So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4437 to be considered shortly.

The Speaker pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005

The Speaker pro tempore, Pursuant to House Resolution 610 and rule XVIII, the Chair deems the House in the Committee of the Whole House on the Committee of the Whole of the House of Representatives of the United States of America in Congress assembled, to consider the bill H.R. 4437.

The Speaker read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 2 hours, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Homeland Security.

The gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Michigan (Mr. CONyers), the gentleman from New York (Mr. KING), and the gentleman from Mississippi (Mr. THOMPSON) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin, Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.
Mr. Chairman, I rise in strong support of H.R. 4437, the Border Security, Antiterroism, and Illegal Immigration Control Act of 2005.

Mr. Chairman, our Nation has lost control of its borders, which has resulted in an increase in illegal immigration and has left us vulnerable to infiltration by terrorists and criminals. Estimates indicate that there are currently more than 10 million illegal aliens already here, and that population continues to grow by an estimated half million additional aliens each year.

Large majorities of Americans support efforts to restore the security of our Nation's borders and to assure accountability of those who illegally enter the United States. America is a compassionate Nation that welcomes legal immigrants from all corners of the world. But it is also a Nation of laws. These concepts are not mutually exclusive, and H.R. 4437 reflects this.

The legislation incorporates vital border security provisions from legislation reported by the Committee on Homeland Security and gratefully Chairman KING for his committee's important role in drafting this component of the bill.

H.R. 4437 will deliver on the unkept promise of the Immigration Reform and Control Act of 1986 by providing employers with a reliable method of determining whether their employees are eligible to work. The bill expands on the premise of Representative CALVART's legislation, H.R. 19, to build upon a successful pilot program that currently enables employers to verify the employment eligibility of their workers. Currently, employer participation in this program is on a voluntary basis. Within 2 years, this bill provides that all employers must check new hires against this database.

The bill also increases penalties for aliens who benefit most from alien smuggling are often the most vulnerable and desperate, entering the country in perilous conditions that sometimes result in injury or even death.

Moreover, debts owed to alien smugglers by those transported into the country in perilous conditions are eligible to work. The bill expands on the premise of Representative CALVART's legislation, H.R. 19, to build upon a successful pilot program that currently enables employers to verify the employment eligibility of their workers. Currently, employer participation in this program is on a voluntary basis. Within 2 years, this bill provides that all employers must check new hires against this database.

The bill also increases penalties for aliens who benefit most from alien smuggling are often the most vulnerable and desperate, entering the country in perilous conditions that sometimes result in injury or even death.

Moreover, debts owed to alien smugglers by those transported into the country in perilous conditions are often the most vulnerable and desperate, entering the country in perilous conditions that sometimes result in injury or even death.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Ladies and gentlemen, let me say from the outset that we on this side, the Democrats, believe that a strong border security policy is an absolute necessity for this Nation. We must ensure that terrorists cannot lurk in the shadows of our society and do us harm. Let us begin with that.

Now, if you look at the dissenting views in our report on this measure, there may be 20 to 40 different reasons that we do not like the bill. So rather than take all that time up, what I want to talk about is the one that offends me the most, and that is the criminalizing of unlawful presence.

Now, this, alone, should turn away a majority of the House. There are roughly 11 million undocumented individuals in the United States who, under sections 202 and 201 of this bill, would be eligible for detention if convicted of a crime of being unlawfully in the United States. First time in history. Are you ready for this?

These individuals would be mandatorily retained without regard to whether the person is a flight risk or poses any danger.

Re-entry after removal would also be another aggravated felony, and these provisions would result in a permanent bar to re-entry and no chance of a waiver whatsoever.

Now, criminalizing unlawful presence by an incarceration of more than 1 year would, to me, overcriminalize of immigrants could be impacted and would suddenly be unable to apply for relief if they had been convicted of unlawful presence. Any immigrant who overstayed a visa and was convicted would be permanently barred from any form of immigration relief. Families who have been living and working in the U.S. for years would suddenly be ineligible for immigration relief that they would otherwise be able to receive. Virtually anyone who overstayed a visa could be convicted of an aggravated felony and thus ineligible for release.

Now, the last thing I want to mention before I reserve the balance of my time is to state what we do need. And I have taken a lead in come around to this. We do need a program for the 11 million people in this country who are out of status to a system of earned legalization. This is the only rational solution that I can bring to you today, my colleagues. The President of the United States, who I seldom quote, has said that without a comprehensive approach that includes earned legalization, we will not solve the problem. Otherwise, these millions will remain in this country, in the shadows; and we will not know what they are doing and who they are and where they are going.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBERNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Smith, the gentleman from Texas, Mr. Chairman, the American public is against amnesty for illegal aliens. This bill does not give amnesty to illegal aliens, and it should not because it rewards somebody for breaking our laws.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, the American people know the difference between legal immigration, which has made our country great, and illegal immigration, which threatens our homeland security.

This legislation represents a crucial step forward in securing our borders and protecting the lives and property of the American people. Sponsored by Chairman SENSENBERNER and Chairman KING, the Border Protection, Antiterroism, and Illegal Immigration Control Act of 2005 achieves four essential goals.
It combats illegal immigrant smuggling and makes it easier to deport illegal aliens, 20 percent of all Federal prisoners, who have committed crimes. This will make our communities much safer. This legislation makes it easier to apprehend, convict and deport potentially dangerous aliens. It also allows Customs officers to determine whether a job applicant is legally in the United States. Last year, not a single employer was fined for illegally hiring someone. If we do not diminish the magnet of jobs, no amount of border controls, asylum laws or treaties can prevent illegal immigration. Lastly, Mr. Chairman, this initiative will result in more individuals being held accountable for breaking our immigration laws.

Our hearts go out to those who want to come to this country. We are the freest, most prosperous nation in the world. It is no surprise that America welcomes more legal immigrants than all other countries combined.

But we cannot protect its residents without knowing who is entering and why. Thousands of people continue to cross our borders illegally every day instead of playing by the rules and coming into the country the right way. No Congress can authorize the rounding up 10 to 20 million illegal immigrants. No one really knows how many, for mass deportation. But if we enforce our laws, many either will leave voluntarily or decide not to enter illegally. Perhaps this time will correct the mistakes of a limited foreign worker program but that is only after we have secured our borders and put the interests of American workers first.

Immigration is an emotional, sensitive, complex subject. But Americans, citizens and legal immigrants alike, have every right to secure borders in a safe homeland. And it is time we turned that right into reality.

Mr. Chairman, Chairman SENSENBRUNNER and Chairman King deserve the credit and the thanks of the American people for bringing this legislation to the House floor. Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN), a distinguished member of the Judiciary Committee, the head of the California Democratic delegation.

Ms. LOFGREN of California. Mr. Chairman, every country has the right, even an obligation, to control its borders, and that includes the United States of America. Since 9/11, as many people have mentioned, that obligation has taken on increased importance and significance, and all of us believe that we need to do a better job. The truth is that the bill before us today really does not do that better job.

We all watch TV, and we see the extravagant comments made, and some of them turn out to be correct. There is something called ‘catch and release’ and it is, is individuals who are apprehended as they unlawfully enter the United States are cited and released with the promise that they will appear. It turns out that over 80 percent of the people who promise to appear do not show up. Now, when I was in local government, we had a failure-to-appear rate in single digits. We were alarmed at that. But even though the administration has seen this rate, they have not done anything. Does this bill order the administration to go out and find those people that fail to appear and bring them in for processing to be deported or whatever the law requires? No, it does not.

When I was in local government, we would have individuals who were undocumented, without papers, who committed a crime, and they would be in our jail. And every week, the Immigration Service would come, and they would take those people away from our jail after their sentences were served, and they would deport them, which we thought was a pretty good deal. Recently, the bill has been dropped on that score. And so we have got people who are convicted of committing crimes, who should be deported, and they are not being deported. And sometimes they are being released from jail. Does this bill tell the administration to go out and find those people and bring them in, ready to be deported, as the law provides? No, it does not do it. Does it order the administration to enhance its efforts so that criminals who are in jail who are supposed to be brought in for deportation are brought in? No, it does not do that either. It does not increase the resources. It does some things that I think are quite weird and unfortunate. I am a member of the Homeland Security Committee as well as the Judiciary Committee, and I have mentioned section 404 in both committees. Section 404 allows for the exclusion of legal residents if they were born in the following countries: China, Vietnam, Cuba, Ethiopia, India, Eritrea or Laos. Why is that? Those countries refuse to accept our refusal to accept the acceptance of people whom we deport. The answer is not to exclude legal residents who were born in those countries.

I thank the gentlewoman for yielding me this time, and I will have further comments as the day proceeds.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN of California. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could we begin this discussion amongst ourselves by distinguishing between earned legalization and amnesty? Earned legalization is not a free lunch. Those working under this program will have to work for years in the United States to gain citizenship. They are here. They work. They pay taxes. They raise their families. And that is one legitimate plan. What does someone have here for an alternative? The bill before us does nothing about the 11 million people who are already here. And, by the way, is the President of the United States supporting an amnesty program? I do not think so.

I thank the gentlewoman for yielding to me.

Mr. SENSENBRUNNER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN of California. Mr. Chairman, one of the primary attributes of a sovereign nation is the ability to control its own borders. In this regard, it is clear that the Constitution, article 1, section 8, places this duty right here, in the Congress. We have thus arrived at that moment of decision where the American people have a legitimate expectation that we will rise to this fundamental responsibility of governance.

As one who has had the opportunity to participate in the drafting of both of this legislation in both of the committees of primary jurisdiction, I would be the first to acknowledge that this was not an immaculate conception. It remains my belief that a comprehensive approach to the issue is necessary if we are to meet the challenge of our resources on the border.

However, it is critical that we have to take a first step. This bill should be judged on the basis of what it does contain, not for what it does not. It does not do that either. It is a good first step towards regaining control of our borders. And, furthermore, we have the assurances of the chairman of the Judiciary Committee that other aspects of the larger immigration issue will be considered after our return. The decision has been made to begin the process of reform of the border security bill. Why? Because that is what the American people expect of us. Even if it is not a Rembrandt, it is not a Van Gogh.

As one who participated in the crafting of the 1986 Immigration Reform and Control Act, actually as the Republican floor manager of that bill, I can tell the Members that it was on the issue of employer sanctions that that bill crashed and burned. That legislation made it illegal for employers to knowingly hire or employ aliens not eligible to work in the United States. It was part of a carefully crafted compromise. It was part of a process where the Republicans had the initiative. It was a program. Little did we know that neither Republican nor Democratic administrations were going to enforce it nor Democratic or Republican Congresses were going to support it. There is enough blame to go around. It is not just in the legislative branch. It is here in this body as well. And the American people now are demanding that we do something about it.

Under the law then passed, employers were to check the identity and work eligibility documents of all new hires. However, the explosion of a new industry dedicated to the production of false and fraudulent documents completely
undermined the employer sanctions provision of the bill. It did not have to happen that way. Congressman HALL of Texas offered a verification system somewhat like that contained in the bill before us. However, at that time I did not believe, nor did others in this body, that we had the technology to make it work. However, today, we do. It is incumbent upon us that we must learn from the past and have a reliable system of employment verification if employers are to work. A workable employment verification system is the critical linchpin in devising a strategy to demagnetize the attraction of unlawful employment.

These and other things are in this bill. This is a good first step. Let us not fall on our own swords in an effort to try to say we want a perfect bill. If we do not do this, we will not do anything.

Mr. CONYERS. Mr. Chairman I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON–LEE), ranking member of the Subcommittee on Immigration and member of the House Judiciary Committee.

(Ms. JACKSON–LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON–LEE of Texas. Mr. Chairman, I thank the chairman very much for yielding me this time.

And might I thank Mr. SENSEN–BRENNER because, as I said in the Rules Committee, I believe, between the ranking chairman of the Judiciary Committee and certainly the chairman and ranking member of the Homeland Security Committee, there are a lot of good intentions. But, frankly, I think it is overwhelming to expect that, in this short period of time, that we can answer all of the concerns of the American people and answer the question of 20 years of shortsighted enforcement–only legislation to address this question of the enormity of illegal and undocumented individuals but, in particular, to address the question of security. The underlying protection bill, border security bill, and that is where I believe that we have a number of failures.

The American people have polled repeatedly on one concept. That is whether or not they consider the immigration question a crisis worthy of our attention. But when they are asked about solutions, they specifically suggest the idea of comprehensive immigration reform. Strong enforcement at the border, which many legislative initiatives offered by KOLBE and GUTIERREZ, offered by members of the Homeland Security Committee, offered in Judiciary, offered by H.R. 4044, the Rapid Response Border Protection Act, all had reasonable responses, enforcement and earned access to immigration.

But allow me to tell my colleagues why this particular bill is going to fail on its own weight and, as I heard somebody say, the wheels are going to fall off, unless we turn back the bill and work together.

It is important to note that as we stand here on the floor today, there are members of the United States military on the frontlines of Iraq and Afghanistan whose family members are undocumented. We have a program that allows many of us supported that would allow those who are on the frontlines of Iraq to become documented, legal permanent residents. In fact, we heard a story of a young man who was killed on his way to get fingerprinted, tragically. But it allows them to be able to become documented during access legalization for their family members.

While they are on the frontlines of Iraq, the very presence of their grandmother, their mother, their sister or their father will allow them to be incarcerated as a felon under this bill, will allow them to be detained under this bill. And then you want to ask the employers of America, who I believe should be responsible for who they hire, not least of all when they may question, and that means that they will think that anyone with a name that sounds unlike American should be verified.

That will be close to 146 million persons who are currently employed and then 54 million persons who are eligible for employment. The basic pilot program will weigh itself down.

Why? Because the technology is not yet able to document and detail whether one name that has a particular sounding name is equal to the other name. Our technology does not equal that kind of competence at this point. And we have not answered the question of the funding because we require mandatory detention. The question is what kind of resources will be utilized.

There are many elements to this bill that we could find common ground on, but the technology aspect, I believe there should be more in there to provide for our Border Patrol agents, the equipment, the night goggles, the computers that we have been saying they need over and over again, the helicopters, power boats and training. But that, unfortunately, was not allowed in this legislation.

So, Mr. Chairman, as I conclude, might I thank those who have done the heavy lifting, might I thank the work that the Hispanic Caucus has done on behalf of all immigrants or individuals that may be undocumented. I value the fact that we as a Congress have been charged with the responsibility of securing America. Criminalizing undocumented workers is essential for ensuring workers do not do the job. Let us turn this bill back so that we will have an opportunity to work in a bipartisan manner.

I rise in support of my Rapid Response Border Protection Amendment, H.R. 4044, to the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, H.R. 4437, and against the underlying bill as it is presently drafted.

H.R. 4437 has a substantial number of provisions that would increase border security, but it is lacking in one very important respect. It does not provide the Border Patrol with the equipment and resources that it needs to secure the border. My amendment would address this deficiency.

For instance, aircraft and watercraft are invaluable tools for spotting people illegally crossing our borders and for assisting in their apprehension. They also are essential for rescue operations when people crossing the border need emergency assistance. The Secretary of the Homeland Security would be required to increase the number of Border Patrol helicopters by at least 100 and to increase the number of Border Patrol powerboats by at least 250.

The Border Patrol currently suffers from a severe shortage of serviceable, police-type vehicles. In many locations, agents have to wait for vehicles to be brought in from the field by other agents on the previous shift before they can begin their duties. The Secretary would be required to establish a fleet of such motor vehicles, one vehicle per every three Border Patrol agents.

The lack of portable computers precludes Border Patrol agents from utilizing biometric databases in the field. This results in inadequate checks being performed before suspects are released. The Secretary would be required to ensure that each police-type motor vehicle in the Border Patrol’s fleet is equipped with a portable computer with access to all necessary law enforcement databases.

Smugglers and other criminals historically have used the cover of darkness to cross our borders. Although technology that enables the user to see at night has been available for many years, it is not readily available to all of the Border Patrol agents, and the Border Patrol is one of the few law enforcement agencies that conducts most of its operations in remote areas during the hours of darkness. The Secretary would be required to ensure that sufficient quantities of state-of-the-art night vision equipment are provided for every Border Patrol agent who works during the hours of darkness.

Body armor is a relatively inexpensive piece of protective equipment that has saved the lives of countless law enforcement officers. The Secretary would be required to ensure that every Border Patrol agent is issued high-quality body armor that is appropriate for the climate and risks faced by the individual officers.

Currently, fewer than 11,000 Border Patrol agents are responsible for patrolling more than 8,000 miles of land and coastal borders. Because of the need to provide continuous, around-the-clock coverage, no more than 25 percent of those agents are securing our borders at any given time. That averages one Border Patrol agent every 3 miles. A substantial increase in personnel is desperately needed. The Secretary would be required to hire an additional 10,000 agents.

Recruitment and retention problems make it difficult to maintain a large force of experienced Border Patrol agents. One of the key difficulties in this regard is the fact that the pay lags behind that of many other law enforcement officers. The Secretary would address this problem by requiring the Secretary to raise the base pay for all journey-level Border Patrol agents to a GS–13 level.
Nonimmigrant S visas are available for aliens who assist the Government with the investigation or prosecution of a criminal organization or a terrorist organization. The amendment would establish a third category for aliens who assist the United States Government in the investigation or prosecution of a commercial alien smuggling organization or an organization engaged in the sale or production of fraudulent documents to be used for entering or remaining in the United States unlawfully. A protection program would be available if needed.

Those who object to the cost of H.R. 4044 need to recall the enormous costs, not just in monetary terms, of the last terrorist attacks. If we want to prevent another terrorist attack on American soil, we must be prepared to devote whatever resources are necessary to keeping terrorists out of our country.

I urge you to vote for this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. Pence).

Chairman PENCE asked and was given permission to revise and extend his remarks.

Mr. PENCE. I thank the distinguished gentleman from Wisconsin for his extraordinary leadership of the Judiciary Committee on which I serve. I also congratulate Representative King for his hard work on this important legislation.

As the grandson of an Irish immigrant, I believe in the ideals that are enshrined on the Statue of Liberty in New York Harbor. America has always and will always be a welcoming Nation, welcoming under the law any and all with the courage enough to come to this shining city on a hill. But a nation without borders is not a nation, and across America we find Americans anxious about the security of our border. Night after night they see news images of people sneaking across the border in the dark of night; they hear tales of people paying thousands of dollars to so-called “coyotes” to smuggle them into the country; they worry that drugs will make their way into the hands of their children more readily; and they rightly fear that our porous borders make it more likely that terrorists will be with deadly intentions against our families.

This year alone, some 115,000 illegal aliens from countries other than Mexico have been apprehended by our Border Patrol; and simply as an ordinary American, I share this concern. That is why I support the legislation before us today.

Estimates vary, but it is generally accepted that around 11 million illegal aliens are living in our Nation today. The reality of these prosecutions of a divided America by making an illegal border crossing. We cannot allow this trend to continue.

In today’s legislation, the Department of Homeland Security is required to develop and submit to Congress a comprehensive strategy for securing the border, including surveillance plans, a timeline for implementation, 1,000 additional port of entry inspection personnel, 1,500 additional canine units and beyond.

Also, importantly, this legislation takes a giant step towards ending the current practice of what is known as “catch and release” that plagues the orderly requirement of mandatory detention of illegal border crossers until an immigration removal hearing can be held. As part of a well-developed strategy, the bill mandates that Homeland Security use every available detention bed and authorizes new detention space.

Finally, this bill addresses the need to enforce our employment laws by instituting an employer verification system whereby employers will be required to submit information to the Department of Homeland Security and the Social Security Administration for verification. Providing this verification system will ensure that only Americans and legal visitors to the United States are living and working in our Nation.

We have before us today an important first step in securing America’s borders and stopping the flow of illegal immigrants into our Nation. I rise again in strong support of the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. With gratitude for its authors, I urge its passage.

Mr. CONYERS. Mr. Chairman, I yield 5½ minutes to the gentleman from Illinois (Mr. Gutierrez), the one gentleman not on the Judiciary Committee that has worked with us all year long on this subject matter, who has done noble work for his caucus and for the committee.

Chairman GUTIERREZ. Mr. Chairman, I thank the chairman very much for all of his hard work.

Mr. Chairman, I guess I come to speak before this very, very able body today to say that we are really not solving the problem. The fact is that this bill represents a retreat from true immigration reform and from true security. Evaluate the bill, and you will see that it neither demonstrates the political will to deport 11 million people, nor have we ever committed the requisite resources to deport 11 million people who currently live and work in the United States of America.

So after the bill is passed, there will still be 11 million, and I do not see anything in the bill that is going to cure that problem; 11 million people who we should, as President Bush has urged, as all like-minded people have urged, should be given the opportunity to come out of the shadows of darkness, should come out of the marginalized existence in which they live and be able to join all of us doing three things: demonstrating their good moral character; demonstrating that they pay taxes; demonstrating that they work and they contribute to this great country of ours.

The bill does not do anything. It is silent. Eleven million people. Are we going to go out and arrest and detain and deport 11 million people? Nobody would argue that that is what we are going to do, because we have never demonstrated the political will to do that, nor have we ever committed the requisite resources. So in the absence of that, if you truly want security here, I suggest that we should get their fingerprints; that we should have them come out of the darkness and give us their fingerprints; give us their bank accounts; give us their addresses and become full-fledged members of our society.

I am not saying put them at the head of the line. Put them at the back of the line. Let us see what it truly is. They have cheated us; they have cheated this Congress. That is what it is, according to our statute. You cannot retroactively make it a criminal offense. It is a civil offense, and let us deal with the civil offense that they have committed.

Mr. Chairman, we have offense here to come to the fore? I do not know. But I just think that in America no one is in fear and trepidation of the Wendex-wielding cleaning lady at K-Mart. I do not think anyone in America is in fear of the women who wakes up every morning to cherish and to nourish and to raise the children of American citizens. No one is in fear when they go to their hotel room and they see the woman that has made their bed and cleaned their carpeting and placed their towels in their appropriate places. No one in this place fears walking into a restaurant eating from the dishes that have been cleaned. No one in this room would say, God, I cannot eat those grapes. That is what it is, according to our statute.

Yet we well know who has toileted in those vineyards and in that agricultural sector in very tough conditions with very low wages.

I do not see people in America saying, God, Luis, the Congress of the United States should do something. I want my son to be a dishwasher. I want my daughter to pick grapes out there in the State of California. We know who is going to do these jobs. As a matter of fact, according to our own Department of Labor, our economy will continue to create low-wage, low-skilled, entry-level jobs for which there will be an American workforce to fill those needs.

So given that reality, let us not cast that all of the problems and ills of our society are somehow upon the immigrants who have come to this country. Maybe we suggest that you know your neighbors; that you know that when you walk into a building and you see those shiny floors, you know who was up the night before shining those floors; when you walk into the comfortable room after a long day of work, you know who cleaned that room; when you eat from those dishes, you know who washed them.
It is critical and essential to our economy for their being here in the United States of America. So let us stop it. Let us put an end to it. I would say to all of my colleagues here today, if you are selling drugs, if you are a rapist, if you are a robber, if you are a murderer, if you are someone of ill repute, I and the colleagues I know would be the first to stand up and to say, Out with you and back to your country of origin, if that is what you have come here to do.

But let us be honest. The immense majority of them are hardworking. The immense majority of them are people we know that are hardworking, tax-paying, good moral character people who want to do nothing more than what other immigrants have done before them, to become part of this great process.

So let us keep that in mind as we continue this debate. Let us take the high road, not the low road, in this debate.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, I rise in support of H.R. 4437, the Border Protection, Antiterroism, and Illegal Immigration Control Act. I would like to thank Chairman SENSENBRENNER and Chairman King for the remarkable job they have done to bring this bill to the floor today.

A mandatory electronic employment verification system must be a key component in any immigration reform bill worthy of the name. We can never gain control of our borders until we turn off the job magnet that encourages people to flout the law. If illegal immigrants know that a job awaits them in the United States provided they can get past the gauntlet of the border, no amount of border security will ever stop them.

Every employee already fills out an I-9 immigration form and presents documents confirming their identify and eligibility to work. Of course, the current system does not work because the documents themselves are easily forged and cannot be checked.

The system proposed today would simply require that the information on the I-9 form be confirmed. It is not discriminatory; it is easy to use and will do more to stem the tide of illegal immigration than any other single provision.

Many people have commented on the mandatory employment verification system, and some comments have missed the point. This system is all about controlling a legal workforce by preventing document fraud during the hiring process.

I believe that most employers are trying to do the right thing and hire only legal workers. Unfortunately, the current employment verification system does not give the employer enough information to be confident that their workforce is legal. Forged documents easily pass through the system without a problem, which leaves the employer with dubious U.S. citizens and legal immigrants at a competitive disadvantage and encourages the mass illegal immigration America is experiencing today.

Not only would this system strike a blow against document fraud; it would also reduce identity theft, a practice on the rise in the United States. Just like credit card companies can flag unusual purchases to stop identity theft, this program would flag unusual behavior.

This is a good program, and this bill must pass.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), one of our dedicated members on the Judiciary Committee and a leader in the Hispanic Caucus.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I thank the gentleman from Michigan for yielding me time.

Mr. Chairman, I rise today in strong opposition to H.R. 4437. Americans are right to demand better border security and better enforcement of our immigration laws, but this bill is just a false sense of security. It does not secure our borders, it leaves our ports of entry exposed, and does nothing to reform our broken immigration system. What is needed is enforcement of laws that work, and we cannot have this without comprehensive immigration reform. Even President Bush agrees on this.

We should not be debating a bill thrown together at the 11th hour before we adjourn for recess, a bill that basically opens the door for witch hunts of anyone who looks foreign and a bill that erodes basic civil liberties and human rights for migrants, legal immigrants, and even citizens.

In looking at the lack of merit in this bill, we need to ask ourselves what kind of America do we want to live in. Do we want an America where we have mass deportations? Do we want an America where police officers can randomly ask foreign-looking Americans to produce identification to prove their legal status? Do we want an America where people can be detained for life when their home country is unwilling to take them back? Do we want an America where American citizens will have to carry national identification cards to travel, work, or just walk down the street? Do we want an America that criminalizes 1.6 million children? Because that is exactly what this bill will do.

As the daughter of immigrants, I am offended by this bill, and I urge my colleagues to think long and hard about the vote they are about to cast and the detrimental impact it will have on the proud tradition of immigration that this country was built on.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN) who is an emeritus member of the Judiciary Committee.

Mrs. BLACKBURN. Mr. Chairman, I thank Chairman SENSENBRENNER and Chairman KING of New York for their extraordinary efforts on this bill. I do not support H.R. 4437.

We do have a crisis on our hands, and it is time that we do something about it other than talk. The chairmen have done a great job in bringing this forward. Everywhere I go in my district, Democrats, Republicans, everyone is united in the belief that our border enforcement is out of control and we have to give our border agents the tools they need to protect this great Nation.

My constituents see this truly as an issue of national security and of grave importance to our country. It is one we cannot wait to handle. We have to do something to secure those borders.

I am especially pleased to see that the Judiciary Committee has inserted several items on the bill that had worked on while I was a member of the committee. During the 108 and 109th Congress, I introduced the Federal Contractor Security Act to tackle the problem of illegal entrants working for Federal contractors and at critical infrastructure sites, at sites that are sensitive to our national security.

I think this is a system that employers can use at no charge, at no charge, and provides the sense of security that is needed by American citizens that the individuals working are indeed who they claim to be.

The legislation removes the guesswork about a worker's status and separates illegal entrants well before a business has invested time and money to train them.

As the daughter of immigrants, I want to thank Chairman SENSENBRENNER and Chairman KING of New York. I want to thank the leadership for their work and encourage support of H.R. 4437. This is something that is good for business. It is good for our Nation's security.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I asked and was given permission to revise and extend my remarks.

Mr. FARR. Mr. Chairman, I rise in opposition to this bill, this very poorly drafted bill, I learned long ago in my legislative career that you should not enact laws that you cannot enforce. This bill has some good provisions, but it also has a lot of bad provisions.

If there was ever a moment, I think, in legislative history of congressional hypocrisy, it has got to be right now. Just a few minutes ago we voted to recognize and support the symbols of Christmas. This bill steps on the spirit of Christmas for 11 million people in America who are now being given a Christmas present, being told they are
members of the judiciary committee. I am told that the chairman of the committee, I was not on the floor, in his comments after our ranking member spoke, this shows the difference between the democrats and the Republicans. Democrats are for amnesty, Republicans are not. I remember back in the campaign in 1986 for President, or one in one of his races for governor, George Wallace made the comment that, no one was going to our one. Those kinds of charges and that kind of misuse of language is done by people who know that they are trying to fool the American people into thinking they are doing something. This bill will never become law. It may pass this house, but it will never become law for the very reasons that it does not take a comprehensive approach to the problem. The chairman of the judiciary committee says it is already illegal to come here without permission, without a visa of one kind or another, and he is right. That is why we call them illegal immigrants. And he says, so all we are doing with this bill is dealing with the people who came legally and then overstayed. I guess that is because the first part of it, dealing with the people who came here illegally, has worked so well. That is why every year hundreds of thousands of people are able to cross this border and work in this country. A few do some horrible things. But they come and the law has not made a difference. Unless you take a comprehensive approach, you will never solve the problem. If what the chairman enacts is amnesty, then George Bush is for amnesty, John Cornyn, the senator from Texas, is for amnesty; Senator Kyl of Arizona is for amnesty; and the chairman himself by saying that there needs to be a guest worker program for those who have committed any criminal acts other than the entrance here. At the heart of why this bill will never become law are the reasons that the gentleman from California (Mr. Calvert) spoke to. In this bill is a very logical employer verification system. It was what was missing from the 1986 bill. It is why the 1986 bill did not work. But everyone knows you can never implement an employer verification system unless you deal with the 11 million people who are now in this country. This country, we have every grower, every restaurant owner, every hotel, every tourism industry, huge numbers of construction firms are all going to get the answer back on this verification system: the person you have working for you is not here legally; you will have to fire them. They will be closed down. That will never happen. The employers of this country will never let that pass, because this bill will not even allow us to offer an amendment to make it comprehensive, to accept every one of the provisions, some of them to my way of thinking are draconian and over broad, but accept every one of the provisions of this bill and just add that aspect of the bill that can make for a coherent whole. They will not let us offer that amendment. I urge that Members of this House rise above the demagogy that is going on about who stands for what and oppose this bill until we are allowed the chance to vote for a tough, comprehensive bill that does something real about illegal immigration. Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Doolittle). Mr. DOOLITTLE. Mr. Chairman, I thank Chairman SENSENBRENNER and Chairman King of New York for their great work in bringing this bill to the floor. My constituents are fed up with porous borders, lax enforcement, and excuses about why the Federal Government is unable or unwilling to ensure that immigrants entering our country are legal. This measure provides genuine solutions such as state-of-the-art surveillance technology, 8,000 new border agents, and widespread physical barriers. The citizens of Altona, Pennsylvania, experience the sobering realities of a poorly enforced immigration system when this last August an illegal alien with a prior criminal record of assault, reckless endangerment, and a weapons violation murdered three innocent people. Had the catch and release practice been eliminated and mandatory detention been in place, perhaps this painful tragedy could have been prevented. Mr. Chairman, this bill’s time has come. We cannot continue to allow overwhelming numbers of illegal immigrants to flood our communities without any scrutiny. I urge all of my colleagues to support this commonsense approach that will combat illegal immigration and strengthen our Nation’s security. Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. Berman), a senior member of the Judiciary Committee. Mr. Berman asked and was given permission to revise and extend his remarks.) Mr. Berman. Mr. Chairman, I appreciate the gentleman yielding the floor. I am told that the chairman of the committee, I was not on the floor, in his comments after our ranking member spoke, this shows the difference between the democrats and the Republicans. Democrats are for amnesty, Republicans are not. I remember back in the campaign in 1968 for President, or one in one of his races for governor, George Wallace made the comment that, no one was going to our one. Those kinds of charges and that kind of misuse of language is done by people who know that they are trying to fool the American people into thinking they are doing something. This bill will never become law. It may pass this house, but it will never become law for the very reasons that it does not take a comprehensive approach to the problem. The chairman of the Judiciary Committee says it is already illegal to come here without permission, without a visa of one kind or another; and he is right. 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If what the chairman defines as amnesty is amnesty, then George Bush is for amnesty; John Cornyn, the senator from Texas, is for amnesty; Senator Kyl of Arizona is for amnesty; and the chairman himself by saying that there needs to be a guest worker program eventually is for amnesty, because when the people who came here illegally get to come back into this country, because they have left or they have applied from within this country to work in our fields or our restaurants or other industries that have become heavily reliant on unauthorized workers, we are saying you get to do what you came here to do even though you committed an illegal act. The fact in 1986 was not amnesty. None of the proposals now for a comprehensive immigration bill include amnesty because they are all based on meeting certain future obligations, paying fines, continuing to work, coming out of the shadows, going through a background, learning whether or not they have committed any criminal acts other than the entrance here.
make a start at least. I think this legislation represents a good-faith attempt to begin to deal with the problem. Dealing with that 11 million is extremely difficult. I think at a minimum we need to start to deal with those who continue to enter the country illegally. It is certain that the government will not be able for people to enter this country illegally, seek out our taxpayer-financed services, and hand the bill to the taxpayers.

I commend the chairman for putting provisions in the bill that reduce the likelihood of that continued flow of illegals into the country. I particularly like the provisions dealing with the San Diego-type fences in the urban areas. That is very, very important and I think will be effective. I know those are to be considered for approximately a dozen places along the border.

The other thing I like, in fact, several months ago I introduced a bill to end the absurd catch and release policy whereby, there has been loopholes, essentially, to people who enter illegally and then letting them go and show up of their own volition. So far about 90,000 people this year have failed to appear in court who entered illegally and received such tickets, essentially, to people who enter illegally and then letting them go and show up of their own volition.

Since September 11, at least 5,000 people have failed to appear in court who entered illegally and received such tickets, essentially, to people who enter illegally and then letting them go and show up of their own volition.

The Department of Homeland Security will expand capacity to house those illegal aliens. The Department of Homeland Security will expand capacity to house those illegal aliens.

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I want to thank the gentleman for yielding me the time.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, I rise today in support of the Border Protection, Anti-terrorism and Illegal Immigration Control Act. I support this bill because it provides the Federal Government with needed authority to secure our borders. It also closes loopholes in current law that illegal immigrants, essentially, to people who enter illegally and then letting them go and show up of their own volition. That number includes those who have overstayed their visas and those who have entered the country illegally.

This bill will also facilitate cooperation between border sheriffs and Federal law enforcement by authorizing reimbursements to local sheriffs, along the border, for the cost of enforcing immigration laws and detaining illegal immigrants until transferred to Federal custody. This has been a growing problem, and the clarification provided in this bill and the financial resources are important.

Mr. President, I rise today in support of the Border Protection, Anti-terrorism and Illegal Immigration Control Act. I support this bill because it provides the Federal Government with needed authority to secure our borders. It also closes loopholes in current law that illegal immigrants, essentially, to people who enter illegally and then letting them go and show up of their own volition.

Since September 11, 2001, we, as a nation, have had to re-evaluate our willingness to have among us unauthorized people who are here illegally. For the sake of our national security, for the sake of government programs that many of my colleagues on the other side of the aisle cherish, we must pass this bill and begin to perform our duty to secure our borders.

Since the changes will increase the number of illegal aliens in Federal custody, this bill includes provisions to increase the number of beds available to house these illegal aliens. The Department of Homeland Security will expand capacity to house those awaiting court hearings or removal.

I want to thank the gentleman for yielding me the time. I will close by asking all of my colleagues to support this bill; it is long overdue and a vital first step towards improving border security.

Mr. CONYERS. Mr. Chairman I yield 2 minutes to the courageous gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me thank the gentleman for yielding me the time. I am grateful that the provision to end that was included in the bill. That will make a big difference and will start us down the road to having a more effective border security policy. And I am confident we will have to continue to work together and address this important issue. Please support this legislation.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRINNE. Mr. Chairman, I rise today in support of this legislation, the Border Protection Antiterrorism, and Illegal Immigration Control Act.

I support this bill for several reasons, but I think one of the things that must be noted is it provides the Federal Government with needed authority to secure the borders.

It also closes the loopholes in current law that illegal immigrants and their facilitators exploit to enter and remain in the United States legally. It is estimated that more than 11 million people, as it has been brought out here today, enter the U.S. illegally. That number includes those who have stayed over their visa and those who have entered this country illegally in the first place.

Of course, America is a very charitable nation. We welcome those with open arms who wish to live here, who wish to work here, raise a family here and who eventually become naturalized citizens. That is why we have a legal process to do so.

Since September 11, 2001, we as a nation have had to re-evaluate our willingness to have among us unauthorized people who are here illegally. For the sake of our national security, for the sake of government programs that many of my colleagues on the other side of the aisle cherish, we must pass this bill and begin to perform our duty to secure our borders.

I rise in strong opposition to this bill. At best, this legislation is unbalanced; it is harsh, and it is unfair. Quite frankly, I think it is very un-American.

It criminalizes millions of hard-working people simply for being undocumented. It would turn local law enforcement into deputies of the border patrol, and innocent people will be needlessly scrutinized and jailed. I can only imagine how this irresponsible provision will affect racial profiling of Hispanics and other minorities.

This bill also ignores due process and would expand the government’s ability to keep noncitizens locked up behind bars if they cannot be deported to their home countries. Jailed immigrants will lose the ability to appeal a deportation order.

Mr. Chairman, these are only a few of the reasons why this bill really makes no sense for our great country, and I believe we need to address the real issues of immigration reform that include a clear path to citizenship and commonsense protections for our borders. We need full immigration initiatives that make sense, not these very punitive and very un-American provisions that are included in this bill.

We cannot, and we must not, forget the undeniable history, our history, American history, that we have as a nation of immigrants and the contribution that immigrants have had on our economy, on our diversity and our way of life. This bill, quite frankly, just flies in the face of that history, and it should be rejected.

Mr. Chairman, I want to thank the gentleman again for his leadership and for yielding me the time.

Mr. SENSCNBRENNER. Mr. Chairman, with great respect to both chairmen on this bill, I do understand the importance of this measure and all of the hard work that has gone into it. We do need border security, and we need to beef up our Federal personnel and protect our citizens from terrorist threats.

However, we should not be moving a border bill that imposes penalties on employees and avoids dealing with the undocumented workers who are here now.

I do not support H.R. 4437 because it does not include comprehensive guest worker reform programs that many of my constituents desperately want back home in the San Joaquin Valley of California.

In 1986, Congress passed immigration reform. Two major mistakes were made when this bill was passed. Number one, it did not contain a guest worker provision, and number two, it provided amnesty for millions of illegal immigrants.

In passing immigration reform and granting amnesty in 1986, Congress thought that they would fix illegal immigration. Well, they were wrong, because today, we have about 10 million immigrants in our country.

Now we are here once again debating an immigration bill, and there is no guest worker provision. In this bill, we are penalizing employers without dealing with the millions of illegal workers currently here.

As long as this House continues to avoid the need to include a guest worker program in immigration reform, we will continue to have an illegal immigration problem in the United States.
The current system gives an incentive to an employer to hire an illegal alien in an entry-level job that is labor intensive because illegal aliens work for less money than either documented aliens with green cards or United States citizens. As a result, the employers in places like the hotel and restaurant business, agriculture, landscaping and the construction business, are able to have such a competitive economic advantage because of the low wages over those who are trying to do it the right way.

I can understand why the Chamber of Commerce is against this bill because of the employer verification system. I guess if I were lobbying for them, I would be, too, because they have benefited from the low wages, and the low wages that these corporations have benefited from have depressed the wages of honest, hardworking, middle-income American people and those who are trying to get these entry-level jobs who are authorized to work in this country.

The key in this bill is Mr. Calvert's employer verification system because that will go after those who hire large numbers of illegal aliens and they can go into the marketplace and pay a decent wage to people who are legally entitled to work here. I think that this is the main reason why this bill should pass.

We have heard a litany of complaints about all of the enforcement provisions, fences on the border, making a criminal offense overstaying one's visa, giving the sheriffs in border counties the authority to enforce the immigration law which they don't have now. The fact is that those people who are against this bill don't want any changes in the existing system except perhaps amnesty or, excuse me, earned legalization and citizenship for those who have broken the law.

This bill has our priorities straight. We have to secure the border. We have to provide law enforcement the tools to apprehend those who have broken the law, and we have to force our employers to flush out all the fake documents that are out there that are held by people who are illegally in this country, which is what the verification program proposes to do.

This is a good bill. It is a necessary first step, and if this bill is defeated, as all of those who have been saying no to everything goes down, the consequence is going to be the continuation of the intolerable existing system. Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. Kucinich). Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of H.R. 4437, the Border Protection, Antiterrorism and Illegal Migration Control Act of 2005.

The bill before us today incorporates both border security and immigration enforcement provisions and is the result of a strong collaborative effort by the Committee on Homeland Security and the Committee on the Judiciary to address these important issues.

The Committee on Homeland Security began this process last month when we introduced the bill, H.R. 3312, entitled the Border Security and Terrorism Prevention Act of 2005. This measure focused on border security provisions and reflected a truly bipartisan effort among members of my committee to solve problems in our border defenses. I particularly appreciate the strong and able leadership of the gentleman from Mississippi (Mr. Thompson), our ranking member, in achieving important goals in this bill. I also want to commend the gentlewoman from California (Ms. Loretta Sanchez). Thanks to their cooperation, we were able to pass H.R. 3312 on a voice vote with absolutely no opposition.

I also want to thank my friend, Chairman Sensenbrenner, and his staff for their diligence and willingness to cooperate with us in expanding and improving this legislation.

Mr. Chairman, I will focus in my remarks on the border security aspects of the bill because, since September 11, it has become more and more apparent that our borders are in crisis. In addition to whatever social issues there are with immigration or whatever criminal issues there are with immigration, terrorism is now, since September 11, brought home to us dramatically, the terrorism aspects of illegal immigration.

The homeland security provisions of this bill try to, and I believe do, very effectively address the issue of terrorism that must be confronted if we are to survive as a people.

This legislation requires 100 percent coverage of our land and maritime borders, including physical infrastructure, border patrol personnel, and the use of all available technology.

It also requires a joint and collaborative effort between the Department of Homeland Security and the Department of Defense to use all available military technology to ensure that our borders are controlled and sealed. Most importantly, I believe, and as importantly as any other provision, it ends the policy of catch and release, which has been discussed in the previous hour; and it mandates expedited removal. We no longer have the luxury; and if we are talking about, I know the gentleman from Mississippi (Mr. Thompson) was talking about, who has been in control and who has not been in control, I would be the first to say that we are dealing with a bipartisan problem which is why it requires a bipartisan effort. That was the bill that we attempted to pass in the Homeland Security Committee, because we have to end such policies as catch and release and expedited removal.
I would hope that, as the debate goes forward, both sides acknowledge the good faith of the others. This is too serious an issue to be trivialized or demagogued. It is too serious an issue to be looked at in any kind of casual way. I listened very carefully to the gentleman from California (Mr. RADANOVICH). I understand his concerns about there not being guest worker provisions in this bill; but I believe that if the American people are to take us seriously, they want to see us address the issue of illegal immigration before we go on to any other expansion of rights or any other legalization of those who are here already or even setting in process a motion where we make it easier for workers to come into this country. We have to show we can control the borders before we go further, and that is the purpose of this bill.

Mr. Chairman, let me just say that as the grandson of immigrants who grew up in an immigrant neighborhood in New York City, I yield no one in my admiration of what immigrants have contributed, are contributing, and must continue to contribute to our country; but it has to be legal immigration. I say that. Some of the things that were looked at or not looked at prior to September 11 cannot be ignored. They have to be addressed. We have to address head on the issue of illegal immigration because of its ties to international terrorism.

So while I grew up in a neighborhood of immigrants as a child, I also saw many of my neighbors killed on September 11. So neighborhoods have changed; things have changed. What was tolerated before September 11 may be in some quarters can no longer be tolerated now. We no longer have the luxury of looking the other way. We have to address head on this issue of illegal immigration. That is what this bill is about. Certainly the aspects of illegal immigration that we are confronting our Nation on this issue of illegal immigration. That is what this bill is about. Certainly the aspects of illegal immigration that we are confronting our Nation on this issue of illegal immigration.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it used to be said that we are all either Republicans or we are all Democrats, but I wonder what is happening to this country as I look at this bill. But today that principle is long gone, replaced by partisan efforts to satisfy extremist groups. The Democratic members of the committee of Homeland and Security, including myself, Ms. SANCHEZ, Ms. LOFGREN, and myself, worked tirelessly with my counterpart, Chairman KING, to create a good border security bill that had many, many good provisions; but after that bill left our committee, it fell into partisan hands to satisfy the extremist anti-immigrant groups.

Instead of giving the American people a Christmas present of a bipartisan bill that brings real and fair way, we are giving them a bill that looks more like a gift from an extremist Grinch who stole Christmas and trampled our Constitution on the way. The Judiciary Committee has loaded up our bill with controversial provisions that have not been opposed by nearly every reasonable business, immigration, and human rights group in America. I hope my chairman from New York recognizes this.

I know it is difficult, but if you look at the groups that have opposed this piece of legislation, you can understand why it is a bad bill. The Chamber of Commerce opposes this bill. The American Bar Association opposes this bill. The Irish Lobby for Immigration Reform opposes this bill. The U.S. Conference of Catholic Bishops oppose this bill. What reasonable organization is left to support it?

Mr. Chairman, this bill is so ridiculous badly written according to the Republican version, Santa Claus himself would be a criminal for trekking from the North Pole to deliver holiday gifts without a visa. This bill is not a step in the right direction. It is time that we pass a real border security bill that is fair and effective, not a partisan bill that does not solve our problem.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, the gentleman’s reference to Santa Claus shows what a pleasure it is to deal with the gentleman.

Mr. Chairman, at this time I yield 3 minutes to the gentleman from Texas (Mr. McCaul) who is a former Federal prosecutor, a member of the Joint Terrorism Task Force, and chairman of the Subcommittee on Investigations. Mr. McCaul of Texas. Mr. Chairman, I would like to thank Chairman King for his hard work on this much-needed legislation.

Mr. Chairman, before running for Congress, as the chairman indicated, I had a counterterrorism background as a Federal prosecutor in the Justice Department. My jurisdiction included the Homeland Security Committee, that is what they were about, combating illegal immigration and thereby also undercutting international terrorism.

I would ask the debate go forward in a reasonable way where we can exchange ideas, confront the issues that are confronting our Nation on this issue of illegal immigration.

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Disneyland in my district, you are less than 100 miles away from the California border with Mexico. This bill that we had in Homeland Security would have affected my area.

Now, not everything was great about the Sensenbrenner bill. In fact, I was very angry at some pieces that managed to get in. But we had a real debate, and we took our time, and we understood what we were talking about. And then this bill was taken over by the Judiciary Committee, usurped with many, many more pieces put on, pieces that do not make any sense and really are not about border security. They are not about getting rid of the catch and release process that we have right now; they are about tightening. They are about being mean, mean to immigrants in this community. And not just those who have no documents to be in the United States. This bill dangerously is unfair and criminalizes everyday Americans regardless of what their immigration status is.

Under this legislation, the Sensenbrenner bill, it would be a criminal offense to be a undocumented immigrant in the United States in violation of immigration laws. It would affect millions of legal immigrants, including lawful permanent residents, and nonimmigrants who accrue technical violations of immigration regulations, like failing to report a change of address.

Now, I know this because we have been working, we have been thinking, and we have been looking. But many of my colleagues may not understand the implications of the Sensenbrenner bill on the people of America, legal residents in some cases. People would be criminalized under H.R. 4437.

In addition, this bill criminalizes anyone who assists undocumented immigrants in the United States; and this would include, listen to this, please, it would include churches, other faith-based groups, volunteers that provide food aid, shelter, or other life-saving assistance to any noncitizen of this community who may not have documents.

Do we really want to clog up the Federal system with decent people who are just trying to be Good Samaritans? Is that what this is about? For you taxpayers, is that what you want to spend your monies on, providing public defenders for everyone we are about to put in jail? And the 11 million, supposed, because we do not even know really how many people there are here without documents, that we are committing to criminalize, women and children, where are we going to hold them? Because the mere presence of them being in the United States the day after a bill like this passes would make them felons in this country, according to Sensenbrenner.

So, it is not a good bill. This has not been thought through, the implications and how we handle it. And the money that this would cost is something that America really is not really ready for.

The Sensenbrenner bill also cripples American businesses. All of these people all of a sudden are felons. They are not in. They are not working. And all employers would be forced to use an employment eligibility verification system that, quite frankly, is not capable of handling the increase in volume that this Sensenbrenner bill would require.

The database for the employment eligibility verification system contains widespread flaws and false information, false information, which would show many legal workers as undocumented, depriving legal workers of jobs and employers of the much-needed workers, the reason these people are here.

The U.S. Chamber of Commerce and business groups across America oppose H.R. 4437 because the employers will pay the price for these impractical provisions and because enforcement-only legislation like H.R. 4437 will not create a rational immigration system needed to serve all Americans, businesses, and potential immigrants.

It does not address real comprehensive immigration reform, which is necessary for everybody out there in America. What undocumented workers are a problem. This Sensenbrenner bill will not fix what we have on our hands. You have only to look at demographics to understand we in America need more workers than we can produce. And we need to get them from somewhere. So we need to get back to comprehensive immigration reform, not just closing off borders or hurting people or taking children away from mothers or deporting mothers. This will not solve the problem we have at hand.

And so when we were in the Homeland Security Committee, we were working on border security in the hopes that this would be a good-faith effort to work together in a bipartisan manner and to get the bill rolling to work on more comprehensive reform that would bring about what we need here: Family reunification, good economic conditions for our economy and homeland security.

I urge my colleagues to oppose H.R. 4437. We deserve a comprehensive solution to our immigration problems.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNgren), the chairman of the Subcommittee on Economic Security, Infrastructure Protection and Cyber Security, and the former attorney general of California.

Mr. DANIEL E. LUNgren of California. Mr. Chairman, there are a number of major provisions in this bill, and let me speak of one that has been referred to on both sides of the aisle, some in support and some not in support.

Section 407 which is the expedited removal section, this was adopted in the markup in the Homeland Security Committee. The question of expedited removal was one that we explored in our subcommittee. The specific context of our hearing involved the growing number of illegal border crossings by what is referred to by the service as "OTMs." Let me explain what this is.

Most people who come across the border illegally from our adjoining countries, either on the north from Canada or the south from Mexico, accept voluntary home. They agree to voluntarily home and agree that they do not go through the various processes involved. We cannot do that with those people who are not from those countries because neither Mexico nor Canada would accept them. So we have to have an acknowledgment from the country from whence they came, their home country, that they are, in fact, residents of those countries or under the law allows it to be done. It requires us to detain those people for some period of time. That requires detention space, and the subject that has been discussed before, the idea of catch and release was created as a result of insufficient detention space and insufficient resources dedicated to that proposition. After that was revealed by the press earlier this year, the administration responded by trying out a couple of pilot projects in certain sectors. Instead of catch and release, it was retain them and then have expedited removal. They found that to be successful, and so they have expanded it to the entire southern border.

Our bill mandates what not only be a temporary policy but a permanent policy. Yes, it does extend within 100 miles of the border, and it is limited to 14 days. That is, people who have been here less than 14 days, even though the underlying law allows it to be done for a 2-year period of time, it does not limit it to 100 miles from the border. This is a border security bill, and we limit it in that fashion. It is directed at those who have come here.

One of the reasons that a large number of people from Brazil this past year coming up, and we found that not only did they come across the border but instead of running away from our immigration officers, they ran to them. They ran to them to surrender, and they ran to them to surrender so they could be cited so they could actually get the citation which said you have entered this country illegally, you have to show up for your hearing 90 days from now. And 90-some percent did not show up.

My question is, why did the 6 percent show up? If you look at it, we have created a system with every incentive to come back. That is why, because of the pilot project. What this bill does is mandates it. It is commonsensical. It is the right thing to do. It helps us take a right step in the right direction.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey (Mr. PASCRELL).
Mr. PASCARELL. Mr. Chairman. Members on both sides of the aisle believe that the government has a right to know who is coming into this country.

Secondly, it would seem to me, once you put this bill to the chair, we do not accept lawlessness. But I must say to Chairman KING, a man of intellect and compassion, and I will get to that in a second, and my very good friend, I must say to the chairman that, when we look at section 592, denying citizenship or naturalization to any legal permanent resident who has been unlawfully present in the country at any time in their life, what we are doing is forgetting how Italians and how Irish came into this country.

Now 9/11 did change a lot of things, obviously; no question about that. And it does not mean that we should open the floodgates or close them or build them or not build them. But when we forget how our ancestors got here, many times not in a pristine fashion, this is what we are doing, Mr. Chairman. You can scream to the high moon, but this is not your idea, and even if you put your name on this, I know it is not for sure. We didn’t pass this out of the Homeland Security Committee.

And by the way, how many folks are we going to have to hire to do all of this? Who is paying for this?

You have lost your background, and I mean that in a complimentary way. I do not mean that to be a wise guy. What you did just several years ago with the Irish immigrants who came here, when our British friends wanted to pluck them up and throw them out here, when our British friends wanted to pluck them up and throw them out of the country, it was courageous. You cannot deny this in a bill. You cannot deny your heritage. I call on you to look at your heritage.

We are making all immigrants here suspects. I believe, and I think all of us do, that it is a moral imperative for Congress to enact comprehensive immigration reform. Both sides of the aisle agree on that. We need a full and robust approach, one that includes not only strong and effective enforcement provisions but strategies to create new legal channels for future flows of immigrants because they are coming.

Family immigration backlogs. Families, we want to unite families in a legal fashion. This bill does not do that.

Indeed, it fails to address many of the most important elements of immigration reform while imposing harsh, considered punitive, measures. That is why I believe it is a moral imperative to vote this bill down today. I do not think it is wise, and I do not think it is a real plan. Instead of proceeding in a judicious manner that could affirmatively stem the flow of illegal immigration, we are debating ineffectual enforcement measures that do not increase the safety and security of the American people.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind Members to address their remarks to the Chairman of the Committee of the Whole.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

I, once again, admire the passion of the gentleman from New Jersey and assure the gentleman that I hold in high esteem the contributions immigrants have made, are making and will continue to make to this country. I believe it is a real plan. Instead of proceeding in a judicious manner that could affect

Mr. KING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ), the chairman of the Hispanic Caucus Task Force.

Mr. GONZALEZ. Mr. Chairman, I thank the gentlewoman from California, and I rise today in opposition to this legislation.

First of all, let us get it straight, this is not about border protection, and it is not about antiterrorism. If it was, we would be debating the bill that was voted out of Homeland Security. But instead, that bill had been hijacked and now is a vehicle used to promote ineffective and hypocritical so-called illegal immigration control.

Let us start with the obvious. When it comes to the hiring of the undocumented worker, and that is simple: Demand will always determine supply. If you were serious about limiting the number of undocumented workers coming into this country, then significantly increase the fines levied against employers. This bill does not do that. Make it as easy to criminalize the act of hiring as you do the act of entry into this country; this bill does not do that. Exclude employers that hire undocumented workers from government contracts and foreign subsidies and make sure that is a fact; this bill does not do that.

Overall, we need to stop the hypocrisy, and we need to deal with the reality that in the United States of America, which matters much more, the nature of those concerns happens to be superficial, just as this legislation is superficial. If this legislation does not fail now before it becomes law, it will fail later after it becomes law. I ask my colleagues, do not vote for failure.

Mr. KING. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. LINDER), the chairman of the Subcommittee on Prevention of Nuclear, Chemical and Biological Attacks.

Mr. KING. Mr. Chairman, I thank the chairman for yielding this time, and I want to commend both Chairman KING and Chairman SENSENBRENNER for being able to work together and bring this legislation to the floor. This is not a perfect bill, but it is a very, very good start.

Mr. King. Mr. Chairman, I rise in support of H.R. 4437 and urge my colleagues to
and released individuals who never law.
with a bill to dramatically change the enforce the law, but instead comes up responds not with enhancing the rem-
order our border security, the Congress re-
massive failure of administration of Chairman, I yield myself 3 minutes.
Homeland Security full committee and
ers, would certainly destroy it all, and destruction, carried by a terrorist who
attack involving a weapon of mass entry into the United States, and the
price, all of which I support. My con-
believe that our immigration laws sim-
security, not commerce. If we are to
We also need to make sure that they
have more cameras; more vehicles; and
in particular, more canine assets.
Section 108 of this bill that we are considering today in particular will strengthen border security by increasing the number of canine detection teams working with our Border Patrol agents. These detection dogs are instrumental in finding concealed hu-
also need to ensure new border surveil-
We need to ensure that they are trained
and cost efficient.
Section 109 of this bill addresses these concerns. It requires that a DHS Inspector General conduct reviews of each contract action over $20 million relating to the new Secure Border Initi-
With thousands of new Border Patrol agents being hired, we also need to en-
sure they are trained as cost effec-
tively as possible. Therefore, section 110 of this bill would instruct the GAO to
I would like to note that H.R. 4312 was the first major bill reported by the committee under the chairmanship of Mr. KING, and we appreciate his leadership.
Mr. Chairman, we have nothing less than a crisis situation on our borders. This past August I led a congressional delegation to our southern border with Mexico, and we saw firsthand vast areas without fences and densely popu-
areas where illegal aliens find their way across our border.
And I would urge you, Mr. Chairman, and our colleagues to refer to these in-
deeds as what they are. They are il-
eginal aliens. I was impressed during this visit with the dedication and level of our Border Patrol agents, and a few who are doing a tremendous job.
I was not surprised by their response that it is the definition of insanity, doing the same thing over and over again and ex-
not to do, to reinstate the exclusion of legal persons based on the place they were born.
There is a sad part of American his-
tory. In 1882, the 47th Congress of the United States passed a bill called the Chinese Exclusion Act, and that bill haunted this country, really, into 1943. It provided that people from China could not come. In section 404, we are de facto reinstituting the Chinese Exclusion Act be-
cause we are saying that countries that
do not cooperate with us, currently the State Department tells me it is China, Vietnam, Ethiopia and Cuba, then we have the ability to exclude people who are born in those countries.
Let me just give you an example. I have a lot of Vietnamese Americans in my
district. Do you think the Communist government in Vietnam cares if we do not let a refugee from their country into the United States? Do you think that the communists in China really would be concerned if a Chinese citizen was escaping from China, be-
cause they are facing a forced abortion in China? Do you think that enhancing the Communist governments of Cuba, Vietnam and China is really about se-
curing our Nation’s borders? I think not.
This bill is defective in so many ways that a wide number of groups have op-
posed it. The minority leader, Ms. PELOSI, will submit the list for the RECORD.
Mr. Chairman, I reserve the balance of my time.
Mr. KING of New York. Mr. Chair-
man, I yield 4 minutes to the gentle-
man from Alabama (Mr. ROGERS),
the chairman of the Subcommittee on Management, Integration and Over-
sight.
Mr. ROGERS of Alabama. Mr. Chair-
man, I rise today in strong support of this bill and in particular the provi-
sions from H.R. 4312, the Border Se-
tate and Terrorism Prevention Act of 2005, which was passed out of the Homeland Security Committee by a unanimous voice vote.
I would like to note that H.R. 4312 was the first major bill reported by the committee under the chairmanship of Mr. KING, and we appreciate his leadership.
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Mr. ROGERS of Alabama. Mr. Chair-
man, I rise today in strong support of
Security Committee and which is included in this bill before us today.

Mr. Chairman, securing our Nation’s air, land, and sea borders is a difficult, yet critical, task. While H.R. 4437 takes some good steps in addressing this problem, such as authorizing more Border Patrol agents and creating a new Border Patrol unit in my district, it also includes a number of harsh and contentious provisions which makes it impossible for it to receive the same kind of bipartisan support that was achieved in the Homeland Security Committee.

So while I am pleased that the passage of this bill would mean that over 175 miles of unprotected and open borders in the U.S. Virgin Islands, a gateway of choice for smugglers into the United States, would finally receive protection from a newly established Border Patrol unit, I remain deeply concerned that H.R. 4437 would be excessively harmful to immigrants, families, businesses, and communities. It was a much better bill when it left out of the Homeland Security Committee. And I would hope that as we continue the process of moving this bill through Congress, we would find a way to develop on the final form that the legislation would take, which would protect our borders without doing harm to immigrants and Americans of all backgrounds.

Mr. KING of New York. Mr. Chairman, I thank the gentleman for yielding this time, and I thank him for engaging in a colloquy to clarify the intent of this bill regarding our Nation’s seaports.

Mr. KING of New York. Mr. Chairman, I yield to the gentleman from Texas (Mr. LOBIONDO), the chairman of the Subcommittee on Coast Guard Maritime Transportation, for the purposes of a colloquy.

Mr. LOBIONDO. Mr. Chairman, I thank the gentleman for yielding his time, and I thank him for engaging in a colloquy to clarify the intent of this bill regarding our Nation’s seaports.

Mr. Chairman, I would like to ask you for a reading of the gentleman that this bill does not intend to duplicate or supersede existing policies and strategies that have been developed specifically for the maritime domain as part of the Strategy for Maritime Security or the National Maritime Transportation Security Plan, because these strategies provide a comprehensive framework to enhance maritime domain awareness including activities that may affect or threaten our maritime border security.

Mr. KING of New York. I would say to the gentleman that it is my intent that maritime border security strategies called for in H.R. 4437 should be developed under the framework of the Strategy for Maritime Security and in a way that complement the maritime security strategies that are being implemented under that plan.

Mr. LOBIONDO. As the chairman knows, the Coast Guard has been identified as the lead Federal agency with responsibilities over maritime domain awareness. The Coast Guard’s efforts to enhance awareness of activities in the maritime domain, in addition to the services role as the lead law enforcement agency in the maritime environment, enhance the Nation’s capabilities to maintain security along our maritime borders. The Coast Guard carries out missions every day to interdict illegal immigrants, drugs, and suspects before they reach the United States.

I ask the chairman if it is his intent to continue this House’s support of the Coast Guard’s efforts to maintain heightened border security and that this act will hinder these critical Coast Guard missions.

Mr. KING of New York. Nothing in this act should be understood to divert existing responsibilities for maritime border security or more generally any component of security in the maritime domain from the Coast Guard to any other entities in the Department of Homeland Security.

Mr. LOBIONDO. I thank the chairman for clarifying these very critically important issues regarding our maritime homeland security and the Coast Guard.

Mr. KING of New York. Mr. Chairman, I reserve the balance of my time.

Ms. ZOE LOPREGNAN of California. Mr. Chairman, I yield 1% minutes to the gentleman from Texas (Mr. HINOJOSA).

(Mr. HINOJOSA asked and was given permission to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Chairman, I rise in strong opposition to this ill-conceived and harmful legislation, H.R. 4437. Our immigration laws are in need of a complete overhaul. There are bipartisan proposals on the table, but the majority is not interested in solutions. It is interested in finding its next wedge issue for this 2006 campaign season. Our Nation will suffer as a result.

For the past 20 years we have taken a get-tough enforcement-only approach to this immigration problem, and the result has been the situation we find ourselves in today.

Those of us who represent border districts live on the front lines on the immigration issue. Let me give you a view from where we live. Our schools, hospitals, law enforcement, and social services are being stretched to the limit. At the same time, we have experienced a surge in economic activity and growth. My area has one of the fastest rates of job growth in the Nation.

Immigration is both a challenge and an engine for growth. We need laws that are up to the challenge.

For a perspective from the front lines, listen to the words of John McClung, the president of the Texas Produce Association: “Attempting to solve our border problems by passing draconian ‘enforcement’ legislation, absent a credible guest worker program, is unproductive to the economy, unfair to employers, ruinous to our relations with Mexico, and, yes, that really does matter.”

Mr. Chairman, I will submit the full text of this letter into the RECORD.

This bill will not help families. In my district, our caseworkers and our advocacy organizations, on a daily basis, work with families who have been waiting 10 years or more to be reunited with loved ones—a spouse, a sister, a child, a grandparent. The backlogs are enormous, and the system is capricious and error-ridden. Call for information on your immigration case, and the temporary contract worker at the call center with little to no training in immigration rules will give you a different answer every time.

This bill does nothing to fix our immigration system. It is not reality-based. It should be rejected.

TEXAS PRODUCE ASSOCIATION, Mission, TX, December 13, 2005

Hon. Ruben E. HINOJOSA,
Washington, DC.

DEAR REP. HINOJOSA: I am writing the Texas Congressional delegation in the belief that the Congress is perilously close to passing ill-conceived immigration reform legislation that will do great harm to this country, and fail in its objectives.

My office is about five miles from the U.S./Mexico border. My home is about a third of a mile from that border. I am as mindful as any American—more than most—of the surge of illegals into this country, and I certainly understand, and sympathize with, the need most of us feel to return to the rule of law. From the front yard of my house in the rural Rio Grande Valley, I often see groups of illegals trudging down the road. Many times I’ve watched the Border Patrol agents chase them down, cuff them, and haul them away. I can tell you that there’s no satisfaction in it, no sense of the good guys prevailing. Only a sad recognition that this country’s immigration laws are a dismal failure by any measure: economic, humanitarian, political. The saving grace is that enough illegals, get through to do most of the jobs that need doing, as disgraceful, flawed and inefficient as our nonsystem may be.

At least, they get through for now. I represent an industry that employs thousands of semi-skilled laborers, and increasingly is unable to find anywhere near an adequate supply of willing workers. Most people don’t want to do stoop labor in the fields, no matter the pay scale. They certainly don’t want their kids doing it. So we truly need guest workers from Mexico or Central America or wherever. So does the restaurant industry, and the construction industry, and every other industry that requires numbers of semiskilled workers. And what is the U.S. Congress doing about this mess? Preparing, it seems, to make a very bad situation a lot worse.

Most of us get it down here in rural Texas. Why can’t more members of Congress get it?

Is the need to act tough for the media so compelling? Is the ideology mantra of no amnesty (adjustment of status) for lawbreakers going to jeopardize American agriculture, and conceivably the national economy? Is the fact that these illegals want essential jobs in this country that none of our own citizens will take at any realistic pay rate of no consequence at all because they’re “illegal” or “undocumented”? 
Attempting to solve our border problems by passing draconian "enforcement" legislation, absent a credible guest worker program, would be enormously destructive to the economy. It would force employers into submission with fines and bills designed to appease the providers. The Sensenbrenner bill just passed out by the Judiciary Committee (H.R. 4437)—the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005—is a grand example that relies on bludgeoning U.S. employers into submission with fines and administrative procedures, but only after denying them the only source of labor they might realize they have been hit by. In fact, last week, it's just one of several one-sided bills designed to appease the "broken borders" crowd.

Here's what we're asking. The Sensenbrenner bill does not need to be shelved, as do all proposals that do not include a practical alien worker provision. To require electronic registration of employment eligibility without a smart guest laborer program, and without some form of amnesty, won't succeed. For those who gag on the idea of amnesty, the real question isn't determining how to avoid rewarding scofflaws—the real issue is deciding to avoid punishing this country. The produce industry has long supported the alien worker provision. To require electronic registration of employment eligibility without a smart guest laborer program, and without some form of amnesty, won't succeed. For those who gag on the idea of amnesty, the real question isn't determining how to avoid rewarding scofflaws—the real issue is deciding to avoid punishing this country. For those who gag on the idea of amnesty, the real question isn't determining how to avoid rewarding scofflaws—the real issue is deciding to avoid punishing this country.

If you and your colleagues can engineer a better bill, do so. If you can't, pass AgJOBS. Either way, please help lead the nation away from a politically expedient catastrophe. Thank you for your consideration.

JOHN M. MCCUINNG
President and CEO.

Mr. KING of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I would like to thank Chairman King and Sub-committee Chairman LUNGREN for their leadership in bringing this to the floor. I have serious problems with some non-Homeland Security parts of this bill, but I want to praise the Homeland Security section because I think they have done a terrific job. I would like to thank them in particular for two key provisions that we have supported in the past to fix every time the Homeland Security has broken them. One is in section 502, the Office of Air and Marine Operations, AMO; and in section 503 relating to the Native American Customs Patrol Officer known as the Shadow Wolves.

Section 502 relates to the AMO, which has historically been responsible for interdicting drug smuggling air- and go-fast speed boats; for supporting drug investigations and raids as well as migrant interdictions; for providing airspace security in the Nation's capital and at special events like the Olympics; and for providing crucial maritime patrol aircraft and for the fleet of helicopters, radar planes, for drug interdiction operations in the Caribbean and Eastern Pacific. Now they are being deployed as a picket fence. It makes no sense, and this bill helps to start to fix that before we destroy one of our best units in the United States Government.

In section 503, the Shadow Wolves have fallen victim to the same kind of over-compartmentalized thinking that threatens AMO. The Shadow Wolves are one of the last remaining Customs Patrol Officer units in the country. They control one of the critical points of the border and operate on the West Coast, covering tens of thousands of miles of the border. They control the Sonora area of Arizona, which has 70 miles of the U.S.-Mexican border running through it.

Here we have a Native American group that has been honored all over the United States and the world, something that is long overdue. They have built an effective deterrent U.S. Attorneys who are going to be needed in the future. As Members may guess, 75 percent of them do not show up for their court date and are free to roam the nation. Ha, ha. It does not promise that they will return for a deport hearing. Ha, ha. It does not happen. As Members may guess, 75 percent of them do not show up for their court date and are free to roam throughout our neighborhoods. That certainly is silent on U.S. marshals who, today, their vehicles average about 140,000 miles when the replacement suggested mileage is about 65,000.

But, oh, no, we are not doing anything about the things that we really need on the border. We are doing things that are mean spirited, things that are harmful to America's safety and our family members. This bill requires that law enforcement hold illegal aliens then release them with nothing but a flimsy promise that they will return for a deport hearing. Ha, ha. It does not happen. As Members may guess, 75 percent of them do not show up for their court date and are free to roam throughout our neighborhoods. That certainly is silent on U.S. marshals who, today, their vehicles average about 140,000 miles when the replacement suggested mileage is about 65,000.

This is a terrible bill. I am opposed to it. I recommend that all our colleagues oppose it. Let us pass a better job for our country by doing a better job with immigration.

Mr. KING of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Ms. GINNY BROWN-WAITE), the new member of the committee, who, also, is back from surgery.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I rise today in support of H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. I am proud to be a new member of the Homeland Security Committee and appreciate this opportunity to work with Chairman King on this legislation.

Every weekend, when I go back home to Florida, I hear from constituents that our country is being overrun by illegal immigrants. They truly show our constituents that Congress is listening to them and that we mean business.

For starters, the bill requires mandatory detention of illegal aliens, eliminating the Department of Homeland Security's dangerous catch-and-release policy. Catch and release does nothing other than allow the Border Patrol to apprehend illegal immigrants then release them with nothing but a flimsy promise that they will show up for a deport hearing. Ha, ha. It does not happen. As Members may guess, 75 percent of them do not show up for their court date and are free to roam throughout our neighborhoods. That certainly is silent on U.S. marshals who, today, their vehicles average about 140,000 miles when the replacement suggested mileage is about 65,000.

I am also pleased that the chairman was able to include some language in the bill that authorizes Homeland Security to engage in competitive contracts with companies to help manage the transportation of illegal aliens. Allowing the Secretary to engage in
Mr. Chairman, our Nation's lawmakers did not craft our immigration laws as suggestions or reading material for insomniacs. Our laws were made to ensure proper, secure, and legal entry into our country. This bill helps to accomplish exactly that, and I urge my colleagues to support it.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. HOYER), our distinguished whip.

Mr. HOYER. Mr. Chairman, let us set the record straight: This legislation is all about harsh, punitive measures that will not work.

This bill, even if it did become law, would not solve the real issue that confronts our Nation: the Federal Government's failure to ensure that our borders are secure. Who says that? George Bush, President of the United States, says that.

Let no one be mistaken. Our Nation has a border security problem. And it has an immigration problem. These problems were not created overnight, and they will not be eliminated with any legislation that would not improve it and make it less problematic, is not a piece of legislation that is going to pass the Senate and be signed by the President. So we are making politics, not policy.

This bill gives America a grade of D or F on the implementation of 17 of the commission's recommendations. This legislation would do little to prevent would-be terrorists from entering our country. Democrats are for the rule of law, we want to get border security right. But this bill is not about solving problems. It is all about harsh, punitive measures that will not work.

This Republican Congress has simply failed to provide the resources that our Federal law enforcement agencies need to get the job done.

And, we certainly do not have the detention space necessary to keep all the undocumented migrants we detain—much less the millions of people that this bill would force us to incarcerate.

So, after allowing this situation to become a crisis, Republicans today offer a purely political proposal that promises a quick-fix, a magic bullet: Make them all criminals—the workers, their neighbors, and their employers. And, make local and State law enforcement officials do the job of the Federal Government.

Democrats have a different approach. We want to take on this challenge in a comprehensive fashion.

We would do what's necessary to protect our borders, give law enforcement the tools that they need, and businesses that they require, allow families to stay united, and honor the principles of inclusion and freedom that have always been our hallmark.

I urge my colleagues to vote against this bill.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Chairman, I thank the subcommittee chairman for yielding me this time to speak on this issue.

I rise to strongly support the reform of our border security and enforcement and strengthening of current law.

My constituents keep asking me: When are we going to do something about illegal immigration? When are we going to take this problem seriously? Our borders must be secure, and our laws must be enforced.

America is a good and a generous Nation. We open our arms to the world. It is that spirit that makes us unique and inviting and vulnerable. And the world has changed, and our Nation is not secure unless our borders are secure. And it ought not to be too much to ask to bring accountability to the prevention of illegal immigration. And is that not what it is all about, accountability? Those who break our immigration laws should be held accountable. Those who break our laws should be held accountable. And those who turn the other way and claim that there is no problem should be held accountable.

Mr. Chairman, we have a large and a growing crisis in our country, and it is our responsibility to act on behalf of our constituents and our Nation. Simply put, if our borders are not secure, our Nation is not secure. The time to act is now.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), our distinguished Democratic leader.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding, and I want to commend her for her tremendous leadership on keeping our borders safe and strong and secure and for moving toward a comprehensive immigration policy.

I also want to thank the ranking member of the Judiciary Committee, Mr. CONyers; and the ranking member of the Homeland Security Committee, Mr. BENNIE THOMPSON, for their outstanding work in keeping America secure.

Mr. Chairman, the previous speaker said in his opening remarks, When are we going to take this issue seriously, this problem of borders and the issue of immigration?

That is exactly what I would like to know. For a long time now, there have been Members on both sides of the aisle, led by Mr. KOLNIE on the Republican side, who have called for comprehensive immigration reform. That would be taking this issue seriously.

We ask the same question of the President, When, Mr. President, are we going to take this issue seriously? And instead of having one bad bill after another come to the floor, we can have comprehensive bipartisan reform. It does exist now in the Kolbe-Gutierrez legislation that is also sponsored in the Senate by Senator MCCaIN and Senator KENNEDY. I want to commend Mr. Gutierrez on our side of the aisle for his leadership as well.

Broken borders, that is an oxymoron, something we cannot tolerate. Borders, by their nature, are our definition as a Nation and our hallmark as a country. Broken borders, they do not exist. We cannot tolerate them.

So let us say from the start that we all in this body, and I know I can speak very firmly for the Democrats, support strong border control, and it must be part and the first part of any comprehensive immigration reform. Our obligation as elected officials is to keep the American people safe, and our borders are one of our early lines of defense to do that. It used to be our first and only line of defense, but in this age of technology, more is possible. Our caucus, we have a true expert on the issue of border security, the gentleman from Texas, Mr. REYES, who just recently spoke on the floor. He is ready to further these efforts. Over and over, Democratic initiatives to make our borders more secure have been soundly rejected by the majority of the Republicans and the Republican leadership.
Democrats also support enforcing laws, current laws, against those who came here illegally and those who hire illegal immigrants; yet the Bush administration has refused to do just this. There is all of this talk about illegal immigration to the United States, and yet after those workers who are working here illegally, and we should, but we also must have employer sanctions. Where are these people working? Why are we not enforcing the law against employers who hire illegal, undocumented people there?

The Bush administration has prosecuted only three employer sanctioned cases in the last fiscal year; only three cases. When, yes, when, are we going to take this issue seriously? That is my question, my colleagues.

The point employer clarification provision in this bill, however, would have a big percentage of error built into it because it is so unsual and would put enormous financial burdens on American employers, again unsualy. It would be discriminatory in questioning the legal status of not only every newcomer to our country but anyone who looked like a newcomer to our country.

Democrats have led the way to meet our urgent homeland security needs as well, not only at our borders but in all aspects identified by the 9/11 Commission; at our ports, at our nuclear facilities, at our chemical plants and rail yards. But Republicans have not done so, even 4 years after 9/11. So if we want to talk about broken borders, as I said earlier, those borders as they define our country geographically, we can also be invaded in ways that go well beyond our borders, and that is why the 9/11 Commission has given the President and the Republican Congress a failing grade.

For the first time in our history, this bill would make it a Federal crime instead of a civil offense to be in the United States in violation of immigration laws or regulations. This provision would turn millions of immigrants currently here into criminals, hindering their ability to acquire any legal status, and would effectively frustrate the proposals that would provide real immigration reform.

Under the guise of an expansive definition of smuggling, it could make criminals out of Catholic priests and nuns, ministers, rabbis and social service workers; provide assistance and acts of charity to those in need. It would impose prison sentences of up to 5 years on those who answer God’s call and provide assistance to those in need. This is from the party who claims to promote religious and family values.

I will submit for the record, Mr. Chairman, a list of organizations that are opposing this bill. From the Jewish community, from the Methodist community, from the Presbyterian community, from the Catholic community, from the Lutheran community, from the Arab community, from almost every denomination that you can name; the list goes on and on of religious people of faith who are opposing this legislation.

Mr. Chairman, it simply does not take the immigration and broken borders issue seriously. It does not. It misses the mark completely by its arbitrary and mean-spirited legislation, and that is what we need. Instead, Republicans have a bill that is an abomination of the worst kind. It calls upon the worst political and most craven impulses. It is a failure of leadership. It is a failure of moral leadership.

All in all, as our elected officials, we have the responsibility to make the American people safer and to make America stronger. We can make America stronger, not only at our borders but in upholding our values and our principles.

I want to commend, again, Mr.kolbe and others who have worked with Mr. Gutierrez and others on our side of the aisle to make America safe and strong, because I know that, together, America can do it.

Mr. Chairman, I include for the Record the list of organizations opposing this legislation.

LIST OF GROUPS OPPOSED TO BORDER SECURITY BILL

League of United Latin American Citizens (LULAC), Mexican American Legal Defense and Educational Fund (MALDEF), National Association of Latino Community Legal Defense and Educational Fund, American Civil Liberties Union, National Asian Pacific American Legal Consortium, National League of Cities People For the American Civil Liberties Union—National Association of Latino’s, Elected and Appointed Officials, American Jewish Committee, Anti-Defamation League, Catholic Charities USA, Episcopal Church, Episcopal Migration Ministries, Leadership Conference for Civil Rights, American Jewish Communion, National Immigration Forum, ACORN, and US Action.

FAITH GROUPS


Mr. Chairman, I rise in support of this bill. Nothing is more important than good border security for our national security. Nothing is more important than enforcing the law of the land. And we cannot go on indefinitely with immigration laws that nobody pays any attention to. Yes, indeed, this is a bill that is courageous. It is bold. Certainly, it is controversial. But it is a step in the right direction, and it moves this issue forward.

What I am most particularly interested in is the committee’s acceptance of the provision that allowed States to use homeland security funds, State police, local police and so forth, to round up illegal immigrants and deliver them to the Feds. In New Hampshire, we spent over $200,000 in State police funds last year doing Federal duties and $200,000 from the Marine Patrol on the sea coast. I think this is a provision that adds flexibility to a bill that needs to be passed in this Congress.

Mr. Chairman, my constituents and constituents all over the country are crying out for a just law to end this
process of having undocumented illegal aliens working and flouting the law.

Ms. ZOE LOFGREN of California. Mr. Chairman, we are fortunate in Homeland Security to have two of us who serve both on the Judiciary Committee and the Homeland Security Committee, and I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE), the ranking member of the Immigration Subcommittee of the House Judiciary Committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, what disappoints me most on this legislation is, the men and women who are on the front lines, the Border Patrol agents, are the most left out of this particular legislative vehicle.

Quickly, Mr. Chairman, I will tell you that an amendment that was offered by myself and Mr. THOMPSON, the ranking member, specifically gives tools to those Border Patrol agents, who I believe are the people that are entrusting the responsibility of securing the borders by the American people.

We do not have aircraft and watercraft, which are valuable tools. We do not have the helicopters that are necessary. We do not have the necessary Border Patrol agents, which in my amendment to H.R. 4044, the bill that we offered, the homeland security legislation, we would have added 10,000 more agents. We would have added provisions about recruitment and retraining problems so that we would have an experienced Border Patrol agency.

Mr. Chairman, my friend, Mr. REYES, indicated the importance of a secure homeland with the right kind of personnel. We would have raised the base pay for a journey level Border Patrol agent to a GS-13. We leave out the very men and women on the front lines, and I would hope we will go back and fix this legislation to do that.

Mr. DANIEL E. LUNGERN of California. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Chairman, I rise in strong support of this bill. If we fail to secure our borders, we could face an even greater terrorist attack than 9/11.

We live in the greatest country on Earth. It is no wonder that so many people from other nations want to live in a land of such opportunity. I certainly do not want people from wanting to live and work in this great country. My paternal grandparents were legal immigrants to America several decades ago. But we have a responsibility to keep this great Nation safe and secure for future generations.

If we continue to neglect porous borders and the potential harm that can come from that, then we might as well bury the American flag in the sand. Every day that we fail to secure our borders is another day when a hardened criminal or even a terrorist might slip through. We risk the lives of our sons and daughters and risk the longevity of this great Nation.

I am certainly not saying that all of those who have come through our borders illegally are criminals or terrorists, but the possibility of letting in just one who is could cost many American lives and wreak havoc on our way of life.

Securing our borders is not closing them. I applaud Chairman SENSENBERG and Chairman KING and their staffs for their tireless efforts on this bill to secure our borders and prevent potential terrorist attack on that.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, remember at the height of Katrina, that tragedy, and we heard the words, “Good job, Brownie.” Well, we have someone equally qualified now in charge of the immigration function in the Homeland Security Department, and I think it is that level of competence that has led us to the problem that we face today, and that is that we dropped the ball. The administration has dropped the ball at the border. They have permitted thousands, tens of thousands, of individuals to promise to appear and then simply to escape into the country.

This was the job of the administration to go find them and deport them or have their matter be heard. We used to, on a regular basis during the first Bush administration, thefather Bush and the Clinton administration, personally go and find them after their sentences were served out in State and local incarceration facilities and deport them. The law provides for that. The ball has been dropped on that. This bill does not direct the administration to go find those folks who should have been taken in, who should have been deported.

Mr. Chairman, I have had some questions about section 404 of the act that I have mentioned previously, and I want to spend a moment on that. Incredibly enough, it provides that legal individuals, permanent residents of the United States, could be precluded, barred from entry if they leave. Let me give you an example of how it would work.

Say your son falls in love with a girl who was born in Cuba. She becomes a legal permanent resident because your son is an American citizen. They go on vacation to London. They try to come back, but they get caught, but his wife. Her son is a legal permanent resident of the United States, is refused admission. Why? Because Cuba will not accept someone who we deport. Now, do you think Fidel Castro cares whether your daughter-in-law is barred or not? I do not think so.

This is a ridiculous provision, and it is punitive towards people who were born in China, in Vietnam, in Cuba and in Ethiopia. It has nothing to do with securing our borders, but it does have a lot to do with the de facto reinstatement of the Chinese Exclusion Act of 1882 and has a very pernicious, very pernicious result for those who have fled communism in Vietnam and also in Cuba.

People are calling in wondering about this bill. They cannot believe that it is true. But let me explain how other provisions would work. The proposal is that individuals who are here without their proper documents, nothing none of us approve of, would become agitated felons under this bill. If you are a 10-year-old and you came in here with your parents, you do not have your papers, under this bill, you are an agitated felon. This will not make up for the Bush administration’s failure at the border.

Mr. KING of New York. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this has been a very lively and interesting debate. I would hope that as we go through the amendments and into tomorrow, we would keep focusing on the fact that everyone here is well-intentioned.

We face a crisis on our borders. We face a crisis involving international terrorism, and we must fix it. We must take significant first steps. That is what this bill is.

We can have honest disagreements, but it is wrong, I believe, to be impugning motives, to be suggesting someone is anti-immigrant.

For instance, the gentlewoman from California is talking about section 404. What that does is give the Secretary of Homeland Security to have two of us who take action if the Secretary deems it necessary.

That to me is an appropriate power, an appropriate discretionary power to be given to the Secretary of Homeland Security at a time when our homeland security is being threatened. It is irresponsible to not give the Secretary that power, and that is what this is about. It is a power, by the way, which the Secretary of State has had for many years.

As we go forward, let us keep in mind that this country was built by immigrants, that immigrants are essential. They are the life’s blood of our Nation. All of us are descendants of immigrants. At the same time, for our country to survive, for our country to be secure, for our country to be safe we must be as certain as we can be that the immigrants entering this country deserve to be in this country, that they are no threat to this country.

As long as we have this mass entrance of millions and millions of illegal immigrants, we do not have that security that we need. We do not have the sense of safety that we need, and we are not protecting ourselves to the extent we must if we are going to avoid having another September 11.

I come from a district in my district on September 11. I do not want another 9/11 commission to come back in several years and say why did you not close
the borders, why did you not allow another 9/11 to go forward, to happen? Why could you not stop another 9/11? Because you did not have the guts to take the tough action.

We are being confronted here by many forces, including big business. Big business does not want this. We also have advocacy groups that do not want it. We cannot yield our responsibility to any outside pressure groups, whether they be big business or advocacy groups. I urge the adoption of this legislation as we go through this process.

Mr. HONDA. Mr. Chairman, I rise in strong opposition to this measure.

Border security is a critical component of our nation's security, but we cannot have true border security without addressing comprehensive immigration reform.

As U.S. Homeland Security Department Secretary Chertoff pointed out, "[t]he problem of immigration is one that's been with this country for 20 years. So we are digging ourselves out of a hole which it took 20 years to put us in into.

During the past twenty years, Congress has been taking an enforcement only approach which has put us in the "hole" that Secretary Chertoff referenced. If you want to get out of a hole, the first step is to stop digging ourselves into it.

The Border Security bill we have today will only worsen an already broken immigration system and it represents the latest in misguided enforcement only approaches.

In the past few years we have passed the Patriot Act, the Real ID act and now we are further expanding a big brother form of government by taking up this flawed bill.

To fix our immigration system we must uphold American values by reuniting families, providing earned legalization for immigrants who have proven to be law abiding members of society and as the president has said, develop a guest worker program.

Reuniting families is of particular concern for Congressional Asian Pacific American Caucus. Our family preference immigration system has not been updated in more than a decade, and an increasing number of families face periods of separation of up to twenty years.

Family reunification is impeded by immigration backlogs and by outdated quota systems. The backlog for processing children of permanent resident parents to come to the U.S. is Unconscionable if we are a nation that truly believes in family values.

Earned legalization is important to the many Asian Americans who are here working hard, paying taxes and need a chance to adjust their status.

A fair, efficient and sensible guest worker program is also needed to provide a labor supply for American employers.

Again, the real solution requires a comprehensive approach, not a border enforcement only measure.

H.R. 4437, a bill that deals with enforcement only, ignores the reality of our current immigration challenges and will not be an effective way to address the security of our nation and the well being of our people.

The time has come for Congress to make immigration reform a priority. Congress is long overdue in passing immigration laws that meet the real needs of families and businesses while reflecting America's tradition of embracing the contributions of immigrants.

Mr. CANNON. Mr. Chairman, I rise today to support HR 4437, the Border Protection, Antiterrorism and Illegal Immigration Control Act.

The debate over our nation's immigration policy has steadily moved from the back of the newspaper to the front page. I should know. I've been working on this issue since I first came to the House of Representatives in 1996.

Americans are rightly concerned about the security and the integrity of our nation's borders because the very system designed to stem the flow of illegal immigrants into our country is broken. Current statistics estimate that we now have at least 10 million illegal aliens in this country.

Mr. Chairman, if we are going to fix this system, it is important that we fix it in the right way, comprehensively, so that we are not back debating this issue within a year.

We need a system that will encourage well-intentioned families to come out of the shadows so they can be identified. Standing on the soap box, shouting fire and brimstone is not going to do that, but laws implementing a guest worker program will.

From 1990 to 2000, the number of U.S. Border Patrol agents nearly tripled, but illegal immigration increased by as much as 5.5 million. Increasing enforcement resources to keep out willing immigrant workers, as we did throughout the 1990s, has obviously failed.

Mr. Chairman, as most are well aware, I have long stated that enforcement, border security and a guest worker program are the pieces of the puzzle that need to be linked together to allow us to effectively control our border. A broader strategy that includes both enforcement and the creation of adequate legal channels for immigration serves our nation's interests.

Our immigration laws and policies must reflect the realities we face today. Our economy demands workers, but our national security demands that we identify those lurking in the shadows.

An editorial that ran on KSL-TV of Utah last week stated: "Steps must be taken to stop the torrential northward flow of illegal workers. As that is accomplished, attention can focus on rationally dealing with the millions of illegal immigrants already here. A realistic temporary worker program, in some form, must be part of the effort."

Mr. Chairman, KSL has it right. Enhanced enforcement must be a priority for immigration policy, but as part of today's debate, we must realize that we owe it to our constituents to reexamine the policies that contribute to true immigration reform and that includes a guest worker program.

I would like to note that the Mexican government and their President Vincente Fox have taken steps to work cooperatively with the United States to protect our southern border. What often goes unnoticed in the immigration debate is Mexico's efforts to reign in organized crime, stemie drug trafficking and the ongoing cooperation between our Attorney Generals to combat narcotics, illegal immigration and related violence on the border. The OASISS, a program Fox launched by his country this year to stop human smuggling by criminal rackets, has helped stem the illegal flow of persons, but there is more to do. President Fox has shown himself to be an ally of America's national and economic security by standing up to the dictators of Latin America, like Hugo Chavez, and this should not go unnoticed.

I encourage my colleagues to support this bill. Broader immigration reform has been outlined by President Bush, and there are ideas in both Houses of Congress that will restore public confidence in a safe and secure immigration system.

I stand committed to seeing comprehensive immigration reform passed out of Congress and sent to the President for his signature. That is what America wants and needs.

I would like to thank Chairman SENSENBRENNER for his tireless work on this issue. I support this bill as the first step in the process towards true immigration reform.

Mr. MARKEY. Mr. Chairman, rise in strong opposition to this bill, which fails to provide the strengthened border security our nation needs to deter terrorists while also leaving many of our internal immigration problems unresolved.

This bill claims to address the problem of illegal immigration, but it offers an enforcement-only solution, where a comprehensive strategy is needed. I planned to offer two amendments today to this bill. Mr. Speaker, but the Republican-controlled Rules Committee refused to permit them to be debated and voted on today on the House Floor. Many of my colleagues also were blocked from offering important amendments.

Shutting out more than 100 amendments certainly represents serious "sins of omission" by this Republican Congress. There are also many "sins of commission" tucked into this bill. For example, the bill:

- Subjects members of churches and other humanitarian organizations to criminal penalties of up to 5 years in prison if they provide food, shelter, or health care to undocumented immigrants, even if they are in desperate or life-threatening circumstances; and the bill Reclassifies 11 million undocumented immigrants—including children—as aggravated felons who could be arrested and imprisoned for more than a year if they are caught.

These provisions do not make us safer. Mr. Chairman, and they do not reflect the values of our nation.

The first amendment I planned to offer today would have tightened security on the millions of cargo containers that enter our country from overseas, from Mexico and from Canada. Seven million cargo containers arrive at U.S. ports every year. These containers represent an important component of our economy, providing consumers with an enormous array of choices. In Massachusetts, the port of Boston—which became an international port in 1630 and is currently an active major port in the Western Hemisphere—handles 1.3 million tons of general cargo and 12.8 million tons of bulk fuel cargos every year. Clearly, such global commerce is critical to the economic health of our country. If the same, however, cargo containers represent tempting targets for terrorists. Arms control expert Graham Allison has said that "more likely than not", there will be terrorist attack using a nuclear bomb in our country. He has described the detonation of a nuclear explosive device in a cargo container in one of our cities, as a nightmare for our country.

Steven Flynn, a senior fellow at the Council on Foreign Relations and former officer in the Coast Guard, wrote in his book...
America the Vulnerable about "catastrophic consequences of terror in a box" delivered by a cargo ship to one of our ports. [Page 84].

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December 15, 2005

Trade Partnership Against Terrorism (C

anspected at the border. They basically receive benefits from our government.

ments, and in return, they receive a range of benefits for our government.

Specifically, if shippers provide information about their operations to Customs and Border Protection, their goods are less likely to be in-

The problem is that Customs and Border Protection grants these special benefits without having to stop.

proving that the security information pro-

vided by the shippers—liable, accurate and unambiguously against the use of torture, reports keep growing of the U.S. sending de-

barred from checking to make sure that prom-

ised security measures actually are in place at their facilities.

Customs and Border Program also has a re-

lated program, called "FAST", which stands for Free and Secure Trade program. The FAST program requires that trucking companies subject their drivers to background checks and participate in the C–TPAT program. Again, the problem is that the trucks get waved through the FAST lane, but the trucking companies’ facilities are rarely, if ever, inspected to validate that the security policies they’ve promised to implement are fact or fiction.

This makes the FAST program, really the “FAST ONE” program, since truckers are pulling a fast one on our country by getting benefits without having to demonstrate the promised security policies.

My amendment would have required Cus-

"E-Z Pass" from our government, sort of like drivers who speed right through toll booths without having to stop.

When it comes to these two programs, we should follow the Reagan Doctrine of cargo in-

spection and Trust and Verify that the ship-

When it comes to these two programs, we should follow the Reagan Doctrine of cargo in-

To balance the need to participate in the global economy and the security concerns asso-

...terrorism and the second amendment I would have of-

faced today, if the Republican-controlled Rules Committee it in committee. This treaty was signed by the United States during the Reagan Ad-

and Somalia would be refused entry into the United States.

My amendment reaffirmed our commitment to the Convention Against Torture. It said that we should not transfer aliens who have tried to enter this country to other countries where they are likely to face torture. It said that we should not rely on "diplomatic assurances" or promises from countries like Egypt or Syria that they will not face torture if the alien is transferred. Based on the word of Syria or Libya, our government is ar-

This is outrageous. Is there any Member who thinks that we should accept the word of Syria and Libya—longtime human rights viola-

Here is how the State Department’s annual human rights report describes typical Syrian methods of interrogation: "administering electrical shocks, pulling out fingernails, forcing objects into the rectum, . . . ."

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Third, this bill takes valuable time and re-

sources away from urgent police responsibil-

ities, such as dealing with murder, rape, and gang activity by empowering state and local police to enforce immigration laws which is currently the responsibility of the Department of Homeland Security.

Fourth, this bill would classify as aggravated felons children who through no fault of their
own are brought here illegally by their parents. While I support cracking down on criminal aliens, I cannot support the criminalization of innocent children and thus deny them the opportunity to advance their lives in the future.

Fifth, this bill can weaken our fight against terrorism. Homeland Security Grant Funds to be diverted from critical personnel such as our first responders. The State Homeland Security Grant Program has already been cut in half from $1.1 billion to $550 million. Our state and local governments cannot afford further shrinking of these critical funds if they are to protect us in the event of another terrorist attack.

Finally, this bill would expand the controversial process of removing individuals from our country without a fair hearing. This flawed procedure, known as expedited removal, has already resulted in the wrongful deportation of refugees who faced torture and death when they were returned to their native countries. Rather than fix this unjust procedure and protect these vulnerable individuals, this provision further denies them due process of law.

Our nation serves as a model for democracy, fairness, and the rule of law. Unfortunately, this bill takes us away from these ideals upon which our nation was founded. I urge my colleagues to join me in defeating this dangerous bill.

Mr. MOORE of Virginia. Mr. Chairman, I rise today in opposition to H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. Rather than take a hard look at our immigration system, this legislation would change those civil provisions. They are a vital part of our economy. Punishing those people, who contribute greatly to our economy, rather than providing some form of guest worker visa program, is penny wise but pound foolish. We should be in the business of helping them gain a pathway to legal status rather than locking them up.

One of the most deleterious provisions of this legislation would make it a crime for a U.S. citizen to help an undocumented immigrant, even if this is done unknowingly. Under the expanded definition of smuggling, a citizen could be prosecuted for simply driving a neighbor to the grocery store or hospital emergency room.

Such a policy criminalizing the work of nonprofits and religious organizations, whose sole purpose is to help human beings in need. Many organizations work on behalf of refugees and asylum seekers, helping them navigate their way through the Byzantine immigration process. Because our immigration system is so complicated, it is possible that asylum seekers are in the United States illegally for a short time. Any citizen who helps people who have fled their home country because they feared for their lives could be prosecuted under the wording of this bill. This is totally unacceptable and runs counter to the values that have made our country great.

The United States is a beacon for democracy and has always been a refuge for people seeking freedom. From the first settlers who were escaping religious persecution, to Europeans escaping Communist regimes, accepting the huddled masses yearning to be free has been a part of our Nation's genetic code.

Mr. Chairman, President Kennedy once stated, "Everywhere immigrants have enriched and strengthened the fabric of American life." This can be seen in all aspects of our society from advances in science and medicine to great works of art and literature. If this legislation is passed, the fabric of our Nation could be permanently altered.

Mr. KING of New York. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 109–347, is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows: H.R. 4437

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 "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act as follows:


Sec. 307. Sense of Congress regarding cooperation with Indian Nations.

TITLE VI—TERRORIST AND CRIMINAL ALIENS

Sec. 601. Removal of terrorist aliens.

Sec. 602. Removal of dangerous aliens.

Sec. 603. Increase in criminal penalties.

Sec. 604. Precluding admissibility of aggravated felons and other criminals.

Sec. 605. Precluding admission or asylee adjustment of status for aggravated felons.

Sec. 606. Removing drunk drivers.

Sec. 607. Determining country law enforcement assistance program.

Sec. 608. Rendering inadmissible and deportable aliens participating in criminal street gangs.

Sec. 609. Naturalization reform.

Sec. 610. Expedited removal for aliens inadmissible on criminal or security grounds.

Sec. 611. Technical correction for effective date in change in inadmissibility for terrorists under REAL ID Act.

Sec. 612. Bar to good moral character.

Sec. 613. Strengthening definitions of "aggravated felony" and "conversion".

Sec. 614. Deportability for criminal offenses.

TITLE VII—EMPLOYMENT ELIGIBILITY VERIFICATION

Sec. 701. Employment eligibility verification system.

Sec. 702. Employment eligibility verification process.

Sec. 703. Expansion of employment eligibility verification system to previously hired individuals and recruiting and referring.

Sec. 704. Basic pilot program.

Sec. 705. Report on Social Security card-based employment eligibility verification.

Sec. 706. Penalties.


Sec. 708. Effective date.

TITLE VIII—IMMIGRATION LITIGATION ABUSE REDUCTION

Sec. 801. Board of Immigration Appeals removal order authority.

Sec. 802. Judicial review of visa revocation.

Sec. 803. Reinstatement.

Sec. 804. Withholding of removal.

Sec. 805. Certificate of reviewability.

Sec. 806. Waiver of rights in nonimmigrant visa issuance.

SEC. 2. STATE DEFINED.

In titles I, III, IV, and V of this Act, the term "State" has the meaning given it in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)).

SEC. 3. SENSE OF CONGRESS ON SETTING A MANAGEABLE LEVEL OF DEPORTATION.

It is the sense of Congress that the immigration and naturalization policy shall be designed to enhance the economic, social and cultural well-being of the United States of America.

TITLE I—SECURING UNITED STATES BORDERS

SEC. 101. ACHIEVING OPERATIONAL CONTROL ON THE BORDER.

(a) IN GENERAL.—The Secretary of Homeland Security shall determine necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States through the following—

(1) systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as cameras; ground-based vehicles; unmanned aerial vehicles; and data-sharing technologies;

(2) physical infrastructure enhancements to prevent unlawful entry by aliens into the United States and facilitate access to the international land and maritime borders by United States Customs and Border Protection, such as additional checkpoints, all weather access roads, and vehicle barriers;

(3) hiring additional Border Patrol agents as expeditiously as possible additional Border Patrol agents authorized under section 502 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458); and

(4) increasing deployment of United States Customs and Border Protection personnel to areas along the international land and maritime borders of the United States where there are high levels of unlawful entry by aliens and other areas likely to be impacted by such increased deployment.

(b) OPERATIONAL CONTROL DEFINED.—In this section, the term "operational control" means the prevention of the entry into the United States of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

SEC. 102. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) SURVEILLANCE PLAN.—Not later than six months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the President a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States. The plan shall include the following:

(1) An assessment of existing technologies employed on such borders.

(2) A description of how such surveillance technologies will be compatible with existing surveillance technologies.

(3) A description of how the United States Customs and Border Protection is working, or is expected to work, with the Director of Science and Technology of the Department of Homeland Security to identify and test surveillance technology.

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

(5) The identification of any obstacles that may impede full implementation of such deployment.

(6) A detailed estimate of all costs associated with the implementation of such deployment and continued maintenance of such technologies.

(7) A prioritization of research and development needs.

(8) A description of ways to ensure that the free flow of legitimate travel and commerce of the United States is not 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 bed space needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States in accordance with the National Strategy for Border Security required under subsection (a) of section 103 of the Act.

(b) NATIONAL STRATEGY FOR BORDER SECURITY.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies, shall submit to the appropriate congressional committees a National Strategy for Border Security to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States, and shall update the National Strategy as needed and shall submit to the Committee on Homeland Security of the House of Representatives, not later than 30 days after each such update, the updated Strategy. The National Strategy for Border Security shall include the following:

(1) The implementation timeline for the surveillance plan described in subsection (a).

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate into the United States, including along the international land and maritime borders of the United States.

(3) The ‘‘cost of delay’’ of actions taken on appropriate portions of the international land and maritime borders of the United States with respect to—

(A) preventing the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

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

(4) 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.

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

(6) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations with respect to how the Department of Homeland Security can improve coordination with such authorities, to enable border security enforcement to be carried out in an efficient and effective manner.

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

(c) CONSULTATION.—In creating the National Strategy for Border Security described in subsection (b), the Secretary shall consult with—

(1) State, local, and tribal authorities along the international land and maritime borders of the United States;

(2) appropriate cross-section of private sector and nongovernmental organizations with relevant expertise;

(d) PRIORITY OF NATIONAL STRATEGY.—The National Strategy for Border Security described in subsection (b) shall be the controlling document for security and enforcement efforts related to securing the international land and maritime borders of the United States.

(e) IMMEDIATE ACTION.—Nothing in this section shall 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, to the extent provided in section 101 of this Act or any other provision of law.

(f) REPORTING OF IMPLEMENTING LEGISLATION.—After submission of the National Strategy for Border Security described in subsection (b), the Secretary shall provide notice to the Committee on Homeland Security of the House of Representatives, such Committee shall
promptly report to the House legislation authorizing necessary security measures based on its evaluation of the National Strategy for Border Security.

(2) APPROPRIATE CONGRESSIONAL COMMITTEE.—For purposes of this title, the term "appropriate congressional committee" has the meaning given it in section 2(c) of the Homeland Security Act of 2002 (6 U.S.C. 101(c)).

SEC. 103. IMPLEMENTATION OF CROSS-BORDER SECURITY AGREEMENTS.

(a) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 102(g)) a report on the implementation of any cross-border security agreements signed by the United States with Mexico and Canada, including recommendations on improving cooperation with such countries to enhance border security.

(b) UPDATES.—The Secretary shall regularly update the Committee on Homeland Security of the House of Representatives concerning such implementation.

SEC. 104. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2006, the Secretary of Homeland Security shall—

(1) in consultation with the Attorney General, enhance connectivity between the IDENT and IAFIS fingerprint databases to ensure more expeditious data searches; and

(2) not later than the date the Secretary of State, collects all fingerprints from each alien required to provide fingerprints during the alien’s initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (6 U.S.C. 1221 note).

SEC. 105. ONE FACE AT THE BORDER INITIATIVE.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report—

(1) describing the tangible and quantifiable benefits of the One Face at the Border Initiative established by the Department of Homeland Security;

(2) identifying goals for and challenges to increased effectiveness of the One Face at the Border Initiative; and

(3) providing a breakdown of the number of inspectors involved with the initiative.

SEC. 106. SECURE COMMUNICATION.

The Secretary of Homeland Security shall, as expeditiously as practicable, develop and implement a plan to ensure clear and secure two-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;

(3) between Border Patrol agents and residents in remote areas along the international land borders that have mobile communications, as the Secretary determines necessary; and

(4) between all appropriate Department of Homeland Security border security agencies and State, local, and tribal law enforcement agencies.

SEC. 107. PORT OF ENTRY INSPECTION PERSONNEL.

In each of fiscal years 2007 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 250 the number of positions for full-time active duty port of entry inspectors. There are authorized to be appropriated to the Department of Homeland Security for such fiscal year to hire, train, equip, and support additional inspectors under this section.

SEC. 108. CANINE TEAM TRAINING.

In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 25 percent above the number of such positions for which funds were allotted for the preceding fiscal year the number of trained detection canines for use at United States ports of entry and along the international and maritime borders of the United States.

SEC. 109. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department’s Secure Border Initiative having a value greater than $20,000,000, to determine whether such action is and will be fully compliant with the applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and timelines. The Inspector General shall complete a review under this subsection with respect to a contract action—

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

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

(b) REPORT BY INSPECTOR GENERAL.—Upon completion of each review described in subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding any cost overruns, significant delays in contract execution, lack of rigorous governmental contract management, insufficient financial oversight, bundling that limits the ability of small business to compete, or other high risk business practices.

(c) REPORT BY SECRETARY.—Not later than 30 days after the date on which an Inspector General report required under subsection (b), the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 102(g)) a report on the findings of the report by the Inspector General and the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(d) AUDITS AND INVESTIGATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General, an additional amount equal to at least four percent of the financial oversight, at least six percent for fiscal year 2008, and at least, seven percent for fiscal year 2009 of the overall budget of the Office for each such fiscal year is authorized to be used by the Inspector General to enable the Office to carry out this section.

SEC. 110. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Department of Homeland Security to ensure that such training is provided as efficiently and cost-effectively as possible.

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

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how the curriculum has changed since September 11, 2001.

(2) A review and a detailed breakdown of the costs incurred by United States Customs and Border Protection and the Federal Law Enforcement Training Center to train one new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2) of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar law enforcement training programs provided by State and local agencies, non-profit organizations, universities, and the private sector.

(b) REVIEW OF EXISTING OR FUTURE PROGRAMS.—All evaluations of the existing or any potential future Border Patrol training programs, pursuant to paragraphs (1) and (2), shall utilize comparable Federal-training programs, proficiency testing to streamline training, and long-distance learning programs may be considered.

(C) The cost-effectiveness of increasing the number of Border Patrol agents trained per year and reducing the per agent costs of basic training; and

(B) The scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 111. AIRSPACE SECURITY MISSION IMPACT REVIEW.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives a report detailing the impact the airspace security mission in the National Capital Region (in this section referred to as the "NCR") will have on the ability of the Department of Homeland Security to protect the international land and maritime borders of the United States. Specifically, the report shall address—

(1) The specific resources, including personnel, assets, and facilities, devoted or planned to be devoted to the NCR airspace security mission, and from where such resources were obtained or are planned to be obtained.

(2) An assessment of the impact that diverting resources to support the NCR mission has or is expected to have on the traditional missions in and around the international land and maritime borders of the United States.

SEC. 112. REPAIR OF PRIVATE INFRASTRUCTURE ON BORDER.

(a) IN GENERAL.—Subject to the amount appropriated in subsection (d) of this section, the Secretary of Homeland Security shall reimburse property owners for damages to private infrastructure constructed on United States Government right-of-way delineating the international or border wall areas—

(1) the result of unlawful entry of aliens; and

(2) confirmed by the appropriate personnel of the Department of Homeland Security and submitted to the Secretary for reimbursement.

(b) VALUE OF REIMBURSEMENTS.—Reimbursements for submitted damages as outlined in subsection (a) shall not exceed the value of the private infrastructure prior to the date of the damage.

(c) REPORTS.—Not later than 120 days after the date of the enactment of this Act and every subsequent six months until the amount appropriated for this section is expended in its entirety, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives a report that details the expenditures and circumstances in which those expenditures were made pursuant to this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated an initial $50,000 for each fiscal year to carry out this section.

SEC. 113. BORDER PATROL UNIT FOR VIRGIN ISLANDS.

Not later than September 30, 2006, the Secretary of Homeland Security shall establish at
least one Border Patrol unit for the Virgin Islands of the United States.

SEC. 114. REPORT ON PROGRESS IN TRACKING TRAVEL OF CENTRAL AMERICAN GANGS ALONG INTERNATIONAL BOR

Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall report to the Committee on Homeland Security of the House of Representa
tives on the progress of the Department of Homeland Security in tracking the travel of Central American gangs across the international land border of the United States and Mexico.

SEC. 115. COLLECTION OF DATA. Beginning on October 1, 2006, the Secretary of Homeland Security shall annually compile data on the following categories of information:

(1) The number of unauthorized aliens who require medical care taken into custody by Bor
der Patrol officials.

(2) The number of unauthorized aliens with serious injuries or medical conditions Border Patrol officials encounter, and refer to local hospitals or other health facilities.

(3) The number of unauthorized aliens with serious injuries or medical conditions who arrive at United States ports of entry and subsequently are admitted into the United States for emergency medical care, as reported by United States Customs and Border Protection.

SEC. 116. DEPLOYMENT OF RADIATION DETECTION PORTAL EQUIPMENT AT UNITED STATES PORTS OF ENTRY.

(a) DEPLOYMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall deploy radia
tion portal monitors at all United States ports of entry and subsequently deployed by the Secretary to facilitate the screening of all in-
bound cargo for nuclear and radiological mate-
r
rial.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections conducted on or after the date of the enactment of this Act.

SEC. 117. CONSULTATION WITH BUSINESSES AND FIRMS.

With respect to the Secure Border Initiative and for the purposes of strengthening security along the international land and maritime bor
der

TILE II—COMBATTING ALIEN SMUGGL

and Illegal Entry and Presence

SEC. 201. DEFINITION OF AGGRAVATED FELONY.

(a) In General.—Section 1101(a)(43) of the Im

migration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—
years, or any term of years, or for life, or fined under title 18, United States Code, or both.

“(3) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in subsection (b).

“(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

“(1) IN GENERAL.—Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

“(2) ALIEN DESCRIBED.—A alien described in this paragraph who—

“(A) is an unauthorized alien (as defined in section 274A(h)(3)); and

“(B) has been brought into the United States in violation of subsection (a).

“(c) SEIZURE AND FORFEITURE.—

“(1) IN GENERAL.—Any property, real or personal, that has been used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

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

“(d) WHOSE SERVICES ARE ALLOWED.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

“(e) ADMISSIBILITY OF EVIDENCE.—

“(1) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—Notwithstanding any provision of the Federal Rules of Evidence, in determining whether a violation of subsection (a) has occurred, any of the following shall be prima facie evidence that an alien involved in the violation lacks lawful authority to come to, enter, reside, remain, or be in the United States or that such alien, when last discovered, remained or been present in the United States in violation of law:

“(A) Any order, finding, or determination concerning the status or lack thereof made by a federal judge or administrative adjudicator (including an immigration judge or an immigration officer) during any judicial or administrative proceeding authorized under the immigration laws or regulations prescribed thereunder.

“(B) An official record of the Department of Homeland Security, Department of Justice, or the Department of State concerning the alien’s status or lack thereof.

“(C) Testimony by an immigration officer having personal knowledge of the facts concerning the alien’s status or lack thereof.

“(D) Videotaped testimony.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deposed for such purpose by the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for deposition, the deposition was taken in the United States, or is otherwise unavailable to testify, and the deposition otherwise complies with the Federal Rules of Evidence.

“(f) DEFINITIONS.—For purposes of this section:

“(1) The term ‘lawful authority’ means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or the regulations prescribed thereunder. Such term does not include any such authority secured by fraud or otherwise obtained at trial or on appeal or that includes authority that has been sought but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside, remain, or be in the United States or to be present in the United States in violation of law, remaining, or presence was, is, or would be in violation of law.

“(2) The term ‘unlawful transit means travel, movement, or temporary presence that violates the laws of any country in which the alien is present, or any country from which or to which the alien is traveling or moving.’

“(B) CLERICAL AMENDMENT.—The item relating to section 274 in the table of contents of such Act is amended to read as follows:

“Sec. 274. Alien smuggling and related offenses.

“SEC. 202. IMPROPER ENTRY BY, OR PRESENCE OF, ALIENS.

“Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended—

“(1) in subsection (a)—

“(A) by striking all that follows ‘United States’ the first place it appears and inserting a comma;

“(B) in the matter following paragraph (2), by striking ‘imprisoned not more than 2 years;’ inserting ‘imprisoned not less than 1 year and not more than 2 years;’;

“(C) by adding at the end the following: ‘It shall be an affirmative defense to an offense under this subsection that (A) prior to an alien’s reembarkation at a place outside the United States or an alien’s application for admission from in contiguous territory, the Secretary of Homeland Security has expressly consented to the alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, such alien was not required to obtain such advance consent under this Act or any prior Act.’;

“(2) in subsection (b)—

“(A) in paragraph (1), by striking ‘imprisoned not more than 10 years,’ and insert ‘imprisoned for a term of not less than 5 years and not more than 10 years;’

“(B) in paragraph (2), by striking ‘imprisoned not more than 20 years,’ and insert ‘imprisoned for a term of not less than 10 years and not more than 20 years;’

“(C) in paragraph (3), by striking ‘, or’ and inserting ‘; or’;

“(D) in paragraph (4), by striking ‘imprisoned for more than 10 years,’ and insert ‘imprisoned for a term of not less than 5 years and not more than 10 years;’;

“(E) by adding at the end the following: ‘The paragraphs in paragraphs in paragraphs (1) and (2) are elements of enhanced crimes and the penalties under such paragraphs shall apply only where the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admis-

“(2) in subsection (b)—

“(A) in paragraph (1), by striking ‘imprisoned not more than 10 years,’ and insert ‘imprisoned for a term of not less than 5 years and not more than 10 years;’

“(B) in paragraph (2), by striking ‘imprisoned not more than 20 years,’ and insert ‘imprisoned for a term of not less than 10 years and not more than 20 years;’

“(C) in paragraph (3), by striking ‘, or’ and inserting ‘; or’;

“(D) in paragraph (4), by striking ‘imprisoned for more than 10 years,’ and insert ‘imprisoned for a term of not less than 5 years and not more than 10 years;’;

“(E) by adding at the end the following: ‘The paragraphs in paragraphs in paragraphs (1) and (2) are elements of enhanced crimes and the penalties under such paragraphs shall apply only where the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admis-

“SEC. 205. MANDATORY SENTENCING RANGES FOR PERSONS ADDING OR ASSISTING CERTAIN REENTERING ALIENS.

“Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—
(1) by striking ‘‘Any person’’ and inserting ‘‘(a) Subject to subsection (b), any person’’; and
(2) by adding at the end the following:
(b)(1) Any person who knowingly aids or assists in, or conspires under title 18, United States Code, imprisoned for a term imposed under paragraph (2), or both.

(2) The term of imprisonment imposed under paragraph (1) shall be within the range to which the reentering alien is subject under section 276(b)."

SEC. 205. PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.
Section 924(c) of title 18, United States Code, is amended—
(1) in paragraphs (1)(A) and (1)(D)(ii) by inserting ‘‘, alien smuggling crime,’’ after ‘‘crime of violence’’ each place it appears; and
(2) by adding at the end the following new paragraph:
‘‘(6) For purposes of this subsection, the term ‘alien smuggling crime’ means any felony punishable under section 1324(a), 1327, or 1328.’’

SEC. 206. CLARIFYING CHANGES.
(a) EXCLUSION BASED ON FALSE CLAIM OF NATIONALITY—
(1) IN GENERAL.—Section 212(a)(6)(C)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)) is amended—
(A) by adding at the end the following new clause:
‘‘(II) The term of imprisonment imposed under this paragraph shall be within the range to which the alien or such class of aliens is subject under section 276(b).’’;
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act; and
(B) by striking ‘‘or national’’ after ‘‘citizen’’ each place it appears.

(b) ENCOURAGING ALIENS TO DEPART VOLUNTARILY—
(1) PENALTIES FOR FAILURE TO DEPART.—Section 237(a)(1)(B)(iii) of such Act (8 U.S.C. 1227(a)(1)(B)(iii)) is amended—
(A) in the heading, by striking ‘‘or nationality’’ after ‘‘citizenship’’; and
(B) by inserting ‘‘or national’’ after ‘‘citizen’’ each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.

(c) SHARING OF INFORMATION.—Section 290(b) of such Act (8 U.S.C. 1366(b)) is amended—
(1) by inserting ‘‘or to any person seeking any benefit or privilege under the immigration laws,’’ after ‘‘United States’’;
(2) by striking ‘‘Service’’ and inserting ‘‘Secretary of Homeland Security’’;
(3) by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and
(4) by striking ‘‘Secretary of Homeland Security’’ and inserting ‘‘Secretary’’.

(d) DELAYS IN ACTION.—Section 212(a)(3)(B)(ii) of such Act (8 U.S.C. 1182(a)(3)(B)(ii)) is amended—
(A) by striking ‘‘Subclause (VII)’’ and inserting ‘‘Subclause (IX)’’.

SEC. 208. VOLUNTARY DEPARTURE REFORM.
(a) ENCOURAGING ALIENS TO DEPART VOLUNTARILY—
(1) AUTHORITY.—Section (a) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—
(A) by amending paragraph (1) to read as follows:
‘‘(1) IN LIEN OF REMOVAL PROCEEDINGS.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of being subject to removal proceedings under section 240B. The Secretary may by regulation limit any required bond, the alien may not again be granted voluntary departure while the alien remains in the United States.’’;
(2) VOLUNTARY DEPARTURE PERIOD.—Such section is further amended—
(A) in subsection (a)(3), as redesignated by paragraph (1)(C)—
(i) by amending subparagraph (A) to read as follows:
‘‘(A) IN LIEN OF REMOVAL.—Subject to sub- paragraph (1), voluntary departure under paragraph (1) shall not be valid for a period exceeding 120 days. The Secretary of Homeland Security may require an alien permitted to depart voluntarily under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.’’;
(ii) in subparagraphs (C) and (D)(ii) and inserting ‘‘sub- paragraphs (D) and (E)(ii);’’
(iii) in subparagraphs (C) and (D), by striking ‘‘subparagraph C’’ and inserting ‘‘subpara- graphs (C)’’ each place it appears;
(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), re- spectively; and
(v) by inserting after subparagraph (A) the following new subparagraph:
‘‘(B) PRIOR TO THIS CONCLUSION OF REMOVAL PROCEEDINGS.—Permits to depart voluntarily under paragraph (2) shall not be valid for a period exceeding 120 days, and may be granted only after a finding that the alien has established that the alien has the means to depart the United States and intends to do so. An alien permitted to depart voluntarily under paragraph (2) must post a voluntary departure bond, in an amount necessary to ensure that the alien will, be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive posting of a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond would cause financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.’’;
(2) V OLUNTARY DEPARTURE PERIOD NOT AF- FECTED.—Except as expressly agreed to by the Secretary of Homeland Security in writing in the exercise of the Secretary’s discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or any other proceedings shall affect, restrain, enjoin, delay, stay, toll the alien’s obligation to depart from the United States during the period agreed to by the alien and the Secretary.’’;
(3) CONDITIONS ON VOLUNTARY DEPARTURE.—
Subsection (c) of such section is amended to read as follows:
‘‘(c) CONDITIONS ON VOLUNTARY DEPARTURE.—
(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure will be granted only as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include written consent to any future motion, appeal, application, petition, or any other proceedings, or any other relief or protection from removal.
(2) CONSENT achieved with the Secretary.—In con- nection with the alien’s agreement to depart vol- untarily under paragraph (1), the Secretary of Homeland Security in the exercise of discretion may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).
(3) FAILURE TO COMPLY WITH AGREEMENT AND EFFECT OF FAILURE TO APPEAR.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure, or fails to comply with any other terms of the agreement (including a failure to timely post any required bond), the alien automatically be- comes ineligible for the benefits of the agree- ment, and section 212(a)(9)(B) shall apply to the alien.
(4) VOLUNTARY DEPARTURE PERIOD NOT AF- FECTED.—The Secretary of Homeland Security may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any alien or any class or classes of aliens. Notwithstanding any other provision of law (statutory or nonstatutory), including section 242 of title 8, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court may review any regulation issued under this subsection.’’;
(b) NO TOLLING.—Subsection (f) of such section is amended by adding at the end the following new sentence: ‘‘Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court shall have jurisdiction to affect, restrain, enjoin, delay, stay, toll or control the alien’s obligation to depart from the United States during the period agreed to by the alien and the Secretary.’’;
(c) PENALTIES FOR FAILURE TO DEPART VOL-UNTARILY.
(1) PENALTIES FOR FAILURE TO DEPART.—Subsection (d) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended to read as follows:
‘‘(4) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to de- part from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the following provisions apply:
‘‘(1) CIVIL PENALTY.—
‘‘(A) IN GENERAL.—The alien will be liable for a civil penalty of $3,000.
‘‘(B) SPECIFICATION IN ORDER.—The order al- lowing voluntary departure shall specify the amount of the penalty, which shall be acknowled- ged by the alien on the record.
‘‘(2) CONSEQUENCES.—If the alien of Home- land Security thereafter establishes that the alien failed to depart voluntarily within the time allowed, the further procedure may be necessary to establish the alien’s eligibility or impose additional conditions for voluntary departure, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided for by law.’’;
(2) INELIGIBILITY FOR BENEFITS.—An alien will be ineligible for any benefits under this title until any civil penalty under this subsection is paid.
(2) INELIGIBILITY FOR RELIEF.—The alien will be ineligible during the time the alien remains in

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the United States and for a period of 10 years after the alien’s departure for any further relief under this section and sections 240A, 245, 246, and 249B.

(b) Effective Dates.—

(1) IN GENERAL.—Subject to paragraph (b), the alien will be ineligible to reopen a final order of deportation resulting from: the alien’s failure to depart, or the alien’s violation of the conditions for voluntary departure, during the period described in paragraph (2).

(2) IMPLEMENTATION OF EXISTING STATUTORY PENALTIES.—The Secretary of Homeland Security shall implement regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act, as amended by paragraph (1).

(3) Subject to subparagraph (A)(i), by striking “within 5 years of” and inserting “within 5 years of”;

(4) in subparagraph (A)(ii) by striking “within 10 years of” and inserting “within 10 years of”;

(b) Failure to Depart, Apply for Travel Documents, or Appear for Removal or Conspicacy to Prevent or Hamper Departure.—Section 275(a) of such Act (8 U.S.C. 1324c) is amended—

(1) in section (b), by striking “within 5 years of” and inserting “before, or within 5 years of”;

(2) in paragraph (3), by striking “infringement” and inserting “Secretary of Homeland Security”;

(3) by adding at the end the following new subsection:

‘‘(c) INELIGIBILITY FOR RELIEF.—

‘‘(1) IN GENERAL.—Subject to paragraph (2), unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal pursuant to a motion to reopen during the time the alien remains in the United States and for a period of 10 years after the date of the order of deportation.

‘‘(2) EXCEPTION.—Paragraph (1) does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against removal under section 241(a)(3).

(c) Deterring Aliens From Unlawfully Returning to the United States After Departing Voluntarily.—Section 275(a) of such Act (8 U.S.C. 1324c) is amended by inserting “or following an order of voluntary departure” after “a subsequent commission of any such offense”.

(d) VOLUNTARY DEPARTURE.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply with respect to conduct occurring on or after such date.

SEC. 210. ESTABLISHMENT OF A SPECIAL TASK FORCE FOR COORDINATING AND DISTRIBUTING INFORMATION ON FRAUDULENT IMMIGRATION DOCUMENTS.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a task force known as the Task Force on Fraudulent Immigration Documents to carry out the following:

(1) Collect information from Federal, State, and local law enforcement agencies, and Foreign governments on the production, sale, and distribution of fraudulent documents intended to be used to enter or to remain in the United States unlawfully.

(2) Maintain that information in a comprehensive database.

(3) Convert the information into reports that will assist Federal, State, and local law enforcement agencies on identifying fraudulent documents being used to enter or to remain in the United States unlawfully.

(4) Develop a system for distributing these reports on an ongoing basis to appropriate Federal, State, and local law enforcement agencies.

(b) DISTRIBUTION OF INFORMATION.—Distribute the reports to appropriate Federal, State, and local law enforcement agencies on an ongoing basis.

TITLE III—BORDER SECURITY COOPERATION AND ENFORCEMENT

SEC. 301. JOINT STRATEGIC PLAN FOR UNITED STATES BORDER SURVEILLANCE AND SUPPORT.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Defense shall develop a joint strategic plan to use the authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase surveillance and effective use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist with the surveillance and enforcement of United States borders and ports on an ongoing basis.

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

(1) a description of the use of Department of Defense equipment to assist with the surveillance by the Department of Homeland Security of the international land and maritime borders of the United States;

(2) the joint strategic plan developed pursuant to subsection (a);

(3) a description of the types of equipment and other support to be provided by the Department of Defense under the joint strategic plan during the one-year period beginning after submission of the report required under this subsection; and

(4) a description of how the Department of Homeland Security and the Department of Defense are working with the Department of Transportation on safety and airspace control issues associated with the use of unmanned aerial vehicles in the National Airspace System.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as altering or amending the prohibition on the use of any part of the Armed Forces as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 302. BORDER SECURITY ON PROTECTED LAND.

(a) IN GENERAL.—The Secretary of Homeland Security shall develop and maintain a comprehensive database that records the activities of the Department of Homeland Security on protected lands and provides for the sharing of information about threats to the integrity of United States borders; among Federal, State, tribal, and local law enforcement agencies, and for the Federal, State, tribal, and local law enforcement agencies on an ongoing basis.

(b) USE OF PRIOR YEAR FUNDS.—Subsection (a) shall apply to all covered grant funds received by a State, local government, or Indian tribe at any time on or after October 1, 2001.

(c) COVERED GRANTS.—For purposes of subsection (a), the term “covered grant” means grants provided by the Department of Homeland Security to States, local governments, Indian tribes, or Indian tribes administered under the following programs:

(1) The State Homeland Security Grant Program.

(2) The Urban Area Security Initiative.

(d) USE OF FEDERAL FUNDS.—Subsection (a) shall apply to all covered grant funds received by a State, local government, or Indian tribe at any time on or after October 1, 2001.

(e) USE OF FEDERAL FUNDS.—Subsection (a) shall apply to all covered grant funds received by a State, local government, or Indian tribe at any time on or after October 1, 2001.
in accordance with section 212(d)(5)(A) of such
manitarian reasons or significant public benefit
Secretary of Homeland Security for urgent hu-
datory detention requirement in subsection (a)
and
ground and security checks on the alien, that
with a notice to appear only if
alien described in subsection (a) may be released
ment of this Act and before October 1, 2006, an
Beginning 60 days after the date of the enact-
tion.
(A) The Secretary of Homeland Security
tharcte the Department of Homeland Security
sue to address the most significant threats,
shall prioritize its activities on the basis of risk
to address the most significant threats,
all available detention facilities operated or
sularity Act (8 U.S.C. 1253(d)) is amended to read as
as follows:
(d) DENIAL OF ADMISSION TO NATIONALS OF
country denying or delaying accepting alien.
Section 235(b)(1)(A)(iii) of the Immigration and Natu-
Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)(iii)) is amended by striking “Attorney
and inserting “Secretary of Homeland
” and inserting “Secretary of Homeland
implied lodged within 100 miles of an international land border of the United States and within 14 days of
time.
It is the sense of Congress that—
(1) the Department of Homeland Security
should strive to include as part of a National
Strategy for Border Security recommendations
on how to enhance Department cooperation
with sovereign nations on secure national borders and preventing terrorist entry, includ-
ing, specifically, the Department should con-
sider whether a Tribal Smart Border working
group should be established to further experi-
cation of cultural sensitivity training, as exists in
Arizona with the Tohono O’odham Nation,
achieve enhanced cooperation; and
(2) the Department of Homeland Security
develops a National Strategy for Border Secu-
ritv, it should take into account the needs and
missions of each agency that has a stake in bor-
der security to ensure that these agencies work
together cooperatively on issues involving tribal lands.
TITLE IV—DETECTION AND REMOVAL
SEC. 401. MANDATORY DETENTION FOR ALIENS
APPREHENDED AT OR BETWEEN
PORTS OF ENTRY.
(a) IN GENERAL.—Beginning on October 1,
2006, an alien who is attempting to illegally
enter the United States and who is apprehended
at a United States port of entry or along the
international land and maritime border of the
United States, who has not been admitted or paroled
remained until removed or a final
decision granting admission has been de-
termined, unless the alien—
(1) is permitted to withdraw an application for
admission, 235(a)(1) or the Immig-
ration and Nationality Act (8 U.S.C. 1225(a)(1))
and immediately departs from the United States
pursuant to such section; or
(2) is paroled into the United States by the
Secretary of Homeland Security for urgent hu-
manitarian reasons or significant public benefit
in accordance with section 212(d)(5)(A) of such
Act (8 U.S.C. 1182(d)(5)(A)).
(b) REQUIREMENTS DURING INTERIM PERIOD.—
Beginning 60 days after the date of the enact-
ment of this Act, and before October 1, 2006, an
alien described in subsection (a) may be released
with a notice to appear only if—
(1) the Secretary of Homeland Security deter-
m it, after consultation with the Secretary of
in compliance with all appropriate
and security checks on the alien, that
the alien does not pose a national security risk; and
(2) the alien provides a bond of not less than
$5,000.
(c) RULES OF CONSTRUCTION.—
(1) VIOLATION.—Nothing in this
section shall be construed as limiting the right of
an alien to apply for asylum or for relief or
deferral of removal based on a fear of persecu-
dtion.
(2) TREATMENT OF CERTAIN ALIENS.—The
mandatory detention requirement in subsection (a)
do not apply to any alien who is a native or
citizen of a country in the Western Hemisphere
with whose government the United States does not
have full diplomatic relations.
SEC. 402. EXPANSION AND EFFECTIVE MANAGE-
MENT OF DETENTION FACILITIES.
Subject to the availability of appropriations,
the Secretary of Homeland Security shall fully
utilize—
(1) all available detention facilities operated or
contracted by the Department of Homeland
Security; and
(2) all possible options to cost effectively
increase available detentions, including the
use of temporary detention facilities, the use of
State and local correctional facilities, private
space, and secure alternatives to detention.
SEC. 403. ENHanced COnTRIBUTION CAPAC-
ITY FOR UNLAWFUL ALIENS.
(a) IN GENERAL.—The Secretary of Homeland
Security is authorized to enter into contracts
with private entities for the provision of
providing secure domestic transport of aliens who
are apprehended at or along the international
land or maritime borders from the custody of
United States Customs and Border Protection to
detention facilities and other locations as nec-
essary.
(b) CRITERIA FOR SELECTION.—Notwith-
standing subsection (a), if the Secretary deter-
mines that there is not a national,
ail or resident of that country until
Secretary, after consultation with the Secretary of
Security determines that the government of a
foreign country has denied or unreasonably de-
layed accepting an alien who is a citizen, sub-
ject, national, or resident of that country after
the alien has been removed, the Sec-
retary, after consultation with the Secretary of
Homeland Security, may determine that
subject, national, or resident of that country until
the alien has been removed.
SEC. 405. REPORT ON FINANCIAL BURDEN OF RE-
PARTITION.
Not later than October 31 of each year, the
Secretary of Homeland Security shall submit to the
Secretary of State and Congress a report that
details the cost to the Department of Home-
land Security of repatriation of unlawful aliens
to their countries of nationality or last habitual
residence, including details relating to cost per
country. The report shall include in each
such report the recommendations of the Sec-
retary to more cost effectively repatriate such
aliens.
SEC. 406. TRAINING PROGRAM.
Not later than six months after the date of
the enactment of this Act, the Secretary of Home-
land Security—
(1) review and evaluate the training
provided to Border Patrol personnel and port of
entry inspectors regarding the inspection of
aliens to de-
determine whether an alien is referred for an
interview by an asylum officer for a determina-
tion of credible fear;
(2) based on the review and evaluation de-
scribed in paragraph (1), take necessary and
appropriate measures to ensure consistency in re-
turning criminals, including Border Patrol agents and port of
entry inspectors to asylum officers for deter-
minations of credible fear.
SEC. 407. EXPEDITED REMOVAL.
(a) IN GENERAL.—Section 235(b)(1)(A)(ii) of
the Immigration and Nationality Act (8 U.S.C.
1225(b)(1)(A)(ii)) is amended—
(1) in subsection (1), by striking “Attorney
General” and inserting “Secretary of Homeland
Security” each time it appears; and
(2) by adding at the end the following new
subclause:
“(III) EXCEPTION.—Notwithstanding
subclauses (I) and (II), the Secretary of Homeland
Security shall apply clauses (i) and (ii) of this
subparagraph to any alien (other than an alien
described in subparagraph (F) who is not a na-
tional of a country contiguous to the United
States, who has not been paroled or admitted
into the United States, and who is apprehended
within 100 miles of an international land border
of the United States and within 14 days of
dentation.’’
(b) EXCEPTIONS.—Section 235(b)(1)(F) of
the Immigration and Nationality Act (8 U.S.C.
1225(b)(1)(F)) is amended by striking “who
arrives by aircraft at a port of entry” and
inserting “arrives by aircraft at a port of entry”
and who arrives by aircraft at a port of
entry or who is present in the United States
arrived in any manner at or between a port of entry’’.
(c) EFFECTIVE DATE.—The amendments
made by this section shall take effect on the
date of the enactment of this Act.
SEC. 408. GAO STUDY ON DEATHS IN CUSTODY.
The Comptroller General of the United States,
within six months after the date of the enactment
of this Act, shall submit to Congress a report
on the deaths in custody of detainees held
on immigration violations by the Secretary of
Homeland Security. The report shall include the
following information with respect to any such
deaths and in connection therewith:
(1) Whether any crimes were committed by
personnel of the Department of Homeland
Security;
(2) Whether any such deaths were caused by
negligence or deliberate indifference by such
personnel;
(3) Whether Department practice and pro-
dcedures were properly followed and obeyed;
(4) Whether such practice and procedures are
sufficient to protect the health and safety
of such detainees;
(5) Whether reports of such deaths were made
under the Deaths in Custody
of Immigration Violators
Title
TITLe V—EFFECTIVE ORGAnIZATION OF
BORDER SECURITY AGENCIES
SEC. 501. ENHANCED BORDER SECURITY COORDI-
RATION AND MANAGEMENT.
The Secretary of Homeland Security shall
ensure full coordination of border security efforts
among agencies within the Department of
Homeland Security, including United States Im-
migration and Customs Enforcement, United
States Customs and Border Protection, and
United States Citizenship and Immigration Ser-
ces, and shall identify and remedy any failure of coordination or integration in a prompt and
efficient manner. In particular, the Secretary of
Homeland Security shall—
(1) oversee and ensure the coordinated execu-
tion of border security operations and policy;
(2) establish a mechanism for sharing and co-
ordinating intelligence information and analysis
and data with the departments and agencies as
pertaining to counter-terrorism, border enforce-
ment, customs and trade, immigration, human
smuggling, human trafficking, and other issues
pertaining to both United States Immigration
and Customs Enforcement and United States
Customs and Border Protection;
(3) establish Department of Homeland
Security offices (to include the Federal, State,
Tribal and local law enforcement agencies as
appropriate) as necessary to better coordinate
border enforcement and the disruption and dis-
ruption of criminal organizations engaged in
cross-border smuggling, money laundering, and
immigration violations;
(A) enhance coordination between the border security and investigations missions within the Department by requiring that, with respect to cases involving violations of the customs and immigration laws of the United States, United States Customs and Border Protection coordinate with and refer all such cases to United States Immigration and Customs Enforcement;

(5) expand the comprehensively the proper allocation of the Department's border security related resources, and analyze budget issues on the basis of Department-wide border enforcement goals, plans, and processes;

(6) establish measures and metrics for determining the effectiveness of coordinated border enforcement efforts; and

(7) develop and implement a comprehensive plan to protect the northern and southern land borders of the United States and address the different challenges that each border face by—

(A) coordinating all Federal border security activities;

(B) improving communications and data sharing capabilities within the Department and with other Federal, State, local, tribal, and foreign law enforcement agencies on matters relating to border security; and

(C) providing input to relevant bilateral agreements to improve border functions, including securing security and promoting trade and tourism.

SEC. 502. OFFICE OF AIR AND MARINE OPERATIONS.

(a) ESTABLISHMENT.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

**SEC. 431. OFFICE OF AIR AND MARINE OPERATIONS.**

“(a) ESTABLISHMENT.—There is established in the Department an Office of Air and Marine Operations (referred to in this section as the ‘Office’).

“(b) ASSISTANT SECRETARY.—The Office shall be headed by an Assistant Secretary for Air and Marine Operations who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. The Assistant Secretary shall be responsible for all functions and operations of the Office.

“(c) MISCELLANEOUS.—

“(1) PRIMARY MISSION.—The primary mission of the Office shall be the prevention of the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States.

“(2) SECONDARY MISSION.—The secondary mission of the Office shall be to assist other agencies to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States.

“(d) AIR AND MARINE OPERATIONS CENTER.—

“(1) IN GENERAL.—The Office shall operate and maintain the Air and Marine Operations Center in Riverside, California, or at such other facility of the Office as is designated by the Secretary.

“(2) DUTIES.—The Center shall provide comprehensive radar, communications, and control services to the Office and to eligible Federal, State, or local agencies (as determined by the Assistant Secretary for Air and Marine Operations), in order to identify, track, and support the interdiction and apprehension of individuals attempting to enter United States airspace or coastal waters for the purpose of narcotics trafficking, trafficking of persons, or other terrorist or criminal activity.

“(e) ACCESS TO INFORMATION.—The Office shall facilitate information sharing between agencies within the Department of Homeland Security, the Department of Defense, the Department of Justice, and such other Federal, State, or local agencies, as may be determined by the Secretary, that shall have access to the information gathered and analyzed by the Center.

“(f) REQUIREMENT.—Beginning not later than 180 days after the date of the enactment of this Act, the Secretary shall require that all information concerning all aviation activities, including all aircraft flights, that are undertaken by the either the Office, United States Immigration and Customs Enforcement, United States Customs and Border Protection or any subdivisions thereof, be provided to the Air and Marine Operations Center. Such information shall include the identifiable transponder, radar, and electronic emissions and codes originating and resident aboard the aircraft or similar asset used in the aviation activity.

“(g) TIMING.—The Secretary shall require the information described in subsection (f) to be provided to the Air and Marine Operations Center in advance of the aviation activity whenever practicable for the purpose of timely coordination and conflict resolution of air missions by the Office, United States Immigration and Customs Enforcement, and United States Customs and Border Protection.

“(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, impact, diminish, or in any way undermine the authority of the Administrator of the Federal Aviation Administration to oversee, regulate, and control the safe and efficient use of the airspace of the United States.

“(b) TECHNICAL AND CONFORMING AMENDMENTS.—


“(2) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act (6 U.S.C. 101) is amended by inserting after the item relating to section 430 the following new item:

‘“SEC. 431. Office of Air and Marine Operations.”

SEC. 503. SHADOW WOLVES TRANSFER.

(a) TRANSFER OF EXISTING UNIT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transfer the United States Immigration and Customs Enforcement all functions (including the personnel, assets, and liabilities attributable to such functions) of the Customs Patrol Officers unit operating on the Tohono O’odham Indian reservation (commonly known as the ‘Shadow Wolves’ unit).

(b) ESTABLISHMENT OF NEW UNITS.—The Secretary is authorized to establish within United States Immigration and Customs Enforcement into additional units of the Customs Patrol Officers in accordance with this section, as appropriate.

(c) DUTIES.—The Customs Patrol Officer unit transferred pursuant to subsection (a), and additional units established pursuant to subsection (b), shall operate on Indian lands by preventing the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States.

(d) PAY FOR JOURNEYMAN OFFICERS.—A Customs Patrol Officer in a unit described in this section shall receive equivalent pay as a special unit described in section 1229c(b)(1) of the Immigration and Nationality Act, as so amended, for participation in the functions described in paragraph (e).

SEC. 504. REQUIREMENT.

“(A) in subparagraph (A)—

(1) by striking ‘Attorney General may not’ and inserting ‘Secretary of Homeland Security may not’;

(2) by striking ‘the Secretary’ after ‘‘if the Attorney General’’; and

(B) in subparagraph (B)—

(i) by striking ‘or’ in clause (iii); and

(ii) by striking the period at the end of clause (iii) and inserting ‘or’;

(ii) by striking after clause (ii) the following new clause:

‘‘(i) the alien is described in any subclause of section 212(a)(3)(B)(i) or section 212(a)(3)(F), unless, in the case only of an alien described in subclause (IV) or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security determines, in the Secretary’s discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;’’; and

‘‘(v) in the third sentence, by inserting ‘or the Secretary of Homeland Security after “Attorney General’’; and

‘‘(vi) by striking the last sentence.

SEC. 601. REMOVAL OF TERRORIST ALIENS.

(a) EXPANSION OF REMOVAL.—

(1) in subsection (a) of section 235A of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(3)) is amended—

(2) by striking ‘Attorney General may not’ and inserting ‘Secretary of Homeland Security may not’;

(3) by striking ‘the Secretary’ after ‘‘if the Attorney General’’; and

(4) by striking ‘or’ in clause (iii); and

(5) by striking the period at the end of clause (iii) and inserting ‘or’;

(6) by striking after clause (ii) the following new clause:

‘‘(i) the alien is described in any subclause of section 212(a)(3)(B)(i) or section 212(a)(3)(F), unless, in the case only of an alien described in subclause (IV) or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security determines, in the Secretary’s discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;’’; and

‘‘(vi) in the third sentence, by inserting ‘or the Secretary of Homeland Security after “Attorney General’’; and

‘‘(vii) by striking the last sentence.

SEC. 602. DETENTION OF DANGEROUS ALIENS.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) in subsection (a), by striking ‘Attorney General’ and inserting ‘Secretary of Homeland Security’ each place it appears;

(2) in subsection (b), by striking ‘Secretary’ and inserting ‘Secretary’.

(b) PROVISIONAL APPLICATION.—The amendments made by this section shall take effect on the date of enactment of this Act and sections 200(a)(1), 201, 240, 243, 243a, 243b, and 249 of the Immigration and Nationality Act, as so amended, shall apply to—

(1) aliens in removal, deportation, or exclusion proceedings;

(2) all applications pending on or filed after the date of the enactment of this Act; and

(3) each place it appears; and

(4) in subsection (a) of section 235A of the Immigration and Nationality Act, as so amended, shall apply to—

(1) aliens in removal, deportation, or exclusion proceedings;
(A) IN GENERAL.—The Secretary shall establish an administrative review process to determine whether the alien who is subject to a final order of removal from the United States is likely to have serious adverse foreign policy consequences for the United States. (B) DETERMINATION.—The Secretary shall make a determination whether to release an alien who is subject to a final order of removal from the United States but has neither been lawfully admitted to the United States, or if, upon reconsideration, the Secretary holds that the alien is likely to have serious adverse foreign policy consequences for the United States. (C) EXEMPTION.—Notwithstanding section 243 of the Immigration and Nationality Act (8 U.S.C. 1252) or of any other statute specified in subsection (a)(8) or subsection (j) shall be available exclusively to the Aliens with Serious Adverse Policy Consequences. (D) IN GENERAL.—The Secretary shall establish, in the exercise of discretion, without any limitations other than those specified in this section, a process to determine whether an alien who is subject to a final order of removal from the United States is likely to have serious adverse foreign policy consequences for the United States. (E) DETERMINATION.—The Secretary shall make a determination whether to release an alien who is subject to a final order of removal from the United States, or if, upon reconsideration, the Secretary holds that the alien is likely to have serious adverse foreign policy consequences for the United States. (F) EXEMPTION.—Notwithstanding section 243 of the Immigration and Nationality Act (8 U.S.C. 1252) or of any other statute specified in subsection (a)(8) or subsection (j) shall be available exclusively to the Aliens with Serious Adverse Policy Consequences.
(A) in the matter before subparagraph (A), by inserting "or (212(a)) after "section 237(a)"; and

(b) by striking "imprisoned not more than four years" and inserting "not less than six months or more than five years"; and

(2) in subsection (b)—

(A) by striking "not more than $1,000" and inserting "under title 18, United States Code"; and

(B) by striking "for not more than one year" and inserting "for not less than six months or more than one year" if the alien is a member of any class described in paragraph (1)(E), (2), (3), or (4) of section 237(a)."

SEC. 604. PRECLUDING ADMISSIBILITY OF AGGRAVATED FELONIES AND OTHER CRIMINALS.

(a) EXCLUSION BASED ON FRAUDULENT DOCUMENT—MENTAL DETERMINATION OF MEDICAL CONDITION OF IMMIGRANT.—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended—

(1) in clause (I), by striking "or" at the end;

(2) in clause (II), by adding "or" at the end;

and

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

"(III) violators of protection orders that involves protection against domestic violence, including temporary or final restraining orders issued by civil courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as an independent order in another proceeding;"

(b) EXCLUSION BASED ON AGGRAVATED FELONY, UNLAWFUL PROCUREMENT OF CITIZENSHIP, AND OFFENSES NOT COVERED BY SECTION 212(a)(2)—In section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraphs:

"(K) UNLAWFUL PROCUREMENT OF CITIZENSHIP.—Any alien who has committed, or who admits committing acts which constitute the essential elements of, a violation of (or a conspiracy or attempt to violate) subsection (a) or (b) of section 245 of title 18, United States Code is inadmissible.

(L) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS; CRIMES AGAINST CHILDREN.—

(1) DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE.—In GENERAL.—Subject to subsection (I), any alien who at any time is convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or an offense involving child abuse, neglect, or child abandonment is inadmissible.

(2) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE.—Subclause (I) shall not apply to any alien described in section 237(a)(7)(A).

(III) CRIME OF DOMESTIC VIOLENCE DEFINED.—For purposes of subclause (I), the term ‘crime of domestic violence’ means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse or boyfriend of the person, by an adult or child of the person, or by a person with whom the person shares a child in common, by an individual who has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual’s acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

(c) OPERATION OF PROTECTION ORDERS.—

(1) IN GENERAL.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in violent acts or is threatened with violence by such order, shall be considered to be a violator of a protection order that involves protection against credible threats of violence, repeated harass-

ment, or bodily injury to the person or person for whom the protection order was issued in inadmissible.

(II) PROTECTION ORDER DEFINED.—For purposes of this section, the term ‘protection order’ means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final restraining orders issued by civil courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as an independent order in another proceeding.

(c) WAIVER AUTHORITY.—Section 212(h) of such Act (8 U.S.C. 1182(h)) is amended—

(1) by striking "The Attorney General may, in his discretion, waive the application of subparagraph (A)(i)(I), (B), (D), (E), and (L) of section 212(c)(3)(B)"; and

(2) in paragraphs (1)(A) and (1)(B) and the last sentence, by inserting "or the Secretary" after "The Attorney General" each place it appears;

(3) in paragraph (2), by striking "The Attorney General, in his discretion, may, waiving the application of subparagraph (A)(i)(I), (B), (D), (E), (K), and (L) of section 212(c)(3)(B)"; and

(4) in paragraph (3), by striking "as he" and inserting "as the Attorney General or the Secretary";

(5) in the second sentence, by striking "criminal acts involving torture" and inserting "criminal acts involving torture, or an aggravated felony;" and

(6) in the third sentence, by striking "if either since the date of such admission the alien has been convicted of an aggravated felony or the alien" and inserting "if since the date of such admission the alien has been convicted of an aggravated felony.";

(d) CONSTRUCTION.—The amendments made by this section shall not be construed to create eligibility for relief from removal under section 212(c) of the Immigration and Nationality Act, as in effect before its repeal by section 304(b) of the Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208), where such eligibility did not exist before such amendments became effective.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) any act that occurred on or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 605. PRECLUDING REFUGEES OR ASYLUM ADJUSTMENT OF STATUS FOR AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1158(c)) is amended by adding at the end the following:

"(II) an alien who is convicted of an aggravated felony is not eligible for a waiver or for adjustment of status under this section.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 606. REMOVING DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(F)) is amended by inserting "in subsection (a) shall apply to a violation described in subsection (b)(1), regardless of the States in which the convictions occurred, and regardless of whether the offenses are deemed to be misdemeanors or felonies under State or Federal law," after "offense";".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act; and

THIS ACT.

SEC. 607. DESIGNATED COUNTY LAW ENFORCEMENT ASSISTANCE PROGRAM.

(a) DESIGNATED COUNTIES ADJACENT TO THE SOUTHERN BORDER OF THE UNITED STATES.—In this section, the term ‘designated counties adjacent to the southern international border of the United States’ includes any county part of which is within 25 miles of the southern international border of the United States.

(b) AUTHORITY.—

(1) In GENERAL.—Any Sheriff or coalition of Sheriffs from designated counties adjacent to the southern international border of the United States may transfer aliens detained in the custody of the Sheriff who are not lawfully present in the United States to appropriate Federal law enforcement officials, and shall be promptly paid for the costs of performing such transfers by the Attorney General for any local justice personnel supposed to be spent by that Sheriff or coalition of Sheriffs.

(2) PAYMENT OF COSTS.—Payment of costs under paragraph (1) shall include payment for costs of detaining, housing, and transporting aliens who are not lawfully present in the United States or who have unlawfully entered the United States at a port of entry and who are taken into custody by the Sheriff.

(3) LIMITATION TO FUTURE COSTS.—In no case shall payment be made under this section for costs incurred before the date of the enactment of this Act.

(4) ADVANCE PAYMENT OF COSTS.—The Attorney General shall make an advance payment under this section upon a certification of anticipated costs for which payment may be made under this section, but in no case shall such an advance payment cover a period of costs longer than 3 months.

(c) DESIGNATED COUNTY LAW ENFORCEMENT ACCOUNT.—

(1) SEPARATE ACCOUNT.—Reimbursement or pre-payment under subsection (b) shall be made promptly from funds deposited into a separate account in the Treasury of the United States to be entitled the ‘Designated County Law Enforcement Account’.

(2) AVAILABILITY OF FUNDS.—All deposits into the Designated County Law Enforcement Account shall remain available until expended to the Attorney General to carry out the provisions of this section.

(3) PROMPTLY DEFINED.—For purposes of this section, the term ‘promptly’ means within 60 days.

(d) FUNDS FOR THE DESIGNATED COUNTY LAW ENFORCEMENT ACCOUNT.—Only funds designated, authorized, or appropriated by Congress may be deposited or transferred to the Designated County Law Enforcement Account. The Designated County Law Enforcement Account is authorized to receive up to $100,000,000 per year.

(e) USE OF FUNDS.—

(1) IN GENERAL.—Funds provided under this section shall be payable directly to participating Sheriff’s offices and may be used for the transfers described in subsection (b)(1), including the costs of personnel (such as escort pay and costs for reserve deputies), costs of training of such personnel, equipment, and, subject to paragraph (2), the construction, maintenance, and operation of detention facilities to detain aliens who are unlawfully present in the United States. For purposes of this section, an alien who is unlawfully present in the United States and is brought into the United States in observance of detention under determination by Federal law enforcement officials that such alien is unlawfully present in the United States is not lawfully present in the United States for purposes of this section.
present in the United States, and such alien shall, upon such determination, be deemed to be in Federal custody. In order for costs to be eligible for payment, the Sheriff making such application shall personally certify under oath that all costs submitted in the application for reimbursement or advance payment meet the requirements of this section and are reasonable and necessary. Such regulations issued under this section shall be subject to all State and Federal laws governing statements made under oath, including the penalties of perjury, removal from office, and prosecution for perjury under Federal law.

(2) LIMITATION.—Not more than 20 percent of the amount of funds provided under this section may be used for the construction or renovation of detention facilities.

(f) DISPOSITION AND DELIVERY OF DETAINED ALIENS.—All aliens detained or taken into custody by a Sheriff under this section and with respect to whom Federal law enforcement officials determine are unlawfully present in the United States, shall be immediately delivered to Federal law enforcement officials. In accordance with subsection (c)(1), an alien who is in the custody of a Sheriff shall be deemed to be a Federal prisoner and in Federal custody.

(9) REGULATIONS.—The Attorney General shall issue, on an interim final basis, regulations not later than 60 days after the date of enactment of this Act—

(1) governing the distribution of funds under this section for all reasonable and necessary expenses or costs authorized by this section and set forth uniform standards that all other Federal law enforcement officials shall follow to cooperate with such Sheriffs and to otherwise implement the requirements of this section.

(h) EFFECTIVE DATE.—The provisions of this section shall take effect on its enactment. The Attorney General shall issue, on an interim final basis, regulations under subparagraph (a) in order to promulgate any regulations under subsection (h) as soon as practicable.

(iii) GANG CRIME DEFINED.—For purposes of this section, the term ‘gang crime’ means conduct constituting any Federal or State crime, punishable by imprisonment for one year or more, in any of the following categories:

(A) A crime of violence (as defined in section 16 of title 18, United States Code).

(B) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or juror.

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

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

(I) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), section 287 of such title (relating to destruction of alien for immoral purpose) of this Act.

(j) E FFECTIVE DATE.

(1) The provisions of this section shall take effect on its enactment. The Attorney General shall issue, on an interim final basis, regulations under this subsection in order to promulgate any regulations under this subsection as soon as practicable.

(2) LIMITATION.

(II) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or juror.

(iii) GANG CRIME DEFINED.—For purposes of this section, the term ‘gang crime’ means conduct constituting any Federal or State crime, punishable by imprisonment for one year or more, in any of the following categories:

(A) A crime of violence (as defined in section 16 of title 18, United States Code).

(B) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or juror.

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

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

(E) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), section 287 of such title (relating to destruction of alien for immoral purpose) of this Act.
(u) PUBLICATION OF RESULTS OF REVIEW.—The Attorney General shall publish any determination made pursuant to this subparagraph in the Federal Register.

(v) CONCURRENT NATURALIZATION AND RESCIEVE.—Section 339 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(A) by striking “natives of the Orient, or” and inserting “natives of the Orient, in all cases where an alien is not in accord with the procedures prescribed by this subsection, and has been determined to be a person of good moral character, was lawfully admitted for permanent residence within the five-year period preceding the date of such application (whether directly or indirectly) result in the petitioner’s denial, suspension, loss, or revocation of a designation under this section.”;

(b) DISTRICT COURT JURISDICTION.—Section 380 of such Act (8 U.S.C. 1447) is amended—

(1) by inserting “in an application for naturalization, whether an alien is a person of good moral character, whether an alien understands and is attached to the principles of the Constitution of the United States, or whether an alien is well disposed to the good order and happiness of the United States.”;

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to any application for naturalization made before, on, or after such date.

SEC. 610. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

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

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security in the exercise of discretion”; and

(B) by striking “set forth in this subsection or.” and inserting “set forth in this subsection, in lieu of removal proceedings under;”;

(2) in paragraph (3), by striking “in paragraph (1) of such section or the paragraph set forth in subparagraphs.” and inserting “in paragraphs (1) or (2) and”; and

(3) by striking “Secretary of Homeland Security” and inserting “Secretary of Homeland Security”; and

(b) by striking “Secretary of Homeland Security” and inserting “Secretary of Homeland Security.”

(c) PENDING DEPORTATION OR REMOVAL PROCEEDINGS.—Section 208(b) of such Act (8 U.S.C. 1158(b)) is amended by adding at the end the following:

“—no petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner’s denial, suspension, loss, or revocation of a designation under this section.”

(d) MANDATORY DETENTION OF CRIMINAL STREET GANG MEMBERS.—Section 224(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1182(c)(1)(D)) is amended—

(1) in paragraph (1)—

(A) by striking “inadmissibility or deportability, or to determine whether the applicant’s lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced;” and

(B) by striking “general period of 180 days after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section, as such terms are defined by the Secretary pursuant to regulations, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to remand the matter to the Secretary for the Secretary’s determination on the application.”;

(2) by striking the second sentence and inserting the following: “The burden shall be upon the petitioner to show that the Secretary’s denial of the application was not supported by a facially legitimate and bona fide reason.”

(f) CONFORMING AMENDMENTS.—Section 310(c) of such Act (8 U.S.C. 1430) is amended—

(1) by inserting “, no later than the date that is 120 days after the Secretary’s final determina- tion of this subsection,” and inserting “, no later than the date that is 365 days after the Secretary’s final determina- tion of this subsection,”;

(2) by striking the second sentence and inserting the following: “The burden shall be upon the petitioner to show that the Secretary’s denial of the application was not supported by a facially legitimate and bona fide reason.”

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to any application for naturalization made before, on, or after such date.
appealing paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(b) inserting after paragraph (2) the following:

“(3) The Secretary of Homeland Security in the exercise of discretion may determine inadmissibility under section 212(a)(2) (relating to crimes and orders of removal) or an order of removal pursuant to the procedures set forth in this section, in lieu of removal proceedings under section 240 of the Act, shall refer to an alien who—

(A) has not been admitted or paroled;

(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in section 208 of the Act; and

(C) is not eligible for a waiver of inadmissibility or relief from removal.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act as of such date.

SEC. 611. TECHNICAL CORRECTION FOR EFFECTIVE DATE IN CHANGE IN INADMISSIBILITY FOR TERRORIST RENEGADES UNDER REAL ID ACT.

Effective as if included in the enactment of Public Law 109-13, section 103(d)(1) of the REAL ID Act, section 237(a)(4) of such Public Law (as amended by section 103(d)(1) of the REAL ID Act) is amended by inserting “, deportation, and exclusion” after “removal”.

SEC. 612. BAR TO GOOD MORAL CHARACTER.

(a) IN GENERAL.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following paragraph:

“(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unrestrained discretion of the Secretary or the Attorney General, to have at any time an alien described in section 212(a)(3) or section 237(a)(4), which determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and which shall be binding upon any court regardless of the applicable standard of review;

(2) in paragraph (8), by inserting “, regardless whether the crime was classified as an aggravated felony at the time of conviction” after “as defined in subsection (a)(4))”;

and

(3) by striking “sentence” in paragraph (9) and inserting the following: “The fact that any person is not within any of the foregoing clauses shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary and the Attorney General shall not be limited to the applicant’s conduct during the period for which the good moral character is required, but may take into consideration as a basis for determination the applicant’s conduct and acts at any time.”;

(b) AGGRAVATED FELONY EFFECTIVE DATE.—

Section 109(b) of the Immigration Act of 1990 (Public Law 101-648), as amended by section 306(a)(7) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102-232) is amended to read as follows:

“(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on, or after such date.

(c) COMPARISON TO THE INTELLIGENCE REFORM ACT.—Effective as if included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), section 102(1) of such Act is amended by striking “adding at the end” and inserting “inserting immediately after paragraph (8)”.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall not apply to any alien who—

(A) is not found to have committed an act of terrorism; or

(B) is found to have committed an act of terrorism but who, in the interest of international comity or public safety, is determined, on the basis of evidence extrinsic to the record of conviction, to have committed an act of terrorism that was not included in the record of conviction.

SEC. 613. STRENGTHENING DEFINITIONS OF “AGGRAVATED FELONY” AND “CONVICTION RECORD”.

(a) IN GENERAL.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) by amending subparagraph (A) of paragraph (43) to read as follows:

“(A) murder, manslaughter, homicide, rape, or any sexual abuse of a minor, whether or not the victim is a member of the armed forces of the United States; treason; bribery, or extortion, or a conspiracy to commit such an offense; a violation of a statute relating to the production or use of a controlled substance or a controlled substance importation or exportation; or a conviction for a violation of a statute that was an element of a crime of violence; or

(2) in paragraph (48)(A), by inserting after and below clause (ii) the following:

“(ii) any act of domestic terrorism that was not included in the record of conviction; or

(c) SECORDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONVERIFICATION.—In cases of tentative nonverification, the Secretary shall specify, in consultation with the Commissioner of Social Security, the secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the tentative nonverification. When final verification or nonverification is provided, the verification system shall provide an appropriate code indicating such verification or nonverification.

(d) DESIGN AND OPERATION OF SYSTEM.—The verification system shall be designed and operated—

(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of underlying information and authorized disclosure of personal information; and

(ii) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including blocked access and

(I) the selective or unauthorized use of the system to verify eligibility;

(II) the use of the system prior to an offer of employment; or

(III) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall establish and administer the verification system, which shall—

(I) establish a reliable, secure system, which, within the time periods specified under subparagraphs (B) and (C), after the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information, shall return to the person or entity to whom the information was provided the name and social security account number that was included in the inquiry against such information, unless the person or entity that verified the information maintains that the information was not validated or was validated in part, in which case the system shall return the name and a nonverification number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such verification or nonverification) except in this section or section 205(c)(2)(I) of the Social Security Act.

“TITLE VII—EMPLOYMENT ELIGIBILITY VERIFICATION

SEC. 701. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by adding at the end the following:“(7) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM—

“(A) IN GENERAL.—The Secretary of Homeland Security shall establish and administer a system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

(i) shall receive, maintain, and use information provided by employers to determine the employment eligibility of most job applicants.

(ii) shall accept an inquiry from any employer to verify the employment eligibility of a job applicant; and

(iii) shall verify the employment eligibility of a job applicant and maintain results of such verifications.

(B) EFFECTIVE DATE.—The Secretary shall carry out the system described in paragraph (7) as soon as practicable after the date of the enactment of this Act.”
“(F) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—(I) As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary) shall establish and administer the verification system, shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification number or authorization number which are provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(ii) When a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number, the Secretary of Homeland Security shall conduct an investigation, within the time periods specified in subparagraphs (B) and (C), in that no fraudulent use of a social security account number has taken place. If the Secretary has selected a designee to establish and administer the verification system, the designee shall—(A) establish the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number. The designee shall also provide the Secretary with all pertinent information, including the name and address of the employer or employers, the social security account number submitted by the employer or employers, and the relevant name and date of birth of the employee submitted by the employer or employers.

(6) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including the possible fraudulent use of that number. The Secretary shall require the employer or employer, the relevant social security account number submitted by the employer or employers, and the relevant name and date of birth of the employee submitted by the employer or employers.

(7) VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—

(7) IN GENERAL.—Notwithstanding any other provision of law, nothing in this paragraph shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this paragraph for any other purpose other than as provided for.

(8) NO NATIONAL IDENTIFICATION CARD.—Nothing in this paragraph shall be construed to authorize, encourage, or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(9) LIABILITY TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may sue the employer only through the arbitration and adjudication of the Federal Tort Claims Act, and in the absence of relief to correct such error. No class action may be brought under this subparagraph.

(10) LIABILITY PROVISIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information obtained through the employment eligibility verification mechanism established under this paragraph.”. 
not contest the nonverification within the time period specified, the nonverification shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under subpart B, indicating a tentative nonverification. If the individual does contest the nonverification, the individual shall utilize the process for secondary verification as further described in paragraph (B). If the nonverification will remain tentative until a final verification or nonverification is provided by the verification system within the time period specified in paragraph (A)(i), the person or entity shall record on the form an appropriate code that is provided under subpart B, indicating that a verification or nonverification of identity and work eligibility of the individual has been provided under the system to indicate such query.

(b) Employment Eligibility Verification for Previously Hired Individuals—Section 274A(b) of such Act (8 U.S.C. 1324a(b)), as amended by section 701(a), is amended by adding at the end of the section the following new paragraph (b)(iii)(D):

(3) in subsection (a)(2) by striking “after hiring and reporting in accordance with paragraph (1),” and inserting “after complying with paragraph (1),”

and

(4) in subsection (a)(3), as amended by section 702, is further amended by striking “hiring,” and inserting “hiring, employing,” each place it appears.
not more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year, or both, notwithstanding the provisions of any other Federal law. (2) The Secretary of Homeland Security may, in accordance with such regulations as the Attorney General or the Secretary of Homeland Security may prescribe, require any person to furnish such other information as the Attorney General or the Secretary may reasonably require for the purpose of conducting employment eligibility verification. (3) The Department of Homeland Security, in consultation with the Secretary of the Treasury, the Secretary of Labor, the Attorney General, and the inspector general of the Department of Homeland Security, shall issue regulations for purposes of subsection (a) to carry out such responsibilities. (4) The inspector general of the Department of Homeland Security shall, in consultation with the Secretary of the Treasury, the Secretary of Labor, and the Attorney General, prescribe regulations to carry out such responsibilities. (5) In subsection (f)(2), by striking ‘‘Secretary of Homeland Security’’ each place it appears and inserting ‘‘Secretary of Homeland Security’’.

SEC. 707. EFFECTIVE DATE.

The Commission on Immigration Security is authorized to perform activities with respect to carrying out the Commission’s responsibilities in this title or the amendments made by this title, but only to the extent (for the purpose of carrying out section 707) the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner’s full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

TITLE VIII—IMMIGRATION LITIGATION

SEC. 801. BOARD OF IMMIGRATION APPEALS REMOVAL ORDER AUTHORITY.

(a) In general.—The Board of Immigration Appeals, or other administrative officer to whom the Attorney General or the Secretary of Homeland Security has delegated the responsibility for removing an alien who is removable, concluding that the alien is removable or ordering removal.

(b) The Board of Immigration Appeals under paragraph (A) shall become final upon the earliest of—

(1) a determination by the Board of Immigration Appeals affirming such order;

(2) the entry of the Board of Immigration Appeals of such order;

(3) the expiration of the period in which any party is permitted to file a review of such order by the Board of Immigration Appeals;

(4) the entry by an immigration judge of such order, if appeal is waived by all parties; or

(5) the entry by another administrative officer of such order, at the conclusion of a process as authorized by law other than under section 240.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to all removal orders issued on or after such date.

SEC. 802. JUDICIAL REVIEW OF Visa Revocation.

(a) In general.—Section 212(i) of the Immigration and Nationality Act (8 U.S.C. 1182(i)) is amended by adding at the end the following new subsection:

(f) Review of Actions Under Section 212(i) of the Immigration and Nationality Act

(1) Nothing in this Act shall take effect on the date that is two years after such date.

SEC. 803. RESTATEMENT.

(a) In general.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(5)) is amended to read as follows:—

‘‘(A) The alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application for such relief may have been filed; and

(B) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application for such relief may have been filed; and

(c) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

Reinstatement under this paragraph shall not require proceedings before an immigration judge under section 240 or otherwise.

(d) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

‘‘(1) Judicial Review of Remand Under Section 242(a)(5).

(a) In general.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 221 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1363 of such title, or subsection (a)(2) of such section, the Attorney General may, in the final disposition of any cause or claim arising under section 242(a)(5) (including any challenge to the removal order), except as provided in paragraph (2) or (3).

(2) Challenges in Court of Appeals for District of Columbia to Validity of the System, Its Implementation, and Related Individual Determinations.—

(A) In general.—Judicial review of determinations under section 242(a)(5) and its implementation is available in an action instituted in the United States District Court for the District of Columbia Circuit, but shall be limited, except as provided in subparagraph (B), to the following determinations:

(I) Whether such a determination, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General or the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this Act or is otherwise in violation of a statute or the Constitution.

(II) Whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General or the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this Act or is otherwise in violation of a statute or the Constitution.

(B) RELATED INDIVIDUAL DETERMINATIONS.—If a person raises an action under subparagraph (A), the person may also raise in the same action the following issues:

(I) Whether the petitioner is an alien.

(II) Whether the petitioner was previously ordered removed or deported, or excluded.

(III) Whether the petitioner has been illegally present in the United States.

(C) Remand for Final Agency Action.—Any action instituted under this paragraph must be filed no later than 60 days after the date the challenged section, regulation, policy directive, or written procedure issued by or under the authority of the Attorney General or the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this Act or is otherwise in violation of a statute or the Constitution.

(1) Whether the petitioner is an alien.

(2) Whether the petitioner was previously ordered removed or deported, or excluded.

(3) Whether the petitioner has been illegally present in the United States.

(4) Single Action.—A person who files an action under paragraph (2) may not file a separate action under section 242(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(5)).

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated on or after that date by the Secretary of Homeland Security (the Attorney General prior to March 1, 2003), regardless of the date of the original order.
SEC. 804. WITHHOLDING OF REMOVAL.

(a) In GENERAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following: “The burden of proof is on the alien to establish that the alien’s life or freedom would be threatened in that country, and that race, gender, national origin, ethnicity, membership in a particular social group, or political opinion would be at least one central reason for such threat.”;

and

(2) in subparagraph (C), by striking “In determining whether an alien has demonstrated that the alien’s life or freedom would be threatened for a reason described in subparagraph (A) and indicated in this paragraph”, and inserting “in such paragraph”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 101(c) of the REAL ID Act of 2005 (division B of Public Law 109-13).

SEC. 805. CERTIFICATE OF REVIEWABILITY.

(a) ALIEN’S BRIEF.—Section 242(b)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

“(C) ALIEN’S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon good cause shown. If an alien fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.”;

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) of such Act (8 U.S.C. 1252(b)(3)) is amended to read as follows:

“(D) CERTIFICATE.—

(1) If the alien has filed the alien’s brief, the petition for review shall be assigned to a single court of appeals judge.

(2) Unless that court of appeals judge or a circuit justice issues a certificate of reviewability, the petition for review shall be denied and the government shall not file a brief.

(3) A certificate of reviewability may issue under clause (ii) only if the alien has made a substantial showing that the petition for review is likely to be granted.

(4) The court of appeals judge or circuit justice shall specify in such certificate, including rendering judgment, not later than 60 days after the date on which the judge or circuit justice was assigned the petition for review, unless otherwise directed under clause (i),

“(a) that the petition for review meets the requirements set forth in subparagraph (A) and (B);

“(b) that the alien’s brief is insufficient to meet the requirements of subparagraph (A) and (B); or

“(c) that the petition for review, in the absence of a certificate of reviewability, would be dismissed.

(5) If the judge or circuit justice grants, on the judge’s or justice’s own motion or on the motion of a party, an extension of the 60-day period described in clause (iv),

“(A) all parties to the proceeding agree to such extension; or

“(B) such extension is for good cause shown or in the interests of justice, and the judge or circuit justice states the grounds for the extension with specificity.

(6) If no certificate of reviewability is issued before the time specified in the report, equal opportunity divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

PART B AMENDMENT NO. 1 OFFERED BY MR. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 printed in House Report 109-347 offered by Mr. CARTER of Texas:

In section 106, in the matter preceding paragraph (1), strike “communication capabilities” and insert “communication capabilities, including the specific use of satellite communications”.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Texas (Mr. CARTER) and a Member opposed each will control 5 minutes.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

This amendment would ensure that the Secretary of Homeland Security would look at all technical solutions to find the best solution for effective two-way communication on the United States border. By specifically requiring the Department of Homeland Security to include satellite communications as part of this solution to curing the inefficiencies of existing communication on the border, Congress would be ensuring the consideration of the only proven communication tool that can maintain the constant connection to the Border Patrol officers in the field, thereby saving their lives and providing homeland security seamlessly and flawlessly.

In many instances during the recent natural disasters of hurricanes Katrina and Rita, the United States was the only reliable method of communication. Moreover, this technology has been used extensively by the U.S. military in inhospitable and remote areas of Afghanistan and Iraq. Satellite communication has proven to be the most reliable method of communication.

During the Katrina disaster, I had a conversation with the gentleman from Nevada (Mr. PORTER) about going down with a load of provisions to help folks down there. When he arrived at the town, he do not remember the name of the town, he ask if they had talked to FEMA and they said, yes, they gave us a phone number to call, but, unfortunately, our cell phones do not work, and our land lines are down so there is no phone in this cell phone.

Mr. PORTER had his satellite phone with him. He shared his satellite phone with those disaster victims, and they were able to communicate with FEMA. Given the unique characteristics of our Border Patrol agents and the way communication on the United States border would be specifically useful in alleviating many of the communication problems that currently exist and can be done in a very cost-effective way to the U.S. taxpayer. This amendment ensures that all available options would be considered instead of limiting the Border Patrol to outmoded and frequently ineffective technology.

I ask my colleagues to support this amendment because it will greatly enhance the U.S. Border Patrol’s ability to protect our Nation’s borders and provide for their individual safety.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Who claims time in opposition?

Ms. ZOE LOFGREN of California. Mr. Chairman, although I do not oppose the amendment, I would note that we will support this amendment, and I would also like to yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of my Texas colleague’s amendment, but against the bill with reservations. There are many aspects of this bill that I support. I believe we should improve security along the border. Every nation in the world should control their borders and know who is crossing their borders. That is why I co-sponsored the Border Security Act last Congress with our former colleague Jim Turner.

I believe we should prevent immigration officials from having to catch and release detainees because there are not enough detention beds and holding facilities. That is why I co-sponsored legislation that the gentleman from Texas (Mr. ORTIZ) and the gentleman from Texas (Mr. REYES) that would give us the number of beds we need.
However, I cannot support this bill in its current form.

Under this bill, approximately 11 million people in this country would become aggravated felons. If you think we have catch and release problems now, the uphill battle have an additional 11 million people that have to be detained under this legislation. There are not enough prisons to handle these numbers. I cannot imagine our country loading box cars with the estimated 10 to 12 million people who do not have documents showing they are legal. This brings visions of deportation and Nazi Germany and Stalin and the Soviet Union.

Currently, 40 percent of immigration detainees are held in Department of Homeland Security facilities; 60 percent of these detainees are in local jails under contract with the Federal Government. The Federal Government needs to take responsibility for holding all of these detainees, much less the concern we have about an additional 11 million.

It is estimated by making all these people felons there are approximately 3 million U.S. citizen children that would be impacted by having their parents or guardians detained or deported. This is something we need to review closely and make sure we are not making life harder for children that are U.S. citizens who happen to be born to undocumented parents.

Finally, this bill closes the door to the courthouse for many immigrants. Without judicial review, we cannot be certain that our laws are being enforced appropriately. I believe in increasing protection along our borders, realistically addressing the current undocumented population; but I also oppose a new guest worker program.

Mr. CARTER. Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, let me commend the gentleman from Texas (Mr. CARTER) for this very fine amendment. It is important to the bill. It is a well-intentioned and well-drawn amendment. I am willing to accept the amendment.

I thank the gentleman for his thoughtful consideration and for all that he does on this very, very vital issue.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I mentioned earlier, I do not oppose the amendment. Land line and cellular telecommunicators can be severely disrupted in a time of natural disaster, and it is important to have satellite communications available so that they are a reliable alternative for first responders and others involved in natural disasters.

However, I would note that while I will be happy to vote “aye” on the amendment; we do not actually need this amendment to have the use of satellite communications. That is some thing that the administration could have done on its own. There are some other things that they ought to be doing that would really make a difference.

The U.S. Border Patrol needs additional agents, and we need new training for those agents. We need 2,000 additional agents in ICE and 250 additional detention officers. U.S. Marshals need 250 additional personnel and $350 million for vehicles, communications equipment, and body armor. In this equipment, U.S. Attorneys, we need 100 additional personnel on the southwest border and $30 million for additional office space. Why? We have talked about detention beds, but the issue is we need in able to process these cases, not just hold people. We need to bring charges against them, those who have an arguable claim, and then adjudicate that claim; either deport them or find that their claim is a valid one.

Mr. Chairman, I would note that while I oppose each amendment. I would note that while I oppose each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank Chairman King of New York and Chairman Sensenbrenner for their hard work on this important legislation.

My amendment adds a subsection that says that during this review if the Inspector General discovers any wrongdoing or misconduct, the Inspector General shall refer information related to such improper conduct or wrongdoing to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security for evaluating whether to suspend or debar the contractor.

The text of the amendment is as follows:

- The text of the amendment is as follows:
- Part B amendment No. 2 printed in House Report 109-347 offered by Mr. GOHMERT of Texas.
- At the end of section 109, add the following new subsection:
  - (c) Action by Inspector General. In the event the Inspector General becomes aware of any improper conduct or wrongdoing in connection with the contracts required under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information related to such improper conduct or wrongdoing to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security for evaluating whether to suspend or debar the contractor.
The Acting CHAIRMAN (Mr. SIMPSON). Does the gentlewoman from California claim the time in opposition?

Ms. LOFGREN of California. Mr. Chairman, I claim the time in opposition; although I do not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentlewoman is recognized.

There was no objection.

Ms. LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of this amendment. The Department of Homeland Security IG has exposed improper conduct or wrongdoing of contractors who maintain Federal contracts with the department, and I think this amendment is along the lines of trying to make sure that the American taxpayers are not going to get ripped off like they have been in the past.

Take a look at the level of fraud in contracting that has occurred in the Middle East, in Iraq; I mean, hundreds of thousand of dollars of stolen money and the stories that are coming out of the taxpayers being ripped off by contractors in the gulf region after Hurricane Katrina. And I think that the record is not a good one in terms of this administration choosing contractors who will not cheat us.

So I do think it is important to have this amendment, and I commend the Congressman for bringing this forward.

In June, the Homeland Security Committee heard testimony from Joe Gallay who is the acting Inspector General of GSA. Mr. Gallay provided a detailed account of significant deficiencies he discovered in evaluating the efficiency of ISIS, and of particular concern to the IG was the procurement of remote surveillance equipment, the lack of progress in implementing the system and what he called the chronic inattention to the proper administration of the contract.

The IG wrote that the program was severely hampered by ineffective management that led to waste, and the report showed deficiencies in the ISIS contract management and in the training of government officials responsible for implementing the contract.

Now, it is unfortunate that we need this amendment. We would like to think that our administration would not be inept; that they would have accountability; that they would know how to administer; and they would not have this rip-off of taxpayers that has been identified to the committee repeatedly. Unfortunately, that appears not to be the case, and therefore, I do support this amendment to try and stop this rip-off of the taxpayers.

As the philosopher George Santayana cautioned, Those who do not learn from history are condemned to repeat it.

I hope that this amendment will be adopted, and that will help us from continuing to see the rip-off of American taxpayers in the area of the Department of Homeland Security.

Mr. GOHMER. Mr. Chairman, I yield myself such time as I may consume.

I appreciate my colleague from California’s support on this amendment, and as she knows, this is an issue that knows no party boundaries, and so I am proud to stand with those who want to end this, and that would include Chairman KING.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, I thank the gentleman for yielding me time, and let me express my strong support for this amendment and thank the gentleman from Texas (Mr. GOHMER) for the contribution he has made, for the dedication he brings to this issue.

I also would say, parenthetically, if someone with his accent and my accent are supporting this bill, it shows how extensive and wide-ranging the support is for this bill. It shows that all Americans, from one end of the country to the other, one accent to the other, stand behind a bill which is good, an amendment which really adds substantially to the bill and does provide the level of integrity and honesty and interaction that we need.

With that, I express my strong support for the gentleman’s amendment.

Ms. LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

I would just note that the gentleman from Mississippi (Mr. THOMPSON), the ranking member of our full committee, has worked very closely in collaboration with the majority. I would like to thank him for his extraordinary efforts on this, along with that of the author and the chairman.

As I say, we support this, although it is a sad day that it is so needed because of the poor administration at the department overall.

Mr. Chairman, I yield back the balance of my time.

Mr. GOHMER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GOHMER).
This amendment sends a simple message from the Congress to the administration: Enforce the law.

We can debate how to solve the illegal immigration problem until we are blue in the face, and see some very blue faces around the room, but if the laws are not being enforced, then it is just a bunch of hot air.

I have got a four-page list of immigration laws in front of me that are currently being ignored. This is unacceptable. This non-enforcement must end. The United States Congress must demand it right now.

Let me give my colleagues a couple of examples. In 2002, we enacted a law requiring implementation of a system known as Chamera. This means there will be information sharing from federal databases in the intelligence community to any Federal official considering an immigrant’s admissibility or deportability. Well, you knew as you heard information sharing, it is not happening.

Did you know we have a law forbidding public colleges from giving in-state tuition to illegals unless they offer it to every citizen in the United States? It is going on in nine states. Federal law is being violated, and guess what, the Federal Government’s doing nothing about it.

Do you know that all registered aliens are required to notify DHS within 10 days of changing address? Failure to do so is a deportable offense. This has no national security value, and it is not being enforced.

In 1996, we made a law requiring the Department of State to suspend all visas to any country who refuses to receive a national who has been deported from the United States. So, hypothetically, if China would not accept people we are deporting back to China, which they are, then the Federal Government is not allowed to issue any more visas to people coming from China. Thanks, we are not giving visas to people from China?

The list goes on and on. I will submit it for the RECORD at this point.

**Immigration Laws the Administration is Not Enforcing**

**Enhanced Border Security and Visa Entry Reform Act of 2002**

Integration of all databases and data systems maintained by [DHS] that process or contain information on aliens (§202).

DHS has no plan to accomplish this.

Implementation of an interoperable electronic data system (also known as the “Chamera” system) to provide current and immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is needed to determine whether to issue a visa or to determine the admissibility or deportability of an alien (§202).

Chimera is to be incorporated into the integrated alien data system; information in Chimera must be readily and easily accessible—

to any consular officer responsible for the issuance of visas; to any consul or consular official responsible for determining an alien’s admissibility or deportability from the United States; and to any Federal law enforcement or intelligence officer determined by regulation to be responsible for the investigation or identification of aliens. DHS has no plan to accomplish this.

Make interoperable all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act (§303).

DHS has no plan to accomplish this.

Not later than October 26, 2004, DHS and the State Department shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers (§303).

DHS still issues easily counterfeited temporary car cards, and only a more secure card is mailed to the alien.

Not later than October 26, 2004, the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software (i.e., machine readers) to allow biometric comparison and authentication of all United States visas and other travel and entry documents issued to aliens, and passports (§303).

About 500 readers have been put in place in only some POEs, and all are in secondary, rather than primary, inspection.

Beginning upon implementation of Chamera, no later than receiving later notification of the loss or theft of a United States or foreign passport, DHS and State, as appropriate, shall enter into Chamera the corresponde number for every lost or stolen passport (§308).

**Illegal Immigration Reform and Immigrant Responsibility Act of 1996**

An alien presenting a border crossing identification card (i.e., a laser visa) is not permitted to cross into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien (§104).

The Administration exempted Mexico from participation in US-VISIT, so biometrics are not being verified and border crossing cards are merely inspected visually.

Process all aliens through US-VISIT (the automated entry-exit control system) so as to collect a biographic record for every alien departing the United States and match the records of departure with the record of the alien’s arrival in the United States (§106).

Only about 20 percent of nonimmigrants being processed through the entry part of US-VISIT; the other 80 percent of nonimmigrants have been exempted; immigrants (lawful permanent residents) also have been exempted; and the exit part of the system is still being tested in pilots at a handful of POEs.

Aliens who have resided illegally in the United States for more than six months but less than one year and voluntarily departed from the United States; aliens who have resided illegally in the United States for more than one year are barred from re-entry for ten years (§301).

Only about 12,000 aliens were subjected to these bars on re-entry during the first four years after this provision took effect: it is estimated that the bars could have applied to up to 2.5 million aliens during that period.

Mandatory detention pending removal of all aggravated felons and other aliens who are inadmissible or deportable due to criminal convictions (§303).

Limited detention space and mismanagement of budgets result in criminal aliens being released from detention prior to removal: more than 80,000 criminal aliens are free in American communities.

Mandatory detention of aliens from the time they are issued a final order of removal until the alien is actually removed or until 90 days have passed if the alien cannot be removed within that period (§305).

In 2004, almost half (34,800) of the more than 75,000 “other than Mexicans” apprehended by the Border Patrol were released on their own recognizance or removal: an estimated 90 percent of nondetained aliens as soon after being issued an order of removal.

Upon notification by DHS or the AG that a foreign government refuses or unreasonably delays the return a national of that country who is ordered removed from the United States, the AG may suspend the issuance of immigrant and/or non-immigrant visas to nationals of that country (§307).

A handful of governments routinely refuse to issue travel documents to their nationals who have been ordered removed from the United States, but this provision is not invoked.

Each Department of the Federal Government shall elect to participate in a pilot program to verify employment authorization of its employees and shall comply with the terms and conditions of such election (§402).

The 1996 law created three different pilot programs from which agencies could choose; when two of them were allowed to lapse and only one, the Basic Pilot, was extended, agencies using one of the lapsed pilots simply stopped participating rather than sign up for the remaining one.

Public institutions of higher education may not offer in-state tuition to illegal aliens unless they also offer it to every citizen of the United States (§505).

Neither DHS nor the Justice Department has challenged any of the nine states that have passed laws that violate this law, despite the fact that the Federal law clearly supercedes state law in the area of immigration.

Any alien seeking admission to the United States or a change of status who is likely to become a public charge or who is a public charge is excludable, if seeking admission, or removable, if already here and seeking adjustment of status (§501).

DHS has yet to come up with a definition of “public charge” to implement this provision.

Upon notification that a sponsored alien has received any means-tested public benefit, the entity (municipal, nonmunicipal, Federal, state, or local) that provided the benefit shall rescind its immigration status of individual (sanctuary policies) (§642).

Neither of the two sanctuary states, Maine and New Mexico, nor any of the multitude of sanctuary cities have been challenged by DHS or DOJ for violating this provision: soon after this law passed, the City of New York challenged the law in court and the court upheld the law and ordered the City to rescind its sanctuary policy; instead, the City modified its policy slightly, but the Federal Government has not challenged it.

DHS shall respond to an inquiry by a Federal, State, or local government agency seeking to verify or ascertain the citizenship status of an individual within the jurisdiction of the agency for any purpose authorized by law (§642).
This law also required the establishment by then-INS of the Law Enforcement Support Center (LESC), which is available 24/7 to state and local police seeking information on aliens and citizenship, however, state and local police who contact ICE about illegal aliens they have taken into custody are routinely rebuffed and told to simply release the aliens.

**IMMIGRATION AND NATIONALITY ACT**

The Secretary of DHS is authorized to expand expeditied removal procedures to any or all aliens who have not been admitted or paroled into the United States and are not affirmatively shown to the satisfaction of an immigration officer that they have been physically present in the United States continuously for 10 years immediately prior to this determination (§ 235).

The Secretary has only recently used this authority to expand expedited removal to nine Border Patrol sectors. The fact that our Federal court system is clogged with appeals of removal orders—the number of cases filed in Federal court rose from just over 2,000 in 1994 to more than 14,500 in 2004—and the fact that the illegal alien population in the United States continues to grow would suggest that expedited removal needs to be expanded along the entire land border of the United States.

Once an alien is apprehended and removal proceedings are initiated, DHS may detain the alien for a minimum of $1,500 bond, or release him on conditional parole (§ 236).

Since on estimated 90 percent of non-deportable aliens are released after being issued an order of removal, and since DHS has the authority to detain aliens pending removal, it makes no sense that almost half (34,800) of the more than 75,000 apprehended by the Border Patrol were released on their own recognizance pending removal in 2004.

Marriage fraud, used in the past by at least nine terrorists to prolong their stay in the United States, is a deportable offense (§ 237).

ICE has announced that single-instance marriage fraud is a low priority and so will not be investigated or prosecuted.

Domestic violence, false claims to US citizenship and voting illegally are deportable offenses (§ 237).

Illegal aliens who are victims of domestic violence can obtain green cards through the Violence Against Women Act, but the abuser is rarely prosecuted and even more rarely deported; as happened in New York City with Mayor Giuliani’s “broken-window policing.”

Stepped up enforcement of these “low-priority” violations would begin to reassert the rule of law in our immigration system.

Failure of an alien intending to remain in the United States for 30 or more days or longer to apply for registration and fingerprinting during that three-month period is a deportable offense (§ 262).

Enforcement of this provision would be of obvious national security value, and it would send a clear message that security is our top priority.

All registered aliens are required to notify DHS within ten days of changing addresses; failure to do so is a deportable offense (§ 296).

This, too, has important national security value.

Any individual or entity that “encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such alien is or will be in violation of law” is guilty of a felony punishable by imprisonment (§ 274).

A strong case could be made that localities like Herndon, Virginia, that are using taxpayer funds to build and promote day-labor sites for aliens they know to be illegal, and government entities like the Illinois Housing Development Authority, which has set aside taxpayer funds to provide mortgages to illegal aliens, are encouraging illegal aliens to reside in the United States.” The same case can be made against banks that accept consular ID cards to open accounts or allow illegal aliens to use individual taxpayer ID numbers to get home loans.

It is unlawful to knowingly hire, recruit, or refer for a fee an alien who is not authorized to work in the United States, and it is unlawful to hire any individual without verifying the employment authorization of that individual, either through the I-9 process alone or combined with the Basic Pilot program (§ 274A).

While it is exceedingly difficult to establish that an employer knew an employee was illegal, it is not difficult to establish that an employer failed to complete the I-9 process; it is also not difficult to encourage employers to use the Basic Pilot to verify work eligibility.

Aliens who commit fraud, use false or altered documents, or make misrepresentations on applications or amendments for immigration benefits are ineligible for the benefits (§§ 221, 237, 340, among others).

Not only does USCIS grant benefits to aliens despite omissions of, and sometimes even evidence of, fraud or misrepresentation, ICE rarely investigates cases of alleged benefits fraud (GAO). My estimates that ICE declines to investigate over 70 percent of the benefits fraud referrals it receives. It is exceedingly rare for either agency to attempt to rescind a benefit once it is granted.

Millions of new immigrants come to America every year, and the numbers are rising. Do you know why these numbers continue to increase? Because when we don’t enforce the laws, we send the message that we don’t take our laws seriously.

We don’t pass laws to be ignored.

Join me in supporting this amendment. Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does the gentlewoman from California claim the time in opposition?

Ms. ZOE LOFGREN of California. Mr. Chairman, I claim the time in opposition, but I will not oppose the gentleman’s amendment.

The Acting CHAIRMAN. Without objection, the gentlewoman can claim the time in opposition.

There was no objection.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

I will note that the amendment does not really accomplish anything; although, I certainly really would not want to oppose enforcing the law.

The gentleman mentioned some things that are deficient in the administration of our immigration laws, and they are not new things.

Let me just give you an example on reporting a change of address. Do you know how that is done? You fill out a piece of paper, and you submit it. Do you think it is possible to actually find those pieces of paper, the millions of pieces of paper that came in and who is a legal permanent resident, you could file it, but no one will ever find it.

We mention often the terrorists that came into our country and did such damage to us on 9/11. You know what? Those people, most of them were not admissible to the United States, but the poor officer at the border, he did not know that. He could not know it because the piece of information that would have told him that was on a piece of microfilm sitting in a bucket in Florida waiting to be translated into an actual database.

There is a lack of technology in the department, and nothing in this bill changes that.

Further, nothing in this bill orders the President to order his department to go out and get the people who promised to appear and then disappeared. Let us go find those people. Let us bring them to justice. Either they will be deported or they will have their day and find their remedy.

Nothing in this bill tells the department to go out and find the people who have been convicted of crimes, who were supposed to be deported, who instead were released from county jail or from State prison because the department failed to go pick them up. There is nothing in this bill that says, go every day, check with the jails, find out who is a criminal alien and who is about to be released and deport them.

There is nothing in there. There are no resources.

So this underlying bill is a failure. The amendment is well-meaning but it is not accomplishing almost nothing. Nevertheless, it would be wrong to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. ZOE LOFGREN of California. I yield to the gentleman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman very much.

Let me just say, Mr. Johnson is a good friend from Texas, and I know that this sense of Congress reflects the attitude of the people of Texas and America that we should enforce the immigration laws. I am going to enthusiastically join and support him on this idea of enforcing the Nation’s immigration laws.

But what I do want to indicate is that this is building on some enforcement laws that we have had, and that is that, over the years, we have enacted enforcement laws over the last 20 years. We have increased the Border Patrol budget by a factor of 10, but it has not been enough. We have tripled the number of agents, but we need to do more, and we have created a Department of Homeland Security.

What we have not been able to do is write real, if you will, effective immigration law that brings in the comprehensive nature of immigration law which provides, if you will, an earned access to legalization and the building upon the security of our borders by the enhancement of our Border Patrol agents, for example, scholarships, recruitment.
There is another amendment coming up about making sure that clothing comes from the right country. I think this is a good amendment, but I think that we can do better by looking at this from a comprehensive perspective and building and writing the kinds of laws that would be effective, if you will, to ensure that we are enforcing those laws.

Ms. LOFGREN of California. Mr. Chairman, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I thank the gentleman from Houston for her comments. I appreciate it.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Chairman, I want to thank the gentleman from Texas for introducing this amendment to this fine legislation. He recognizes that the failure to control and to prevent illegal immigration into the United States increases the likelihood that terrorists will succeed in launching a catastrophic or harmful attack on the United States.

His amendment is a message to the executive branch: Please enforce the laws that we have now to stop illegal immigration. They will listen to the gentleman from Texas with his stature and patriotism. It will be a fine message.

Ms. LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

I would simply note that this amendment will not really cure the problems in this bill. It will not get the resources. It will not make the administration do its job. It will not cure the incompetence and lack of performance of that we have seen at the borders, both borders, southern and northern, as well as our ports of entry.

It a good idea to enforce the laws. Unfortunately, the administration is not doing so.

Mr. Chairman, I yield the remainder of my time to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Chairman, I rise in opposition to H.R. 4437. I have nothing against this particular amendment, but I am totally against this legislation.

We are all about protecting our borders. We are all about enforcement, and we are about developing a comprehensive immigration reform legislation that really will impact our people, but this bill today, it is flawed. It is inconsistent with the American values.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield the remaining time to the gentleman from New York (Mr. KING), the chairman of the committee.

Mr. KING of New York. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I just want to emphasize that I stand in strong support of his amendment. This is just one more example of the outstanding contributions to public service made by the gentleman from Texas. I support it and urge its adoption.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Texas (Mr. SAM JOHNSON).

The amendment was agreed to.

PART B AMENDMENT NO. 4 OFFERED BY MR. RENZI

Mr. RENZI. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

SEC. 118. SECURING ACCESS TO BORDER PATROL UNIFORMS.

Notwithstanding any other provision of law, all uniforms procured for the use of Border Patrol agents shall be manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Arizona (Mr. RENZI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. RENZI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I begin by thanking the chairman of our Homeland Security Committee for his allowing to move forward on this amendment, and more so for the protection he is now about to provide to many of our Border Patrol agents. I rise today to offer an amendment that would require all the uniforms worn by our Border Patrol agents to be made in America.

Imagine yourself a Border Patrol agent who serves in harm’s way along this vast and violent border who dons the uniform of this Nation which is currently made in Mexico and which could easily fall into the wrong hands. As we speak, uniforms worn by our Border Patrol agents are manufactured in Mexico and could be easily lost or stolen. Beyond these problems, other uniforms, have been intentionally produced to undermine our border security efforts. These uniforms represent the law and order on our border, and allowing these criminals to masquerade in America would minimize the possibilities that they could be procured by smugglers, terrorists, or others who pose great risk to our agents.

In 1911, Congress passed the Berry amendment, which restricts the Department of Defense from procuring some military uniforms for national security purposes outside of them being manufactured in America. For over 60 years Congress has chosen to keep this policy in place, and yet every day thousands of our borders are besieged by armed human smugglers and drug traffickers and those who want to use lethal means to target our agents.

Just 2 years ago, the Border Patrol confiscated a smuggler’s vehicle down on the southwest border that was painted like a Border Patrol vehicle. While we may not be able to prevent individuals from painting trucks, we can certainly offer them getting these uniforms and from these uniforms falling into the wrong hands. Our Border Patrol agents need to be able to take pride in the uniforms they wear. They need to be secure in the knowledge that, when they are on the border patrolling into the darkness protecting us and when they are trying to determine whether the individual approaching them is friend or foe, that these uniforms are not being used as a tool against them. When our agents wake up each morning, they need to see the American flag and the “Made in U.S.A.” label on their uniforms. I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Who claims time in opposition to the amendment?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim the time in opposition, but I will not consume.

The Acting CHAIRMAN. Without objection, the gentlewoman may claim the time in opposition.

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to the distinguished gentleman that offered the amendment, that is why we have suggested that we can work on these issues in a bipartisan manner. I think we have a very reasonable amendment, and I just say that the National Border Patrol Council supports this amendment because it involves officer and public safety.

Since early last year, the Border Patrol uniforms, including the patches, the identifying patches, have been made outside of the country. It would be quite simple for someone to bribe a low-paid factory worker or truck driver in order to procure a quantity of uniforms for the purpose of masquerading as a Border Patrol agent. Obviously this makes sense, and that is why part of the problem with the underlying bill is, frankly, that it is weighted down by the criminalizing of the undocumented and not focusing on the criminalizing of the criminals. This, in fact, is a very instructive amendment because it helps to ensure the sanctity of the Border Patrol officers’ uniform and their work. Inasmuch as the Border Patrol’s work is done at night and low-light surroundings, it would be nearly impossible for the genuine Border Patrol agents to spot the imposters until they were close enough to harm the agents if they had a false uniform. Likewise, members of the public could easily be fooled into believing that the imposters had authority to stop and question them, and they could perpetrate crimes.
Mr. Chairman, I support this amend-
ment, and I am delighted to yield such
time as he may consume to my distin-
guished colleague from California (Mr.
BACA).
Mr. BACA. Mr. Chairman, once again
I stand in opposition to this legisla-
tion. This is not comprehensive legisla-
tion. We all believe that we could have
stronger enforcement not only on our
borders but also stronger enforcement
in reference to what happened to immi-
grants, but basically this legislation is
not a comprehensive educational law
reform or immigration reform. It basi-
cially is deplorable legislation. It vio-
lates the 13th and 14th amendments of
the Constitution. We are abolishing
the Constitution that protects us. How can
we alter the Constitution?
I must remind our colleagues that we
are talking about individuals who have
a human face, a senior, an adult, and a
young child. So this legislation, in-
stead of doing 11 million undocumented
workers are felons, are felons. Is that
what America wants, to arrest and
lock up 11 million immigrants? Are
we going to have detention camps, con-
centration camps? What are we going
to do with these 11 million individuals
who would be designated as undocu-
mented individuals? What happens to
children of individuals that will be la-
beled? They will be labeled, and they
will have to carry that label the rest of
their lives as either a felon or an indi-
çual who is a misfit. When you have
that label, you carry that
label with you the rest of your life, and
you are asking us to be productive in-
dividuals. What happens to those indi-
viduals that every day of their life
some individual will tell them, well,
you are the little individual, you are
the criminal. We see a little white per-
son looking, a little brown person stereotyping them and says, you are a
felon, you are here in this country ille-
gally. They have something to do with
them being out here.
Let me tell you, this legislation is
horrible, it is terrible, it is deplorable.
We must stop this kind of legislation.
We must develop comprehensive legis-
lation. We must not have concentra-
tion camps; we must not kick our stu-
dents out of school. What happens to
a lot of our kids who are in our schools
because the legislation will label them
as a criminal? ADA funding that goes to
our schools, what happens? Who are
affected individuals? What happens to
them being out here.
I must remind our colleagues that we
are talking about individuals who have
hated the Constitution. The Acting
Chairman, I rise today in strong sup-
port of this amendment. I know we
need to take the necessary steps to en-
sure the Federal Government is pro-
sucing sensitive goods such as U.S.
Border Patrol uniforms in the United
States to help alleviate this national
security risk. After reading an Associ-
ated Press article in late November, I
was shocked to learn that U.S. Border
Patrol uniforms are not made in Amer-
ica.
The article states that agents and
lawmakers are concerned about the
consequences if the uniforms for agents
charged with combating illegal immi-
gration fall into the hands of criminals
or terrorists. The article detailed some
of the concerns I have been expressing
for some time now.
For years now, we have been a stalwart
for strengthening the Berry amend-
ment, which requires the Department of
Defense to give preference to domes-
tically produced and manufactured
products, notably clothing, food, fab-
rics, and specialty medals. Soon I will
reintroduce a bill that applies the Berry
amendment guidelines to De-
partment of Homeland Security pro-
curement.
It is imperative that we remedy this
issue to help protect our borders and
defeat terrorists or criminal acts. Not
only is this an issue of national secu-
ry but it would help our Nation’s eco-
omic security by maintaining a
strong U.S. manufacturing base as
well.
I commend Mr. RENZI for offering the
amendment, and I look forward to
working closely with him and my col-
leagues and the administration to en-
sure that we are all doing everything
that we can to protect America’s na-
tional security. I urge all my col-
leagues to support this important
amendment.
Ms. JACKSON-LEE of Texas. Mr.
Chairman, I want to acknowledge the
fact that we could be doing more on
this bill. Clearly, we want our Border
Patrol agents to be well equipped and
well uniformed. That is the missing
part of this bill. The uniform “Made in
the USA” is a good statement to make,
but you cannot have Border Patrol
agents with poor boots, heli-
copters, night goggles, computers, and
ight goggles, computers; and you
cannot have them without recruit-
ment, scholarship, and increased num-
ers to secure the border.
That is what we should be doing with
the underlying bill, but I do support
the amendment and just wish we could
do more.
Mr. RENZI. Mr. Chairman, I yield the
balance of my time to the gentleman
from New York (Mr. KING), the new
chairman of the Homeland Security
Committee, who has stepped up to pro-
tect our Border Patrol agents and who
championed this amendment.
Mr. KING of New York. Mr. Chair-
man, I thank the gentleman for yield-
ing this time. There is no one who is not on the committee who has
done more work than the gentleman
from Arizona to really work on the
issue of terrorism in the intelligence
area, in the homeland security area,
and I strongly support this amend-
ment.
It is in keeping with the spirit of the
law. It is in keeping with the spirit that
we should be searching for as we try to
stop illegal immigration, stand behind
those on the borders who are pro-
tecting us against this massive in-
crease of illegal immigrants.
So I am proud to stand by and en-
dorse the amendment of the gentleman
from Arizona.
The Acting CHAIRMAN. The ques-
tion is on the amendment offered by
the gentleman from Arizona (Mr.
RENZI).
The amendment was agreed to.
PART B AMENDMENT NO. 5 OFFERED BY MR.
CASTLE
Mr. CASTLE. Mr. Chairman, I offer
an amendment.
The Acting CHAIRMAN. The Clerk
will designate the amendment.
The text of the amendment is as fol-
low:
SHERiff, US-VISIT.
Not later than one year after the date of
the enactment of this Act, the Secretary
of Homeland Security, in consultation with the
heads of other appropriate Federal agencies,
shall submit to the appropriate congres-
sional committees a timeline for—
(1) equipping all land border ports of entry
with the US-Visit system;
(2) developing and deploying at all land
border ports of entry the exit component of
the US-Visit system; and
(3) making interoperable all immigration
screening systems operated by the Depart-
ment of Homeland Security.
The Acting CHAIRMAN. Pursuant to
House Resolution 610, the gentleman
from Delaware (Mr. CASTLE) and a
Member opposed each will control 5
minutes.
The Chair recognizes the gentleman
from Delaware.
Mr. CASTLE. Mr. Chairman, I rise to
offer this simple amendment to the
legislation before us today. In the post-
9/11 world, our primary concern has to
be stopping terrorists from penetrating
our borders. Chairman SENSEN-
brenner’s dedication to fixing gaps in
our security is commendable, and I am
Mr. KING of New York. Mr. Chairman, the Castle amendment is extremely well written. I am proud to endorse it.

I also would emphasize that the points raised in the amendment do not go outside of points that we have been asking DHS to provide us information on. This amendment will give us more of the muscle that we need to ensure DHS is in compliance. I thank the gentleman for his amendment and urge its adoption.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself the balance of my time.

As I said earlier, I plan to support the amendment. I think it is worth making clear: There is no exit system now. So why does that matter? People come into the United States, they put their fingerprints on the US-VISIT system. It catches some people, and it does not catch others. And then they come into the United States. We have been talking earlier about making aggravated felons of those who overstay their visas, whether they be visitor or whatever. At the current time, and I do not see this changing any time soon, we do not catch those people if they leave now if they have left or if they are here. Because we do not have a connection with our database, we do not know if they are connected with terrorism or not.

So the lack of functionality that we have in technology and the lack of deployment of additional technology has left us more vulnerable than we need to be.

I mentioned earlier this evening that some of the 9/11 terrorists were not admissible to the United States. The officer who inspected them could not know that because the fact of their ineligibility was on a piece of microfiche sitting in a bucket. You cannot search a database if it is on a piece of microfiche sitting in a bucket. You cannot destroy information. You cannot make it much better off today than we were at that time. I am sure the gentleman is distraught about that. I am as well. I have been trying to get this changed for more than half a decade.

The timeline for a billion-dollar program is a good idea, but I do not have any real confidence that the department will perform any better after this amendment is adopted than it has in the past several years with a lot of pushing and insisting from Members, particularly, on both sides of the aisle. The incompetence just does not quit.

Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time.

I agree with almost everything that the gentlewoman from California has said about this particular system. I share her concerns. I appreciate her support for my amendment and Mr. King's support as well. I think the whole business of biometrics and US-VISIT has tremendous potential that is not being realized.

The reason I present this amendment is...
not to change anything they are doing; this is not complimenting anything that they are doing or saying that they are doing it particularly well; but to force some sort of reportorial system back to Congress, that is all this amendment does, so perhaps they will get it in their heads that they have to do better than they are doing now.

The gentlewoman is right, there is a lot of disorganization and incompatibility and inconsistency in terms of what is happening, and yet it has potential.

Ms. ZOE LOFGREN of California. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentlewoman from California.

Ms. ZOE LOFGREN of California. Mr. Chairman, we have numerous reports that are required. I sit on the committee, which is why I know this. They never do the reports. They are required by law to submit the reports. We have dozens, hundreds of reports that simply have never been delivered. I hope this is an exception, but I do not have a high level of confidence.

Mr. CASTLE. Mr. Chairman, we can tweak them a little bit if this amendment passes because I do believe, and it has worked, and even with the limitations the gentlewoman has shown, it has worked rather well in some areas where they have actually captured people who have done things that they should not have done. I think it could do a heck of a lot more in terms of terrorism, and it should. I intend to force it. We know this department has some start-up difficulties, and we have to deal with that. Having said that, I think this is a good step in the right direction. If we stand behind it and help it work, it will help us all.

I thank the gentlewoman for her support.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The Acting CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. KING of Iowa) assumed the Chair.

MESSAGE FROM THE SENATE

A message from the Senate Ms. CUNNIS, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 1932) “An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95),” and requests a conference with the House on the disagreeing votes of the two Houses thereon, and

That on December 15, 2005, appoints Mr. GINGREY, Mr. DOMENICI, Mr. GRASSLEY, Mr. ENZI, Mr. ALLARD, Mr. SESSIONS, Mr. STEVENS, Mr. SHELY, Mr. SPEcter, Mr. CHAMBLISS, Mr. MCONNELL, Mr. CONRAD, Mrs. MURRAY, Mr. HARKIN, Mr. SARBANES, Mr. INOUYE, Mr. BINGAMAN, Mr. BAUCUS, Mr. KENNEDY, and Mr. LEAHY, to be the conferences on the part of the Senate.

The SPEAKER pro tempore. The Committee will resume its sitting.

BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005

The Committee resumed its sitting.

PART B AMENDMENT NO. 6 OFFERED BY MR. GINGREY

Mr. GINGREY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

SEC. 118. SUSPENSION OF VISA WAIVER PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Visa Waiver Program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is hereby suspended until such time as the Secretary, for the purposes of terrorism, determines and certifies to Congress that—

(1) the automated entry-exit control system authorized under section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note) is fully implemented and functional;

(2) all United States ports of entry have functional biometric identification cards; and

(3) all nonimmigrants, including Border Crossing Card holders, are processed through the automated entry-exit control system.

(b) REPEAL.—Subparagraph (B) of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is hereby repealed.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Georgia (Mr. GINGREY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. GINGREY. Mr. Chairman, I believe that the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 needs to address a loophole in our immigration system. I have introduced this amendment which suspends, not cancels, but suspends temporarily the Visa Waiver Program until the machine-readable and tamper-resistant biometric identification control system mandated by the PATRIOT Act to be the cornerstone of the entry-exit system is fully operational.

Until we have the technical and human resources to secure our points of entry, we cannot afford to allow visitors to come to the United States without pre-screening them prior to arrival. Despite the fact that the United Kingdom is one of our Nation’s closest friends and allies, the London subway bombings earlier this year were executed in part by British citizens with known ties to terrorism.

We know that terrorists like Zacharias Moussaui and Richard Reid exploited the Visa Waiver Program to travel to the United States. Do we want individuals like these to fly to America unchecked and to attack our subway system in the name of terrorist groups like al Qaeda under the cloak of the Visa Waiver Program? Do we want French citizens with Islamic-fascist mindsets to get a free pass through Customs? If not, we need to suspend this program until we are equipped to check the criminal and terrorist backgrounds of every visitor large numbers at every point of entry and to confirm the identity of each visitor using biometric identifiers.

The success and failure of the Visa Waiver Program can trace its roots back to 1986 when it was passed as part of the Immigration Reform Control Act. As many of my colleagues know, what we left undone in 1986 is in large part why we need to consider a new immigration reform law in 2005 that is consistent with the recent reauthorization of the PATRIOT Act. The Visa Waiver Program was only designed to be a temporary program for a small and select group of nations. Today, 27 countries are eligible under visa waivers, opening the door widely, Mr. Chairman, for an unscreened terrorist to attack the United States.

Yesterday, the United States Senate PATRIOT and Immigration Prevention Reauthorization Act of 2005 passed by a vote of 95-174, a strong endorsement for combating our Nation against terrorism. The PATRIOT Act acknowledges the problem of the Visa Waiver Program, and I have introduced this amendment to suspend the program until the solution made possible by the PATRIOT Act can realistically take effect. This is an issue that extends beyond apprehending illegal immigrants and actually works to secure our points of entry from those who desire to attack our Nation.

Chairman, I urge you to include for the RECORD a letter from the 9/11 Families for a Secure America in full support of this amendment.

9/11 FAMILIES FOR A SECURE AMERICA;

DECEMBER 15, 2005.

Hon. Phil Gingrey,
Cannon House Office Building,
Washington, DC.

Dear Mr. Gingrey,

9/11 Families for a Secure America fully supports your amendment to H.R. 4487 to suspend the Visa Waiver Program until the automated, tamper-resistant biometric identification control system authorized by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 is fully implemented.

The recent civil disturbances in France make it quite clear that the time is past when citizens of particular countries should be granted blanket permission to enter the United States without first applying for a visa. Many of the nations of Europe, after decades of permitting mass immigration from nations that sponsor terrorism have created a situation where large numbers of Islamic extremists, though closely connected to the terrorism that originates in countries such as Saudi Arabia, are themselves citizens of countries such as certain European nations. The result is that Islamic extremism is no longer limited to persons born