but not ap-
proved.”.

(c) MARITIME LAW ENFORCEMENT.—

(1) PENALTIES.—Subsection (b) of section
2237 of title 18, United States Code, is amended to
read as follows:

“(b) Whoever intentionally violates this section
shall—

“(1) if the offense results in death or involves
kidnapping, an attempt to kidnap, the conduct re-
quired for aggravated sexual abuse (as defined in
section 2241 without regard to where it takes place),
or an attempt to commit such abuse, or an attempt
to kill, be fined under such title or imprisoned for
any term of years or life, or both;

“(2) if the offense results in serious bodily in-
jury (as defined in section 1365 of this title) or
transportation under inhumane conditions, be fined
under this title, imprisoned not more than 15 years,
or both;

“(3) if the offense is committed in the course
of a violation of section 274 of the Immigration and
Nationality Act (alien smuggling); chapter 77 (peon-
age, slavery, and trafficking in persons), section 111
(shipping), 111A (interference with vessels), 113
(stolen property), or 117 (transportation for illegal
sexual activity) of this title; chapter 705 (maritime
drug law enforcement) of title 46, or title II of the
Act of June 15, 1917 (chapter 30; 40 Stat. 220), be
fined under this title or imprisoned for not more
than 10 years, or both; and

“(4) in any other case, be fined under this title
or imprisoned for not more than 5 years, or both.”.

(2) LIMITATION ON NECESSITY DEFENSE.—
Section 2237(c) of title 18, United States Code, is
amended—
(A) by inserting “(1)” after “(c)”;

(B) by adding at the end the following:

“(2) In a prosecution for a violation of this section, no defense based on necessity can be raised unless the defendant—

“(A) as soon as practicable upon reaching shore, delivered the person with respect to which the necessity arose to emergency medical or law enforcement personnel;

“(B) as soon as practicable, reported to the Coast Guard the circumstances of the necessity resulting giving rise to the defense; and

“(C) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien, as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement of subparagraph (B) is satisfied by notifying the Coast Guard as soon as practicable after delivering that person to emergency medical or law enforcement personnel ashore.”.
(3) DEFINITION.—Section 2237(e) of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following:

“(5) the term ‘transportation under inhumane conditions’ means the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.”.

(d) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.
(2) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission, shall—

(A) consider providing sentencing enhancements or stiffening existing enhancements for those convicted of offenses described in subsection (a) that—

(i) involve a pattern of continued and flagrant violations;

(ii) are part of an ongoing commercial organization or enterprise;

(iii) involve aliens who were transported in groups of 10 or more;

(iv) involve the transportation or abandonment of aliens in a manner that endangered their lives; or

(v) involve the facilitation of terrorist activity; and

(B) consider cross-references to the guidelines for Criminal Sexual Abuse and Attempted Murder.

(3) EXPEDITED PROCEDURES.—The Commission may promulgate the guidelines or amendments under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Act of
1987, as though the authority under that Act had
not expired.

SEC. 142. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term “protected
land” means land under the jurisdiction of the Sec-
retary concerned.

(2) SECRETARY CONCERNED.—The term “Sec-
retary concerned” means—

(A) with respect to land under the jurisdic-
tion of the Secretary of Agriculture, the Sec-
retary of Agriculture; and

(B) with respect to land under the jurisdic-
tion of the Secretary of the Interior, the Sec-
retary of the Interior.

(b) BORDER PROTECTION STRATEGY.—The Sec-
retary, the Secretary of the Interior, and the Secretary
of Agriculture shall jointly develop a border protection
strategy that supports the border security needs of the
United States in the manner that best protects—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United
States Fish and Wildlife Service and Bureau of
Land Management; and
(4) other relevant land under the jurisdiction of
the Secretary of the Interior or the Secretary of Ag-
riculture.

(e) ADDITIONAL UNIFORMED LAW ENFORCEMENT
OFFICERS AND SPECIAL AGENTS OF THE DEPARTMENT
OF THE INTERIOR.—There are authorized to be appro-
priated to the Secretary of the Interior for employment
of uniformed law enforcement officers and special agents,
in addition to the number of such officers and agents em-
ployed immediately before the enactment of this Act, such
sums as may be necessary for—

(1) 22 such officers of the United States Fish
and Wildlife Service, including—

   (A) 4 for California;

   (B) 9 for Arizona;

   (C) 2 for New Mexico; and

   (D) 7 for Texas;

(2) 2 such agents of the United States Fish
and Wildlife Service, for Texas;

(3) 22 such officers of the National Park Serv-
ice, including—

   (A) 13 for Arizona; and

   (B) 9 for Texas;

(4) 2 such agents of the National Park Service,
for Texas;
(5) 19 such officers of the Bureau of Land Management, including—

(A) 5 for California;
(B) 4 for Arizona;
(C) 4 for New Mexico; and
(D) 6 for Texas;

(6) 2 such agents of the Bureau of Land Management, including—

(A) 1 for California;
(B) 2 for Arizona; and
(C) 1 for New Mexico; and

(7) one such agent of the Bureau of Indian Affairs, for Texas.

(d) Additional Special Assistant United States Attorney.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to increase by 1 the number of special assistant United States attorneys in the district of Arizona dedicated to prosecution of cases generated by the Secretary of Interior, in addition to the number of such attorneys appointed immediately before the enactment of this Act.
TITLE II—ENDING UNLAWFUL
EMPLOYMENT

Subtitle A—Employee Verification

SEC. 201. MANDATORY EMPLOYMENT AUTHORIZATION

VERIFICATION.

(a) Making Basic Pilot Program Permanent.—
Section 401(b) of the Illegal Immigration Reform and Im-
is amended by adding before the period at the end of the
last sentence the following “, except that the basic pilot
program described in section 403(a) shall be a permanent
program”.

(b) Mandatory Use of E-Verify System.—

(1) In general.—Subject to paragraphs (2)
and (3), every person or other entity that hires one
or more individuals for employment in the United
States shall verify through the E-Verify program, es-
established as the basic pilot program by section
403(a) of the Illegal Immigration Reform and Immi-
grant Responsibility Act of 1996 (division C of Pub-
lic Law 104–208; 8 U.S.C. 1324a note), that each
such individual is authorized to work in the United
States. The Secretary of Homeland Security shall
ensure that verification by means of a toll-free tele-
phone line is an available option in complying with the preceding sentence.

(2) Select entities required to use e-verify program immediately.—The following entities must satisfy the requirement in paragraph (1) by not later than one year after the date of the enactment of this Act:

(A) Federal agencies.—Each department and agency of the Federal Government.

(B) Federal contractors.—A contractor that—

(i) has entered into a contract with the Federal Government to which section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) applies, and any subcontractor under such contract; or

(ii) has entered into a contract exempted from the application of such Act by section 6 of such Act (41 U.S.C. 356), and any subcontractor under such contract.

(C) Large employers.—An employer that employs more than 250 individuals in the United States.

(3) Phasing-in for other employers.—
(A) Two years for employers of 100 or more.—Entities that employ 100 or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than two years after the date of the enactment of this Act.

(B) Three years for employers with 30 or more employees.—All entities that employ 30 or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than three years after the date of the enactment of this Act.

(C) Four years for all employers.—All entities that employ one or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than four years after the date of the enactment of this Act.

(4) Verifying employment authorization of current employees.—Every person or other entity that employs one or more persons in the United States shall verify through the E-Verify program by not later than four years after the date of the enactment of this Act that each employee is authorized to work in the United States.
(5) Defense.—In accordance with section 274A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(3)), a person or entity that establishes that it has complied in good faith with the requirements of section 274A(b) of such Act with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated section 274A(a)(1)(A) of such Act with respect to such hiring, recruiting or referral. Furthermore an employer who has complied with the requirements in paragraphs (1) and (4) of this Act shall not be liable for hiring an unauthorized alien, if—

(A) such hiring occurred due to an error in the E-Verify program that was unknown to the employer at the time of such hiring; and

(B) the employer terminates the employment of the alien upon being informed of the error.

(6) Sanctions for Noncompliance.—The failure of an employer to comply with the requirements in paragraphs (1) or (4) shall—

(A) be treated as a violation of section 274A(a)(1)(B) with respect to each offense; and
(B) create a rebuttable presumption that the employer has violated section 274A(a)(1)(A).

(7) VOLUNTARY PARTICIPATION OF EMPLOYERS NOT IMMEDIATELY SUBJECT TO REQUIREMENT. — Nothing in this subsection shall be construed as preventing a person or other entity that is not immediately subject to the requirement of paragraph (1) pursuant to paragraph (2) or (3) from voluntarily using the E-Verify program to verify the employment authorization of new hires or current employees.

(8) STATE INTERFERENCE. — No State may prohibit a person or other entity from using the E-verify program to verify the employment authorization of new hires or current employees.

(9) E-VERIFY STUDY. —

(A) FINDINGS. — The Congress finds as follows:

(i) A majority of the 0.4 percent of tentative non-confirmations that are issued within E-Verify to work authorized individuals occur due to incorrect or outdated information in the databases utilized by the system. For instance, an individual may
have changed his or her name legally but
has not updated their Social Security in-
formation to account for this change. This
person would likely receive a tentative non-
confirmation if their work eligibility were
checked using E-Verify.

(ii) E-Verify already provides employ-
ers and employees with simple and clear
instructions on how inconsistencies in data
can be corrected in order to verify the
work eligibility of an employee. However,
giving an individual the ability to verify his
or her own employment eligibility in ad-
advance of an official E-Verify query by an
employer would allow that individual to
correct data errors at his or her conven-
ience. This may also serve to lessen peak
demand on Social Security Administration
field offices.

(B) STUDY.—The Government Account-
ability Office shall conduct a study to examine
the potential of a secure method of allowing in-
dividuals to check their own work eligibility, so
that they can address inconsistencies in their
personal data that might otherwise cause them
to be issued a tentative non-confirmation by E-
Verify. The study shall be published within 6
months after the date of enactment of this Act.

(10) DOCUMENT FRAUD STUDY.—The Govern-
ment Accountability Office shall conduct a study to
examine methods to combat document fraud, theft
and forgery in the use and expansion of the E-Verify
program. The report shall make recommendations to
the appropriate agencies on ways to reduce instances
of document fraud, theft and forgery. The report
shall be published within six months after enactment
of this Act.

SEC. 202. MONITORING AND COMPLIANCE.

(a) ENHANCING MONITORING AND COMPLIANCE OF
E-VERIFY.—The Secretary of the Department of Home-
land Security is authorized take the following actions to
increase the capability and effectiveness of the E-Verify
employer Monitoring and Compliance team within Citizen-
ship and Immigration Services:

(1) Increase by no more than 6 the number of
fulltime employees dedicated to the development of
thresholds and algorithms and quality assurance
procedures for the monitoring of employer adherence
to the conditions that are currently outlined in the
E-Verify Memorandum of Understanding.
(2) Increase as necessary the number of fulltime employees dedicated to outreach to employers using E-Verify and the creation of informational tools and corrective action procedures that will provide compliance assistance to these employers. These employees may also be utilized in the operation of the toll free compliance assistance call center.

(3) Establish procedures for the identification of cases of potential fraud or misuse of E-Verify.

(4) Establish procedures for the sharing of information on these selected cases with Immigration and Customs Enforcement for further investigation as necessary.

(5) Report to Congress within one year of the date of enactment of this Act on the activities of the Office of Monitoring and Compliance which shall include—

(A) a description of the types of fraud and misuse being detected by the thresholds and algorithms used for employee monitoring within the Office;

(B) the number and type of cases flagged by the Office and referred to Immigration and Customs Enforcement, as well as the outcome of these cases; and
(C) an assessment of the number and the nature of calls received by the compliance assistance call center.

SEC. 203. MANDATORY NOTIFICATION OF SSN MISMATCHES AND MULTIPLE USES.

(a) Notification of Multiple Uses of Individual Social Security Numbers.—Prior to crediting any individual with concurrent earnings from more than one employer, the Commissioner of Social Security shall notify the individual that earnings from two or more employers are being reported under the individual’s Social Security account number (SSN). Such notice shall include, at a minimum—

(1) the name and location of each employer reporting benefits for an individual;

(2) a warning that any inaccuracies in this information could indicate that the individual’s SSN is being fraudulently used by another individual;

(3) an explanation of any potential risk that an individual is subject to if his or her SSN has been used or is being used by someone else; and

(4) an SSA telephone number that an individual may call to report inaccuracies in the use of their SSN.
(b) INFORMATION SHARING WITH THE DEPARTMENT OF HOMELAND SECURITY.—

(1) Not later than 180 days following the date of enactment of this act, the Commissioner of Social Security shall promulgate regulations in accord with section 1306, title 42 (42 U.S.C. 1306), to require that information regarding all multiple use notifications that lead to the identification of an unauthorized user of a Social Security account number be shared with the Secretary of the Department of Homeland Security on a timely basis.

(2) Information to be shared with the Secretary shall include, at a minimum, the name and mailing address of all employees who are the subject of an unresolved mismatch notification or who are unauthorized users of another individual’s Social Security account number. The names and addresses of the employers of these employees must also be provided.

(3) The Secretary shall report to Congress annually the number of cases that the Commissioner of Social Security has shared with the Department of Homeland Security regarding unauthorized users of a Social Security number and the actions that have been taken to resolve these cases. The first report
shall be presented to Congress 1 year after the passage of this Act.

SEC. 204. ESTABLISHMENT OF ELECTRONIC BIRTH AND DEATH REGISTRATION SYSTEMS.

(a) In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall take the following actions:

(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.
(6) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.

(7) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the Social Security Administration, regarding births and deaths of United States citizens abroad.

(8) Not later than 3 years after the date of establishment of databases provided for under this section, require States to record and retain electronic records of pertinent identification information collected from requestors who are not the registrants.

(9) Not later than 6 months after the date of the enactment of this Act, submit to Congress a report on whether there is a need for Federal laws to address penalties for fraud and misuse of vital records and whether violations are sufficiently enforced.
SEC. 205. PENALTY FOR FAILURE TO FILE CORRECT INFORMATION RETURNS.

Section 6721 of the Internal Revenue Code of 1986 (26 U.S.C. 6721) is amended by adding at the end the following:

“(f) The Secretary shall assess the maximum allowable penalties on 100 percent of the employers designated in any tax year by the Social Security Administration as the most egregious noncompliant employers.

“(g) Notwithstanding any other provision in this section, in the case of a failure described in subsection (a)(2) with respect to any person employing an alien not authorized to be so employed, the penalty under this section shall be determined in accordance with the following table:

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<thead>
<tr>
<th>In the case of—</th>
<th>Not less than—</th>
<th>Not more than—</th>
</tr>
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<tbody>
<tr>
<td>The first offense</td>
<td>$2,500</td>
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<td>The second offense</td>
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</tr>
<tr>
<td>The third offense</td>
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<td>$40,000</td>
</tr>
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</table>

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be required to carry out this subtitle.
Subtitle B—Nondeductibility of Wages Paid to Unauthorized Aliens

SEC. 211. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.

(a) In General.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

“(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

“(A) In General.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

“(B) WAGES.—For the purposes of this paragraph, the term wages means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash.

“(C) Safe Harbor.—If a person or other entity is participating in the basic pilot program described in section 403 of the Illegal Immigra-
tion Reform and Immigrant Responsibility Act
of 1996 (8 U.S.C. 1324a note) and obtains con-
firmation of identity and employment eligibility
in compliance with the terms and conditions of
the program with respect to the hiring (or re-
cruitment or referral) of an employee, subpara-
graph (A) shall not apply with respect to wages
paid to such employee.”.

(b) Six-Year Limitation on Assessment and
Collection.—Subsection (c) of section 6501 of such
Code (relating to exceptions) is amended by adding at the
end the following new paragraph:

“(11) Deduction claimed for wages paid
to unauthorized aliens.—In the case of a return
of tax on which a deduction is shown in violation of
section 162(c)(4), any tax under chapter 1 may be
assessed, or a proceeding in court for the collection
of such tax may be begun without assessment, at
any time within 6 years after the return was filed.”.

c) Use of Documentation for Enforcement
Purposes.—Section 274A of the Immigration and Na-
tionality Act (8 U.S.C. 1324a) is amended—

(1) in subparagraph (b)(5), by inserting “, sec-
tion 162(c)(4) of the Internal Revenue Code of
1986,” after “enforcement of this Act”;

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(2) in subparagraph (d)(2)(F), by inserting “,
section 162(c)(4) of the Internal Revenue Code of
1986,” after “enforcement of this Act”; and
(3) in subparagraph (d)(2)(G), by inserting
“section 162(c)(4) of the Internal Revenue Code of
1986 or” after “or enforcement of”.
(d) AVAILABILITY OF INFORMATION.—
(1) IN GENERAL.—The Commissioner of Social
Security, the Secretary of the Department of Home-
land Security, and the Secretary of the Treasury,
shall jointly establish a program to share informa-
tion among such agencies that may or could lead to
the identification of unauthorized aliens (as defined
under section 274A(h)(3) of the Immigration and
Nationality Act), including any no-match letter, any
information in the earnings suspense file, and any
information in the investigation and enforcement of
section 162(c)(4) of the Internal Revenue Code of
1986.
(2) DISCLOSURE BY SECRETARY OF THE
TREASURY.—
(A) IN GENERAL.—Subsection (i) of sec-
tion 6103 of the Internal Revenue Code of 1986
is amended by adding at the end the following
new paragraph:
“(9) Payment of wages to unauthorized aliens.—Upon request from the Commissioner of the Social Security Administration or the Secretary of the Department of Homeland Security, the Secretary shall disclose to officers and employees of such Administration or Department—

“(A) taxpayer identity information of employers who paid wages with respect to which a deduction was not allowed by reason of section 162(c)(4), and

“(B) taxpayer identity information of individuals to whom such wages were paid, for purposes of carrying out any enforcement activities of such Administration or Department with respect to such employers or individuals.”.

(B) Recordkeeping.—Paragraph (4) of section 6103(p) of such Code is amended—

(i) by striking “(5), or (7)” in the matter preceding subparagraph (A) and inserting “(5), (7), or (9)”, and

(ii) by striking “(5) or (7)” in subparagraph (F)(ii) and inserting “(5), (7), or (9)”.

(c) EFFECTIVE DATE.—
(1) Except as provided in paragraph (2), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2007.

**TITLE III—ENHANCING AND UTILIZING CURRENT INTERIOR ENFORCEMENT METHODS**

**SEC. 301. INCREASE INVESTIGATIVE EFFORTS.**

(a) **FEDERAL AGENTS.**—An increase of personnel and resources will be needed to successfully enforce U.S. immigration laws and punish those who violate them. To this end, sufficient funds are authorized to be appropriated to employ 1,150 additional Immigration and Customs Enforcement Agents.

(b) **CRIMINAL ALIEN PROGRAM (CAP).**—An additional 140 CAP officers are authorized to identify and remove criminal aliens encountered in Federal, State, and local detention facilities.

(c) **STATE AND LOCAL LAW ENFORCEMENT SUPPORT.**—The Secretary of Homeland Security shall take necessary steps to allow for the training of a minimum of 250 State and local law enforcement officers in Federal
immigration law enforcement procedure. This would be an expansion of an already active and successful program.

SEC. 302. INCREASED OVERSIGHT OF AGENTS.

To ensure the ability of Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) to enforce integrity and ethical behavior throughout their expanded ranks, the Secretary of Homeland Security shall add no fewer than 8 Special Agents to the Office of Professional Responsibility.

SEC. 303. BORDER RELIEF GRANT PROGRAM.

(a) In General.—From amounts made available under section 304, the Secretary of Homeland Security may make grants to—

(1) sheriffs’ offices of counties any part of which is within 25 miles of the southern border of the United States; and

(2) police departments serving a city, town, or other political subdivision in a county any part of which is within 25 miles of the southern border of the United States (including tribal police departments serving a community any part of which is within 25 miles of such border).

(b) Use of Funds.—

(1) In General.—Grant funds received under subsection (a) may be used for the following:
(A) To conduct law enforcement operations in order to enforce criminal laws, prevent and punish criminal activity, and protect the lives, property, and security of the people within the jurisdiction of the grant recipient.

(B) To transfer aliens detained or in the custody of the grant recipient who are not lawfully present in the United States to appropriate Federal law enforcement officials.

(C) To enforce State and Federal laws relating to controlled substance trafficking and enforce other State and Federal criminal laws.

(2) PAYMENT OF COSTS.—Use of funds under paragraph (1) shall include payment for costs of—

(A) hiring, equipping, training, and otherwise controlling the operations and deployment of, law enforcement officials engaged in duties described in paragraph (1), as well as the costs of paying overtime to such officials; and

(B) detaining, housing, and transporting aliens who are not lawfully present in the United States, and who are taken into custody by the grant recipient, until the aliens are transferred to appropriate Federal law enforcement officials.
(3) DETENTION FACILITIES.—In accordance with paragraph (2)(B), grant funds received under subsection (a) may be used for the construction, maintenance, and operation of detention facilities to detain aliens who are unlawfully present in the United States, except that not more than 20 percent of such funds may be used for the construction or renovation of detention or similar facilities.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary of Homeland Security at such time, in such manner, and accompanied by such information as the Secretary of Homeland Security may reasonably require.

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

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary of Homeland Security determines to be essential to ensure compliance with the requirements of this section.
SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security to carry out this Section $200,000,000 for fiscal year 2010 and each succeeding fiscal year.

SEC. 305. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue regulations to carry out this Act.

SEC. 306. REWARDS PROGRAM.

(a) Rewards Program.—Section 274 (8 U.S.C. 1324) is amended by adding at the end the following:

“(e) Rewards Program.—

“(1) In general.—There is established in the Department of Homeland Security a program for the payment of rewards to carry out the purposes of this section.

“(2) Purpose.—The rewards program shall be designed to assist in the elimination of commercial operations to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully and to assist in the investigation, prosecution, or disruption of a commercial alien smuggling operation.

“(3) Administration.—The rewards program shall be administered by the Secretary of Homeland Security.
Security, in consultation, as appropriate, with the Attorney General and the Secretary of State.

“(4) REWARDS AUTHORIZED.—In the sole discretion of the Secretary of Homeland Security, such Secretary, in consultation, as appropriate, with the Attorney General and the Secretary of State, may pay a reward to any individual who furnishes information or testimony leading to—

“(A) the arrest or conviction of any individual conspiring or attempting to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or to commit an act of commercial alien smuggling involving the transportation of aliens;

“(B) the arrest or conviction of any individual committing such an act;

“(C) the arrest or conviction of any individual aiding or abetting the commission of such an act;

“(D) the prevention, frustration, or favorable resolution of such an act, including the dismantling of an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States, or commercial
alien smuggling operations, in whole or in significant part; or

“(E) the identification or location of an individual who holds a key leadership position in an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or a commercial alien smuggling operation involving the transportation of aliens.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph shall remain available until expended.

“(6) INELIGIBILITY.—An officer or employee of any Federal, State, local, or foreign government who, while in performance of his or her official duties, furnishes information described in paragraph (4) shall not be eligible for a reward under this subsection for such furnishing.

“(7) PROTECTION MEASURES.—If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that an individual who furnishes information or testimony described in paragraph (4), or any spouse, child, parent, son, or
daughter of such an individual, must be protected, such official may take such lawful action as the official considers necessary to effect such protection.

“(8) LIMITATIONS AND CERTIFICATION.—

“(A) MAXIMUM AMOUNT.—No reward under this subsection may exceed $100,000.

“(B) APPROVAL.—Any reward under this subsection exceeding $50,000 shall be personally approved by the Secretary of Homeland Security.

“(C) CERTIFICATION FOR PAYMENT.—Any reward granted under this subsection shall be certified for payment by the Secretary of Homeland Security.

“(9) PUBLICITY.—The Department of Homeland Security shall be responsible for developing and implementing an advertising strategy to make known the rewards described within this section in order to solicit informants.”.

SEC. 307. INCREASED DETENTION FACILITIES FOR ALIENS APPREHENDED FOR ILLEGAL ENTRY.

(a) IN GENERAL.—The Secretary of Homeland Security shall make arrangements for the availability of 8,000 additional beds for detaining aliens taken into custody by immigration officials.
(b) IMPLEMENTATION.—Efforts shall be made to—

(1) contract private facilities whenever possible to promote efficient use and to limit the Federal Government’s maintenance of and liability for additional infrastructure;

(2) utilize State and local facilities for the provision of additional beds; and

(3) utilize BRAC facilities or active duty facilities.

(c) CONSTRUCTION.—The Department of Homeland Security shall construct facilities as necessary to meet the remainder of the 8,000 new beds to be provided.

(d) RESPONSIBILITIES.—The Secretary of Homeland Security shall be responsible for providing humane conditions, health care, nutrition, and psychological services, as well as education for minors.

(e) AUTHORIZATION.—All funds necessary to accomplish the directives within this section are authorized to be appropriated.

SEC. 308. ADDITIONAL IMMIGRATION JUDGESHIPS AND LAW CLERKS.

(a) JUDGESHIPS.—The Attorney General shall create and fill twenty additional Immigration Judgeships within 6 months after the date of enactment of this Act.
(b) CLERKSHIPS.—The Attorney General shall also ensure that for every two Immigration Judges there shall be no fewer than one law clerk dedicated to assisting Immigration Judges.

SEC. 309. MEDIA CAMPAIGN.

(a) IN GENERAL.—The Secretary of Labor and the Secretary of Homeland Security shall develop strategies to inform the public of changes in immigration policies created by provisions in this legislation.

(b) NOTIFICATION OF CHANGES TO EMPLOYMENT VERIFICATION PROCESS.—The Secretary of Labor shall employ, at his or her discretion, a combination of multilingual print, television, Internet, and radio media to notify employers of changes to the employment verification process. Announcements should encourage compliance with new legislation and should explain penalties for non-compliance with provisions within this Act.

(c) MULTILINGUAL MEDIA CAMPAIGN.—The Secretary of Homeland Security shall also develop a multilingual media campaign explaining the extent of this legislation, the timelines therein, and the penalties for non-compliance with this Act. Announcements should be targeted toward undocumented aliens and should emphasize—
(1) provisions in this Act that enhance border security and interior enforcement;

(2) punishment for apprehension and forced removal of undocumented aliens; and

(3) legal methods of reentering the United States, including temporary work visas.

(d) COOPERATION WITH OTHER GOVERNMENTS.—

The Secretary of Homeland Security shall make all reasonable attempts to cooperate with the governments of the countries from which the largest number of undocumented aliens originate in the implementation of this media campaign.