

109TH CONGRESS  
1ST SESSION

# H. R. 4313

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2005

Mr. HUNTER (for himself, Mr. GOODE, Mr. DAVIS of Kentucky, Mr. ISSA, Mr. BILIRAKIS, Mr. ROYCE, Mr. FORBES, Mr. DEAL of Georgia, Mr. CALVERT, Mr. HAYWORTH, Mr. TANCRED, Mr. CUNNINGHAM, Mr. NORWOOD, Mr. SULLIVAN, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Ms. FOXX, Mr. MARCHANT, Mr. GARY G. MILLER of California, Mr. CULBERSON, Mr. WALDEN of Oregon, Mr. KUHLMAN of New York, and Mr. TAYLOR of North Carolina) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “TRUE Enforcement and Border Security Act of 2005”.

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

- Sec. 1. Short title; table of contents.  
Sec. 2. Severability.

TITLE I—SOUTHWEST BORDER SECURITY

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

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

- Sec. 201. Necessary assets for controlling United States borders.  
Sec. 202. Additional immigration personnel.  
Sec. 203. Additional worksite enforcement and fraud detection agents.  
Sec. 204. Document fraud detection.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

- Sec. 211. Entry-exit system.  
Sec. 212. Alien registration.  
Sec. 213. State and local law enforcement provision of information regarding aliens.  
Sec. 214. Listing of immigration violators in the national crime information center database.

Subtitle C—Detention of Aliens and Reimbursement of Costs

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

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

- Sec. 231. Congressional affirmation of immigration law enforcement authority by States and political subdivisions of States.  
Sec. 232. Immigration law enforcement training of State and local law enforcement personnel.  
Sec. 233. Communication between government agencies and the Department of Homeland Security.  
Sec. 234. Reducing illegal immigration and alien smuggling on tribal lands.  
Sec. 235. Immunity.

Subtitle E—Additional Provisions

- Sec. 241. No preferential treatment of aliens not lawfully present for public benefits.
- Sec. 242. Authorized appropriations.

### TITLE III—VISA REFORM AND ALIEN STATUS

#### Subtitle A—Limitations on Visa Issuance, Validity Due to Abuse, and Suspension of the Visa Waiver Program

- Sec. 301. Curtailment of visas for countries denying or delaying repatriation of nationals.
- Sec. 302. Cancellation of visas.
- Sec. 303. No judicial review of visa revocation.
- Sec. 304. Suspension of visa waiver program.
- Sec. 305. Elimination of diversity immigrant program.
- Sec. 306. Extended family preference categories.
- Sec. 307. Sponsorship levels.

#### Subtitle B—Visa Term Compliance Bonds

- Sec. 311. Definition and issuance of visa term compliance bonds.
- Sec. 312. Release of aliens in removal proceedings.
- Sec. 313. Detention of aliens delivered by bondsmen.

#### Subtitle C—Adjustment of Alien Status

- Sec. 321. Adjustment of status for certain aliens.
- Sec. 322. Expansion of naturalization requirement to certain nonimmigrant aliens.
- Sec. 323. Temporary protected status.
- Sec. 324. Completion of background and security checks.
- Sec. 325. Denial of benefits to terrorists and criminals.
- Sec. 326. Repeal of section 245(i).
- Sec. 327. Authorized appropriations.

### TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

#### Subtitle A—In General

- Sec. 401. Short title.
- Sec. 402. Congressional findings.
- Sec. 403. Effective dates; implementation.

#### Subtitle B—Reform of the Work Eligibility Verification System

- Sec. 411. Basic pilot program renamed interim work eligibility verification program; verification requirement for independent contractors.
- Sec. 412. Work Eligibility Verification System.
- Sec. 413. Protection for United States workers and individuals reporting immigration law violations.
- Sec. 414. Inadmissibility for failure to present documentation of work eligibility.

#### Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

- Sec. 421. Alien work eligibility database.

- Sec. 422. Anti-fraud measures for social security cards.
- Sec. 423. Notification by commissioner of failure to correct social security information.
- Sec. 424. Restriction on access and use; no national identification card.
- Sec. 425. Sharing of information with the commissioner of Internal Revenue Service.
- Sec. 426. Sharing of information with the Secretary of Homeland Security.

#### Subtitle D—Work Eligibility Verification System Reform in the Internal Revenue Agency

- Sec. 431. Sharing of information with the Secretary of Homeland Security and the Commissioner of Social Security.
- Sec. 432. Ineligibility for nonresident alien tax status.
- Sec. 433. Unlawful use of individual taxpayer identification numbers.
- Sec. 434. No deduction allowed for compensation paid to unauthorized workers.

#### Subtitle E—Identification Document Integrity

- Sec. 441. Consular identification documents.
- Sec. 442. Machine-readable tamper-resistant immigration documents.
- Sec. 443. Birth certificates.

#### Subtitle F—Limitations on Illegal Alien Collection of Social Security

- Sec. 451. Exclusion of unauthorized employment from employment upon which creditable wages may be based.
- Sec. 452. Exclusion of unauthorized functions and services from trade or business from which creditable self-employment income may be derived.
- Sec. 453. Effective date.
- Sec. 454. Authorized appropriations.

### TITLE V—PENALTIES AND ENFORCEMENT

#### Subtitle A—Criminal and Civil Penalties

- Sec. 501. Criminal penalties for alien smuggling.
- Sec. 502. Strengthened enforcement of alien registration laws.
- Sec. 503. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence and misrepresentation or concealment of facts.
- Sec. 504. Civil and criminal penalties for aliens unlawfully present in the United States.
- Sec. 505. Increased penalties for reentry of removed aliens.
- Sec. 506. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.
- Sec. 507. Rendering inadmissible and deportable aliens participating in criminal street gangs.
- Sec. 508. Mandatory detention of suspected criminal street gang members.
- Sec. 509. Ineligibility from protection from removal and asylum.
- Sec. 510. Penalties for misusing social security numbers or filing false information with Social Security Administration.

#### Subtitle B—Detention, Removal and Departure

- Sec. 511. Voluntary departure.
- Sec. 512. Expedited exclusion.

Sec. 513. Expedited removal of criminal aliens.  
 Sec. 514. Reinstatement of previous removal orders.  
 Sec. 515. Cancellation of removal.  
 Sec. 516. Detention of dangerous aliens.  
 Sec. 517. Alternatives to detention.  
 Sec. 518. Release of aliens from noncontiguous countries.  
 Sec. 519. Continuances; changes of venue.  
 Sec. 520. Authorization of appropriations.

**1 SEC. 2. SEVERABILITY.**

2 If any provision of this Act, including any amend-  
 3 ment made by this Act, or the application of such provi-  
 4 sion to any person or circumstance, is held invalid, the  
 5 remainder of this Act, and the application of such provi-  
 6 sion to other persons not similarly situated or to other  
 7 circumstances, shall not be affected by such invalidation.

**8 TITLE I—SOUTHWEST BORDER**  
**9 SECURITY**

**10 SEC. 101. CONSTRUCTION OF FENCING AND SECURITY IM-**  
**11 PROVEMENTS IN BORDER AREA FROM PA-**  
**12 CIFIC OCEAN TO GULF OF MEXICO.**

13 Section 102(b) of the Illegal Immigration Reform and  
 14 Immigrant Responsibility Act of 1996 (division C of Pub-  
 15 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

16 (1) in the heading by striking “NEAR SAN  
 17 DIEGO, CALIFORNIA”;

18 (2) by amending paragraph (1) to read as fol-  
 19 lows:

20 “(1) SECURITY FEATURES.—

21 “(A) REINFORCED FENCING.—

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

4 “(I) the construction along the  
5 southern international land border of  
6 the United States, starting at the Pa-  
7 cific Ocean and extending eastward to  
8 the Gulf of Mexico, of at least 2 lay-  
9 ers of reinforced fencing; and

10 “(II) the installation of such ad-  
11 ditional physical barriers, roads, light-  
12 ing, and sensors along such border as  
13 may be necessary to eliminate illegal  
14 crossings along such border.

15 “(ii) PRIORITY AREAS.—With respect  
16 to the border described in clause (i), the  
17 Secretary shall ensure that initial fence  
18 construction occurs in high traffic and  
19 smuggling areas along such border.

20 “(iii) CONSULTATION.—Before install-  
21 ing any fencing or other physical barriers,  
22 roads, lighting, or sensors under clause (i)  
23 on land transferred by the Secretary of  
24 Defense under subparagraph (B), the Sec-  
25 retary shall consult with the Secretary of

1 Defense for purposes of mitigating or lim-  
2 iting the impact of the fencing, barriers,  
3 roads, lighting, and sensors on military  
4 training and operations.

5 “(B) BORDER ZONE CREATION AND ACQUI-  
6 SITION.—

7 “(i) IN GENERAL.—In carrying out  
8 subsection (a), the Secretary of Homeland  
9 Security shall create and control a border  
10 zone, along the international land border  
11 described in subparagraph (A), subject to  
12 the following conditions:

13 “(I) SIZE.—The border zone  
14 shall consist of the United States land  
15 area within 100 yards of the inter-  
16 national land border described in sub-  
17 paragraph (A), except that with re-  
18 spect to areas of the border zone that  
19 are contained within an organized  
20 subdivision of a State or local govern-  
21 ment, the Secretary may adjust the  
22 area included in the border zone to  
23 accommodate existing public and pri-  
24 vate structures.

1                   “(II) TREATMENT OF FEDERAL  
2 LAND.—Not later than 30 days after  
3 the date of the enactment of the  
4 Southwest Border Security Act, the  
5 head of each Federal agency having  
6 jurisdiction over Federal land included  
7 in the border zone shall transfer such  
8 land, without reimbursement, to the  
9 administrative jurisdiction of the Sec-  
10 retary of Homeland Security.

11                   “(III) TREATMENT OF INDIAN  
12 LANDS.—With respect to Indian lands  
13 included within the border zone, the  
14 Secretary shall obtain, through agree-  
15 ment, donation, purchase, or con-  
16 demnation, the rights, titles, or inter-  
17 ests in such real property that are  
18 sufficient to provide for the construc-  
19 tion of the security features described  
20 in subparagraph (A)(i) and access to  
21 the border zone as may be necessary  
22 to deter illegal crossings into the  
23 United States. In this subclause, the  
24 terms ‘Indian lands’ and ‘Indian tribe’  
25 shall have the meaning given such



1 terms in section 2103 of the Revised  
2 Statutes (25 U.S.C. 81).

3 “(ii) PROPERTY REVIEW AND ACQUISITION.—  
4

5 “(I) PROPERTY REVIEW.—The  
6 Secretary shall conduct a comprehensive review and value assessment of all  
7 property in the border zone owned by  
8 private parties, States, and local governments.  
9

10  
11 “(II) COMPLETION OF REVIEW.—The Secretary shall complete  
12 the review required by subclause (I)—  
13

14 “(aa) not later than 180  
15 days after the date of the enactment of the Southwest Border  
16 Security Act, in the case of priority areas identified by subparagraph (A)(ii); and  
17  
18

19  
20 “(bb) not later than 360  
21 days after the date of the enactment of the Southwest Border  
22 Security Act in the case of other  
23 land in the border zone.  
24

1                   “(III) ACQUISITION.—As soon as  
2                   practicable after the date of the enact-  
3                   ment of the Southwest Border Secu-  
4                   rity Act, the Secretary shall com-  
5                   mence proceedings for the acquisition  
6                   of the rights, titles, or interest in such  
7                   real property covered by the review  
8                   described in subclause (I) in accord-  
9                   ance with section 103(b) of the Immig-  
10                  ration and Nationality Act (8 U.S.C.  
11                  1103(b)), and that are sufficient to  
12                  provide for the construction of the se-  
13                  curity features described in subpara-  
14                  graph (A)(i) and access to the border  
15                  zone as may be necessary to deter ille-  
16                  gal crossings into the United States.

17               “(iii) OTHER USES.—The Secretary  
18               may authorize the use of land included in  
19               the border zone for other purposes so long  
20               as such use does not impede the operation  
21               or effectiveness of the security features in  
22               stalled under subparagraph (A)(i) or the  
23               ability of the Secretary to carry out sub-  
24               section (a).”; and

1 (3) by striking “Attorney General” and insert-  
2 ing “Secretary of Homeland Security” each place it  
3 appears.

4 **SEC. 102. BORDER PATROL AGENTS.**

5 Section 5202 of the Intelligence Reform and Ter-  
6 rorism Prevention Act of 2004 (Public Law 108–458; 118  
7 Stat. 3734) is amended—

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

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

11 **SEC. 103. INCREASED AVAILABILITY OF DEPARTMENT OF**  
12 **DEFENSE EQUIPMENT TO ASSIST WITH SUR-**  
13 **VEILLANCE OF SOUTHERN INTERNATIONAL**  
14 **LAND BORDER OF THE UNITED STATES.**

15 (a) INCREASED AVAILABILITY OF EQUIPMENT.—The  
16 Secretary of Defense and the Secretary of Homeland Se-  
17 curity shall develop and implement a plan to use the au-  
18 thorities provided to the Secretary of Defense under chap-  
19 ter 18 of title 10, United States Code, to increase the  
20 availability and use of Department of Defense equipment,  
21 including unmanned aerial vehicles, tethered aerostat ra-  
22 dars, and other surveillance equipment, to assist with De-  
23 partment of Homeland Security surveillance activities con-  
24 ducted at or near the southern international land border  
25 of the United States.

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

5 (1) a description of the current use of Depart-  
6 ment of Defense equipment to assist with Depart-  
7 ment of Homeland Security surveillance of the  
8 southern international land border of the United  
9 States;

10 (2) the plan developed under subsection (a) to  
11 increase the use of Department of Defense equip-  
12 ment to assist with such surveillance activities; and

13 (3) a description of the types of equipment and  
14 other support to be provided by Department of De-  
15 fense under such plan during the one-year period be-  
16 ginning after submission of the report.

17 **SEC. 104. PORTS OF ENTRY.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-  
19 rity is authorized to construct an additional 25 ports of  
20 entry along the international land border of the United  
21 States, at locations to be determined by the Secretary.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—For pur-  
23 poses of carrying out subsection (a), there are authorized  
24 to be appropriated \$125,000,000.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-  
3 priated to carry out sections 102 and 103, and the amend-  
4 ments made by such sections, \$5,000,000,000.

5 (b) CONFORMING AMENDMENT.—Section 102(b)(4)  
6 of the Illegal Immigration Reform and Immigrant Respon-  
7 sibility Act of 1996 (8 U.S.C. 1103 note) is repealed.

8 **TITLE II—FEDERAL, STATE, AND**  
9 **LOCAL LAW ENFORCEMENT**  
10 **Subtitle A—Additional Federal**  
11 **Resources**

12 **SEC. 201. NECESSARY ASSETS FOR CONTROLLING UNITED**  
13 **STATES BORDERS.**

14 (a) PERSONNEL.—

15 (1) CUSTOMS AND BORDER PROTECTION OFFI-  
16 CERS.—In each of the fiscal years 2007 through  
17 2011, the Secretary of Homeland Security shall in-  
18 crease by not less than 250 the number of positions  
19 for full-time active duty Customs and Border Pro-  
20 tection officers.

21 (2) AUTHORIZATION OF APPROPRIATIONS.—

22 (A) CUSTOMS AND BORDER PROTECTION  
23 OFFICERS.—There are authorized to be appro-  
24 priated such sums as may be necessary for each  
25 of fiscal years 2007 through 2011 to carry out  
26 paragraph (1).

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

5 (b) TECHNOLOGICAL ASSETS.—

6 (1) ACQUISITION.—The Secretary of Homeland  
7 Security shall procure unmanned aerial vehicles,  
8 cameras, poles, sensors, and other technologies nec-  
9 essary to achieve operational control of the borders  
10 of the United States.

11 (2) AUTHORIZATION OF APPROPRIATIONS.—  
12 There are authorized to be appropriated  
13 \$500,000,000 for each of fiscal years 2007 through  
14 2011 to carry out paragraph (1).

15 (c) BORDER PATROL CHECKPOINTS.—Temporary or  
16 permanent checkpoints may be maintained on roadways  
17 in border patrol sectors close to the border between the  
18 United States and Mexico.

19 **SEC. 202. ADDITIONAL IMMIGRATION PERSONNEL.**

20 (a) DEPARTMENT OF HOMELAND SECURITY.—

21 (1) INVESTIGATIVE PERSONNEL.—In addition  
22 to the positions authorized under section 5203 of the  
23 Intelligence Reform and Terrorism Prevention Act  
24 of 2004, for each of fiscal years 2007 through 2011,  
25 the Secretary of Homeland Security shall, subject to

1 the availability of appropriations for such purpose,  
2 increase by not less than 200 the number of posi-  
3 tions for investigative personnel within the Depart-  
4 ment of Homeland Security investigating alien  
5 smuggling and immigration status violations above  
6 the number of such positions for which funds were  
7 made available during the preceding fiscal year.

8 (2) TRIAL ATTORNEYS.—In each of fiscal years  
9 2007 through 2011, the Secretary of Homeland Se-  
10 curity shall, subject to the availability of appropria-  
11 tions for such purpose, increase the number of posi-  
12 tions for attorneys in the Office of General Counsel  
13 of the Department of Homeland Security who rep-  
14 resent the Department in immigration matters by  
15 not less than 100 above the number of such posi-  
16 tions for which funds were made available during  
17 each preceding fiscal year.

18 (3) AUTHORIZATION OF APPROPRIATIONS.—  
19 There are authorized to be appropriated to the De-  
20 partment of Homeland Security for each of fiscal  
21 years 2007 through 2011 such sums as may be nec-  
22 essary to carry out this subsection.

23 (b) DEPARTMENT OF JUSTICE.—

24 (1) ASSISTANT ATTORNEY GENERAL FOR IMMI-  
25 GRATION ENFORCEMENT.—

1           (A) ESTABLISHMENT.—There is estab-  
2           lished within the Department of Justice the po-  
3           sition of Assistant Attorney General for Immi-  
4           gration Enforcement. The Assistant Attorney  
5           General shall coordinate and prioritize immigra-  
6           tion litigation and enforcement in the Federal  
7           courts, including—

8                     (i) removal and deportation;

9                     (ii) employer sanctions; and

10                    (iii) alien smuggling and human traf-  
11           ficking.

12           (B) CONFORMING AMENDMENT.—Section  
13           506 of title 28, United States Code, is amended  
14           by striking “ten” and inserting “11”.

15           (2) LITIGATION ATTORNEYS.—In each of fiscal  
16           years 2007 through 2011, the Attorney General  
17           shall, subject to the availability of appropriations for  
18           such purpose, increase by not less than 50 the num-  
19           ber of positions for attorneys in the Office of Immi-  
20           gration Litigation of the Department of Justice  
21           above the number of such positions for which funds  
22           were made available during the preceding fiscal year.

23           (3) UNITED STATES ATTORNEYS.—In each of  
24           fiscal years 2007 through 2011, the Attorney Gen-  
25           eral shall, subject to the availability of appropria-



1        tions for such purpose, increase by not less than 50  
2        the number of attorneys in the United States Attor-  
3        neys' office to litigate immigration cases in the Fed-  
4        eral courts above the number of such positions for  
5        which funds were made available during the pre-  
6        ceding fiscal year.

7            (4) IMMIGRATION JUDGES.—In each of fiscal  
8        years 2007 through 2011, the Attorney General  
9        shall, subject to the availability of appropriations for  
10       such purpose, increase by not less than 50 the num-  
11       ber of immigration judges above the number of such  
12       positions for which funds were made available during  
13       the preceding fiscal year.

14           (5) AUTHORIZATION OF APPROPRIATIONS.—  
15        There are authorized to be appropriated to the De-  
16        partment of Justice for each of fiscal years 2007  
17        through 2011 such sums as may be necessary to  
18        carry out this subsection, including the hiring of  
19        necessary support staff.

20   **SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND**  
21   **FRAUD DETECTION AGENTS.**

22        (a) WORKSITE ENFORCEMENT.—The Secretary of  
23        Homeland Security shall, subject to the availability of ap-  
24        propriations for such purpose, annually increase, by not  
25        less than 2,000, the number of positions for investigators

1 dedicated to enforcing compliance with sections 274 and  
2 274A of the Immigration and Nationality Act (8 U.S.C.  
3 1324, 1324a) during the 5-year period beginning on Octo-  
4 ber 1, 2006.

5 (b) FRAUD DETECTION.—The Secretary of Home-  
6 land Security shall, subject to the availability of appropria-  
7 tions for such purpose, increase by not less than 1,000  
8 the number of positions for Immigration Enforcement  
9 Agents dedicated to immigration fraud detection during  
10 the 5-year period beginning on October 1, 2006.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated during each of fiscal  
13 years 2007 through 2011 such sums as may be necessary  
14 to carry out this section.

15 **SEC. 204. DOCUMENT FRAUD DETECTION.**

16 (a) TRAINING.—The Secretary of Homeland Security  
17 shall provide all customs and border protection officers  
18 with training in identifying and detecting fraudulent travel  
19 documents. Such training shall be developed in consulta-  
20 tion with the Forensic Document Laboratory of the Immi-  
21 gration and Customs Enforcement.

22 (b) FORENSIC DOCUMENT LABORATORY.—The Sec-  
23 retary of Homeland Security shall provide all customs and  
24 border protection officers with access to the Forensic Doc-  
25 ument Laboratory.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
 2 are authorized to be appropriated \$5,000,000 for each of  
 3 fiscal years 2007 through 2011 to carry out this section.

4 **Subtitle B—Maintaining Accurate**  
 5 **Enforcement Data on Aliens**

6 **SEC. 211. ENTRY-EXIT SYSTEM.**

7 (a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—  
 8 Section 110(b)(1) of the Illegal Immigration Reform and  
 9 Immigrant Responsibility Act of 1996 (8 U.S.C.  
 10 1365a(b)(1)) is amended to read as follows:

11 “(1) provides access to, and integrates, arrival  
 12 and departure data of all aliens who arrive and de-  
 13 part at ports of entry, in an electronic format and  
 14 in a database of the Department of Homeland Secu-  
 15 rity or the Department of State (including those cre-  
 16 ated or used at ports of entry and at consular of-  
 17 fices);”.

18 (b) CONSTRUCTION.—Section 110(c) of the Illegal  
 19 Immigration Reform and Immigrant Responsibility Act of  
 20 1996 (8 U.S.C. 1365a(c)) is amended to read as follows:

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

1       (c) DEADLINES.—Section 110(d) of the Illegal Immi-  
2 gration Reform and Immigrant Responsibility Act of 1996  
3 (8 U.S.C. 1365a(d)) is amended—

4           (1) in paragraph (1), by striking “December  
5 31, 2003” and inserting “October 1, 2006”;

6           (2) by amending paragraph (2) to read as fol-  
7 lows:

8           “(2) LAND BORDER PORTS OF ENTRY.—Not  
9 later than October 1, 2006, the Secretary of Home-  
10 land Security shall implement the integrated entry  
11 and exit data system using the data described in  
12 paragraph (1) and available alien arrival and depar-  
13 ture data described in subsection (b)(1) pertaining  
14 to aliens arriving in, or departing from, the United  
15 States at all land border ports of entry. Such imple-  
16 mentation shall include ensuring that such data,  
17 when collected or created by an immigration officer  
18 at a port of entry, are entered into the system and  
19 can be accessed by immigration officers at airports,  
20 seaports, and other land border ports of entry.”; and

21           (3) by striking paragraph (3).

22       (d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—  
23 Section 110(f)(1) of the Illegal Immigration Reform and  
24 Immigrant Responsibility Act of 1996 (8 U.S.C.

1 1365a(f)(1)) is amended by adding at the end the fol-  
2 lowing:

3 “The Secretary of Homeland Security shall ensure  
4 that any officer or employee of the Department of Home-  
5 land Security or the Department of State having need to  
6 access the data contained in the integrated entry and exit  
7 data system for any lawful purpose under the Immigration  
8 and Nationality Act has such access, including access for  
9 purposes of representation of the Department of Home-  
10 land Security in removal proceedings under section 240  
11 of such Act and adjudication of applications for benefits  
12 under such Act.”.

13 (e) WAIVER AVAILABLE.—If the President deter-  
14 mines in writing, with respect to a fiscal or calendar year,  
15 that a waiver of one or more of the amendments made  
16 by this section is desirable and would not threaten the na-  
17 tional security of the United States, the President may  
18 waive the effectiveness of such amendment or amendments  
19 with respect to such year.

20 **SEC. 212. ALIEN REGISTRATION.**

21 (a) IN GENERAL.—Section 262 of the Immigration  
22 and Nationality Act (8 U.S.C. 1302) is amended to read  
23 as follows:

24 “REGISTRATION OF ALIENS IN THE UNITED STATES

25 “SEC. 262. (a) INITIAL REGISTRATION.—

1           “(1) IN GENERAL.—It shall be the duty of  
2       every alien now or hereafter in the United States,  
3       who (1) is fourteen years of age or older, (2) has not  
4       been registered and fingerprinted under section  
5       221(b) of this Act or section 30 or 31 of the Alien  
6       Registration Act, 1940, and (3) remains in the  
7       United States for thirty days or longer, to apply for  
8       registration and to be fingerprinted before the expi-  
9       ration of such thirty days.

10           “(2) MINORS.—It shall be the duty of every  
11       parent or legal guardian of any alien now or here-  
12       after in the United States, who (1) is less than four-  
13       teen years of age, (2) has not been registered under  
14       section 221(b) of this Act or section 30 or 31 of the  
15       Alien Registration Act, 1940, and (3) remains in the  
16       United States for thirty days or longer, to apply for  
17       the registration of such alien before the expiration of  
18       such thirty days. Whenever any alien attains his  
19       fourteenth birthday in the United States he shall,  
20       within thirty days thereafter, apply in person for  
21       registration and to be fingerprinted.

22       “(b) SUBSEQUENT REGISTRATIONS.—

23           “(1) PERMANENT RESIDENTS.—In addition to  
24       any other registration otherwise required under this  
25       Act or any other Act, each alien lawfully admitted

1 for permanent residence shall annually register with  
2 the Secretary of Homeland Security, regardless of  
3 whether there has been any change in the alien's ad-  
4 dress. This requirement shall commence on the first  
5 anniversary of the date on which the alien acquired  
6 the status of an alien lawfully admitted for perma-  
7 nent residence that occurs after the date of the en-  
8 actment of this section.

9 “(2) OTHER ALIENS.—In addition to any other  
10 registration otherwise required under this Act or any  
11 other Act, every alien in the United States, other  
12 than an alien described in paragraph (1), shall reg-  
13 ister with the Secretary of Homeland Security at the  
14 expiration of each 3-month period during which the  
15 alien remains in the United States, regardless of  
16 whether there has been any change in the alien's ad-  
17 dress. This requirement shall commence on the 90th  
18 day after the alien enters the United States.

19 “(3) MINORS.—In the case of an alien who is  
20 less than fourteen years of age, a parent or legal  
21 guardian of the alien shall carry out this subsection  
22 on behalf of the alien.

23 “(c) CHANGE OF ADDRESS.—

24 “(1) IN GENERAL.—Each alien required to be  
25 registered under this title who is within the United

1 States shall notify the Secretary of Homeland Secu-  
2 rity in writing of each change of address and new  
3 address within ten days of the date of such change  
4 and furnish with such notice such additional infor-  
5 mation as the Secretary may require by regulation.

6 “(2) CERTAIN FOREIGN STATES.—

7 “(A) IN GENERAL.—The Secretary of  
8 Homeland Security may, in the discretion of the  
9 Secretary, upon ten days notice, require the na-  
10 tives of any one or more foreign states, or any  
11 class or group thereof, who are within the  
12 United States and who are required to be reg-  
13 istered under this title, to notify the Secretary  
14 of their current addresses and furnish such ad-  
15 ditional information as the Secretary may re-  
16 quire.

17 “(B) NOTICE FOR MINORS.—In the case of  
18 an alien for whom a parent or legal guardian is  
19 required to apply for registration, the notice re-  
20 quired by this section shall be given to such  
21 parent or legal guardian.

22 “(3) MINORS.—In the case of an alien who is  
23 less than fourteen years of age, a parent or legal  
24 guardian of the alien shall carry out this subsection  
25 on behalf of the alien.



1       “(d) EXCEPTION.—Subsections (b) and (c) shall not  
2 apply to an alien lawfully admitted for permanent resi-  
3 dence, and the alien’s spouse and children, if the alien is  
4 a member of the Armed Forces of the United States serv-  
5 ing on active duty (as defined in section 101(d) of title  
6 10, United States Code).

7       “(e) FORMS.—The Secretary of Homeland Security  
8 shall prepare forms for registrations and change of ad-  
9 dress notifications required under this section. Such forms  
10 shall contain inquiries to obtain the following information:

11               “(1) Full name and aliases.

12               “(2) Current address.

13               “(3) Date of birth.

14               “(4) Visa category.

15               “(5) Date of entry into the United States.

16               “(6) Termination date of authorization to re-  
17 main in the United States, if any.

18               “(7) Signature.

19               “(8) Biometric feature of the alien.

20               “(9) Any additional information that the Sec-  
21 retary of Homeland Security determines to be nec-  
22 essary.

23       “(f) INFORMATION TECHNOLOGY SYSTEM.—The  
24 Secretary of Homeland Security shall establish and oper-  
25 ate an information technology system for the electronic

1 collection, compilation, and maintenance of the informa-  
2 tion submitted under this section. Such system shall per-  
3 mit any alien address in the United States that has been  
4 registered with the Secretary, and the date of such reg-  
5 istration, to be accessed by any officer or employee of the  
6 Department of Homeland Security having need for such  
7 access for any lawful purpose under the Immigration and  
8 Nationality Act.”.

9 (b) REPEAL.—Section 265 of the Immigration and  
10 Nationality Act (8 U.S.C. 1305) is repealed and the table  
11 of contents is amended by striking the item relating to  
12 such section.

13 (c) CONFORMING AMENDMENTS.—

14 (1) REMOVAL FOR FAILURE TO COMPLY.—Sec-  
15 tion 237(a)(3)(A) of the Immigration and Nation-  
16 ality Act (8 U.S.C. 1227(a)(3)(A)) is amended by  
17 striking “265” and inserting “262”.

18 (2) REGISTRATION OF SPECIAL GROUPS.—Sec-  
19 tion 263(b) of such Act (8 U.S.C. 1303(b)) is  
20 amended by inserting “(excluding subsection (c) of  
21 such section)” after “262”.

22 (3) FORMS AND PROCEDURE.—Section 264(a)  
23 of such Act (8 U.S.C. 1304(a)) is amended by strik-  
24 ing “of this title, and the Attorney General is au-  
25 thorized and directed to prepare forms for the reg-

1       istration and fingerprinting of aliens under section  
2       262 of this title.” and inserting a period.

3           (4) PENALTIES.—Section 266 of such Act (8  
4       U.S.C. 1306) is amended by striking “265” each  
5       place it appears and inserting “262”.

6       (d) REPORT.—Not later than three years after the  
7       date of the enactment of this Act, the Secretary of Home-  
8       land Security shall submit to the Committees on the Judi-  
9       ciary of the House of Representatives and the Senate a  
10      report on the implementation of section 262 of the Immi-  
11      gration and Nationality Act, as amended by this section,  
12      and the results of such implementation.

13      (e) EFFECTIVE DATE.—The amendments made by  
14      this section shall take effect on the date of the enactment  
15      of this Act.

16      **SEC. 213. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
17                                   **SION OF INFORMATION REGARDING ALIENS.**

18      (a) VIOLATIONS OF FEDERAL LAW.—A statute, pol-  
19      icy, or practice that prohibits, or restricts in any manner,  
20      a law enforcement or administrative enforcement officer  
21      of a State or of a political subdivision therein, from enforc-  
22      ing Federal immigration laws or from assisting or cooper-  
23      ating with Federal immigration law enforcement in the  
24      course of carrying out the investigative or enforcement du-  
25      ties of the officer or from providing information to an offi-

1 cial of the United States Government regarding the immi-  
2 gration status of an individual who is believed to be ille-  
3 gally present in the United States, is in violation of section  
4 642(a) of the Illegal Immigration Reform and Immigrant  
5 Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section  
6 434 of the Personal Responsibility and Work Opportunity  
7 Reconciliation Act of 1996 (8 U.S.C. 1644).

8 (b) STATE AND LOCAL LAW ENFORCEMENT PROVI-  
9 SION OF INFORMATION ABOUT APPREHENDED ILLEGAL  
10 ALIENS.—

11 (1) PROVISION OF INFORMATION.—

12 (A) IN GENERAL.—In order to avoid a  
13 sanction under paragraph (4), each law enforce-  
14 ment agency of a State or of a political subdivi-  
15 sion therein shall provide to the Department of  
16 Homeland Security the information listed in  
17 paragraph (2) for each alien who is 14 years of  
18 age or older, who is apprehended in the juris-  
19 diction of such agency, and who cannot produce  
20 the valid certificate of alien registration or alien  
21 registration receipt card described in section  
22 264(d) of the Immigration and Nationality Act  
23 (8 U.S.C. 1304(d)).

24 (B) TIME LIMITATION.—Not later than 15  
25 days after an alien described in subparagraph

1 (A) is apprehended, information required to be  
2 provided under paragraph (1) shall be provided  
3 in such form and in such manner as the Sec-  
4 retary of Homeland Security may, by regulation  
5 or guideline, require.

6 (C) EXCEPTION.—The reporting require-  
7 ment in paragraph (A) shall not apply in the  
8 case of any alien determined to be lawfully  
9 present in the United States who is exempt  
10 from the requirement of personal possession of  
11 an alien registration or receipt document in sec-  
12 tion 264(e) of the Immigration and Nationality  
13 Act (8 U.S.C. 1304(e)).

14 (2) INFORMATION REQUIRED.—The information  
15 listed in this subsection is as follows:

16 (A) The alien's name.

17 (B) The alien's address or place of resi-  
18 dence.

19 (C) A physical description of the alien.

20 (D) The date, time, and location of the en-  
21 counter with the alien and reason for stopping,  
22 detaining, apprehending, or arresting the alien.

23 (E) If applicable—

24 (i) the alien's driver's license number  
25 and the State of issuance of such license;

1                   (ii) the type of any other identification  
2                   document issued to the alien, any designa-  
3                   tion number contained on the identification  
4                   document, and the issuing entity for the  
5                   identification document;

6                   (iii) the license number and descrip-  
7                   tion of any vehicle registered to, or oper-  
8                   ated by, the alien; and

9                   (iv) a photo of the alien and the  
10                  alien's fingerprints, if available or readily  
11                  obtainable.

12               (3) REIMBURSEMENT.—The Secretary of  
13               Homeland Security shall reimburse such law en-  
14               forcement agencies for the costs, per a schedule de-  
15               termined by the Secretary, incurred by such agencies  
16               in collecting and transmitting the information de-  
17               scribed in paragraph (2).

18               (4) SANCTION.—A law enforcement agency of a  
19               State or a political subdivision therein that willfully  
20               fails to provide the information required under para-  
21               graph (2) in accordance with this section shall be in-  
22               eligible to receive Federal funds otherwise authorized  
23               under—

24                   (A) the State Criminal Alien Assistance  
25               Program described in section 241(i) of the Im-

1 migration and Nationality Act (8 U.S.C.  
2 1231(i)); or

3 (B) under any grant program authorized  
4 under title I of the Housing and Community  
5 Development Act of 1974 (42 U.S.C. 5301 et  
6 seq.).

7 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) ILLEGAL IMMIGRATION REFORM AND IMMI-  
9 GRANT RESPONSIBILITY ACT OF 1996.—

10 (A) TECHNICAL AMENDMENT.—Section  
11 642 of the Illegal Immigration Reform and Im-  
12 migrant Responsibility Act of 1996 (8 U.S.C.  
13 1373) is amended—

14 (i) in subsections (a), (b)(1), and (c),  
15 by striking “Immigration and Naturaliza-  
16 tion Service” each place it appears and in-  
17 serting “Department of Homeland Secu-  
18 rity”; and

19 (ii) in the heading by striking “**IMMI-**  
20 **GRATION AND NATURALIZATION SERV-**  
21 **ICE**” and inserting “**DEPARTMENT OF**  
22 **HOMELAND SECURITY**”.

23 (B) CONFORMING AMENDMENT.—Section  
24 1(d) of the Illegal Immigration Reform and Im-  
25 migrant Responsibility Act of 1996 (division C

1 of Public Law 104–208; 110 Stat. 3009–546)  
 2 is amended by striking the item related to sec-  
 3 tion 642 and inserting the following:

“Sec. 642. Communication between government agencies and the Department of Homeland Security.”.

4 (2) PERSONAL RESPONSIBILITY AND WORK OP-  
 5 PORTUNITY RECONCILIATION ACT OF 1996.—

6 (A) IN GENERAL.—Section 434 of the Per-  
 7 sonal Responsibility and Work Opportunity  
 8 Reconciliation Act of 1996 (8 U.S.C. 1644) is  
 9 amended—

10 (i) by striking “Immigration and Nat-  
 11 uralization Service” and inserting “Depart-  
 12 ment of Homeland Security”; and

13 (ii) in the heading by striking “**IMMI-**  
 14 **GRATION AND NATURALIZATION SERV-**  
 15 **ICE**” and inserting “**DEPARTMENT OF**  
 16 **HOMELAND SECURITY**”.

17 (B) CONFORMING AMENDMENT.—Section  
 18 2 of the Personal Responsibility and Work Op-  
 19 portunity Reconciliation Act of 1996 (8 U.S.C.  
 20 1642) (Public Law 104–193; 110 Stat. 2105) is  
 21 amended by striking the item related to section  
 22 434 and inserting the following:

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



1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated such sums as may be nec-  
3 essary to carry out the requirements of this section.

4 **SEC. 214. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
5 **TIONAL CRIME INFORMATION CENTER DATA-**  
6 **BASE.**

7 (a) PROVISION OF INFORMATION TO THE NATIONAL  
8 CRIME INFORMATION CENTER.—

9 (1) IN GENERAL.—Not later than 180 days  
10 after the date of enactment of this Act, the Sec-  
11 retary of Homeland Security shall provide the Na-  
12 tional Crime Information Center of the Department  
13 of Justice with such information as the Department  
14 of Homeland Security may have in its possession of  
15 the Department related to—

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

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

22 (C) any alien detained by a Federal, State  
23 or local law enforcement agency whom a federal  
24 immigration officer has confirmed to be unlaw-  
25 fully present in the United States but, in the

1 exercise of discretion, has been released from  
2 detention without transfer into the custody of a  
3 Federal immigration officer.

4 (2) REMOVAL OF INFORMATION.—If an indi-  
5 vidual is granted cancellation of removal under sec-  
6 tion 240A of the Immigration and Nationality Act  
7 (8 U.S.C. 1229b), or granted permission to legally  
8 enter the United States pursuant to the Immigration  
9 and Nationality Act after a voluntary departure  
10 under section 240B of the Immigration Nationality  
11 Act (8 U.S.C. 1229c), information entered into the  
12 National Crime Information Center in accordance  
13 with paragraph (1) of this section shall be promptly  
14 removed.

15 (b) INCLUSION OF INFORMATION IN THE NATIONAL  
16 CRIME INFORMATION CENTER DATABASE.—Section  
17 534(a) of title 28, United States Code, is amended—

18 (1) in paragraph (3), by striking “and” at the  
19 end;

20 (2) by redesignating paragraph (4) as para-  
21 graph (5); and

22 (3) by inserting after paragraph (3) the fol-  
23 lowing new paragraph:

24 “(4) acquire, collect, classify, and preserve  
25 records of violations of the immigration laws of the

1 United States, regardless of whether the alien has  
 2 received notice of the violation or the alien has al-  
 3 ready been removed; and”.

4 (c) PERMISSION TO DEPART VOLUNTARILY.—Section  
 5 240b of the Immigration and Nationality Act (8 U.S.C.  
 6 1229c) is amended—

7 (1) by striking “Attorney General” each place  
 8 it appears and inserting “Secretary of Homeland Se-  
 9 curity”; and

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

## 12 **Subtitle C—Detention of Aliens and** 13 **Reimbursement of Costs**

### 14 **SEC. 221. INCREASE OF FEDERAL DETENTION SPACE AND** 15 **THE UTILIZATION OF FACILITIES IDENTIFIED** 16 **FOR CLOSURES AS A RESULT OF THE DE-** 17 **FENSE BASE CLOSURE REALIGNMENT ACT** 18 **OF 1990.**

19 (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
 20 FACILITIES.—

21 (1) IN GENERAL.—The Secretary of Homeland  
 22 Security shall construct or acquire, in addition to ex-  
 23 isting facilities for the detention of aliens, 20 deten-  
 24 tion facilities in the United States that have the ca-  
 25 pacity to detain a combined total of not less than

1       200,000 individuals at any time for aliens detained  
2       pending removal or a decision on removal of such  
3       alien from the United States.

4               (2) DETERMINATION OF LOCATION.—The loca-  
5       tion of any detention facility built or acquired in ac-  
6       cordance with this subsection shall be determined  
7       with the concurrence of the Secretary by the senior  
8       officer responsible for Detention and Removal Oper-  
9       ations in the Department of Homeland Security.  
10       The detention facilities shall be located so as to en-  
11       able the Department to increase to the maximum ex-  
12       tent practicable the annual rate and level of remov-  
13       als of illegal aliens from the United States.

14              (3) USE OF INSTALLATIONS UNDER BASE CLO-  
15       SURE LAWS.—In acquiring detention facilities under  
16       this subsection, the Secretary of Homeland Security  
17       shall consider the transfer of appropriate portions of  
18       military installations approved for closure or realign-  
19       ment under the Defense Base Closure and Realign-  
20       ment Act of 1990 (part A of title XXIX of Public  
21       Law 101–510; 10 U.S.C. 2687 note) for use in ac-  
22       cordance with paragraph (1).

23              (b) TECHNICAL AND CONFORMING AMENDMENT.—  
24       Section 241(g)(1) of the Immigration and Nationality Act

1 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-  
 2 pend” and inserting “shall expend”.

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

6 **SEC. 222. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**  
 7 **HENDED BY STATE OR LOCAL LAW ENFORCE-**  
 8 **MENT.**

9 (a) IN GENERAL.—Title II of the Immigration and  
 10 Nationality Act (8 U.S.C. 1151 et seq.) is amended by  
 11 adding after section 240C the following new section:

12 “TRANSFER OF ILLEGAL ALIENS FROM STATE TO  
 13 FEDERAL CUSTODY

14 “SEC. 240D. (a) IN GENERAL.—If the head of a law  
 15 enforcement entity of a State (or, if appropriate, a polit-  
 16 ical subdivision of the State) exercising authority with re-  
 17 spect to the apprehension or arrest of an illegal alien sub-  
 18 mits a request to the Secretary of Homeland Security that  
 19 the alien be taken into Federal custody, the Secretary of  
 20 Homeland Security—

21 “(1) shall—

22 “(A) deem the request to include the in-  
 23 quiry to verify immigration status described in  
 24 section 642(c) of the Immigration Reform and  
 25 Immigrant Responsibility Act of 1996, and ex-

1           peditiously inform the requesting entity whether  
2           such individual is an illegal alien; and

3           “(B) either—

4                   “(i) not later than 72 hours after the  
5                   conclusion of the State charging process or  
6                   dismissal process, or if no State charging  
7                   or dismissal process is required, not later  
8                   than 72 hours after the illegal alien is ap-  
9                   prehended, take the illegal alien into the  
10                  custody of the Federal Government and in-  
11                  carcerate the alien; or

12                  “(ii) request that the relevant State or  
13                  local law enforcement agency temporarily  
14                  detain or transport the illegal alien to a lo-  
15                  cation for transfer to Federal custody; and

16           “(2) shall designate at least one Federal, State,  
17           or local prison or jail or a private contracted prison  
18           or detention facility within each State as the central  
19           facility for that State to transfer custody of criminal  
20           or illegal aliens to the Department of Homeland Se-  
21           curity.

22           “(b) REIMBURSEMENT.—

23                   “(1) IN GENERAL.—The Department of Home-  
24                   land Security shall reimburse a State or a political  
25                   subdivision of a State for expenses, as verified by

1 the Secretary of Homeland Security, incurred by the  
2 State or political subdivision in the detention and  
3 transportation of a criminal or illegal alien as de-  
4 scribed in subparagraphs (A) and (B) of subsection  
5 (a)(1).

6 “(2) COST COMPUTATION.—Compensation pro-  
7 vided for costs incurred under subparagraphs (A)  
8 and (B) of subsection (a)(1) shall be—

9 “(A) the product of—

10 “(i) the average daily cost of incarceration  
11 ation of a prisoner in the relevant State, as  
12 determined by the chief executive officer of  
13 a State (or, as appropriate, a political sub-  
14 division of the State); multiplied by

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

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

23 “(C) the cost of uncompensated emergency  
24 medical care provided to a detained illegal alien  
25 during the period between the time of trans-

1           mittal of the request described in subsection (a)  
2           and the time of transfer into Federal custody.

3           “(c) REQUIREMENT FOR APPROPRIATE SECURITY.—

4   The Secretary of Homeland Security shall ensure that ille-  
5   gal aliens incarcerated in a Federal facility pursuant to  
6   this subsection are held in facilities which provide an ap-  
7   propriate level of security, and that, where practicable,  
8   aliens detained solely for civil violations of Federal immi-  
9   gration law are separated within a facility or facilities.

10          “(d) REQUIREMENT FOR SCHEDULE.—In carrying  
11   out this section, the Secretary of Homeland Security shall  
12   establish a regular circuit and schedule for the prompt  
13   transportation of apprehended illegal aliens from the cus-  
14   tody of those States and political subdivisions of States  
15   which routinely submit requests described in subsection  
16   (a) into Federal custody.

17          “(e) AUTHORITY FOR CONTRACTS.—

18               “(1) IN GENERAL.—The Secretary of Homeland  
19   Security may enter into contracts or cooperative  
20   agreements with appropriate State and local law en-  
21   forcement and detention agencies to implement this  
22   section.

23               “(2) DETERMINATION BY SECRETARY.—Prior  
24   to entering into a contract or cooperative agreement  
25   with a State or political subdivision of a State under



1 paragraph (1), the Secretary shall determine wheth-  
2 er the State, or where appropriate, the political sub-  
3 division in which the agencies are located has in  
4 place any formal or informal policy that violates sec-  
5 tion 642 of the Illegal Immigration Reform and Im-  
6 migrant Responsibility Act of 1996 (8 U.S.C. 1373).  
7 The Secretary shall not allocate any of the funds  
8 made available under this section to any State or po-  
9 litical subdivision that has in place a policy that vio-  
10 lates such section.

11 “(f) ILLEGAL ALIEN DEFINED.—For purposes of  
12 this section, the term ‘illegal alien’ means an alien who—

13 “(1) entered the United States without inspec-  
14 tion or at any time or place other than that des-  
15 ignated by the Secretary of Homeland Security;

16 “(2) was admitted as a nonimmigrant and who,  
17 at the time the alien was taken into custody by the  
18 State or a political subdivision of the State, had  
19 failed to—

20 “(A) maintain the nonimmigrant status in  
21 which the alien was admitted or to which it was  
22 changed under section 248; or

23 “(B) comply with the conditions of any  
24 such status;

1           “(3) was admitted as an immigrant and has  
 2           subsequently failed to comply with the requirements  
 3           of that status; or

4           “(4) failed to depart the United States under a  
 5           voluntary departure agreement or under a final  
 6           order of removal.”.

7           (b) AUTHORIZATION OF APPROPRIATIONS FOR THE  
 8           DETENTION AND TRANSPORTATION TO FEDERAL CUS-  
 9           TODY OF ALIENS NOT LAWFULLY PRESENT.—There is  
 10          authorized to be appropriated \$850,000,000 for the deten-  
 11          tion and removal of aliens not lawfully present in the  
 12          United States under the Immigration and Nationality Act  
 13          (8 U.S.C. 1101 et seq.) for fiscal year 2007 and each sub-  
 14          sequent fiscal year.

15       **SEC. 223. INSTITUTIONAL REMOVAL PROGRAM.**

16          (a) INSTITUTIONAL REMOVAL PROGRAM.—

17               (1) CONTINUATION.—The Secretary of Home-  
 18          land Security shall continue to operate the Institu-  
 19          tional Removal Program or develop and implement  
 20          any other program to—

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

23                       (B) ensure that such aliens are not re-  
 24                       leased into the community; and

1 (C) remove such aliens from the United  
2 States after the completion of their sentences.

3 (2) EXPANSION.—the Secretary of Homeland  
4 Security shall extend the institutional removal pro-  
5 gram to all States. Each state should—

6 (A) cooperate with officials of the Federal  
7 Institutional Removal Program;

8 (B) expeditiously and systematically iden-  
9 tify criminal aliens in its prison and jail popu-  
10 lations; and

11 (C) promptly convey the information col-  
12 lected under subparagraph (B) to officials of  
13 the Institutional Removal Program.

14 (b) IMPLEMENTATION OF COOPERATIVE INSTITU-  
15 TIONAL REMOVAL PROGRAMS.—Section 642 of the Illegal  
16 Immigration Reform and Immigrant Responsibility Act of  
17 1996 (8 U.S.C. 1373) is designated as section 296 of the  
18 Immigration and Nationality Act, and inserted into such  
19 Act after section 295 and is amended by adding at the  
20 end the following:

21 “(c) AUTHORIZATION FOR DETENTION AFTER COM-  
22 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
23 enforcement officers of a State or political subdivision of  
24 a State are authorized to—

1           “(1) hold an illegal alien for a period of up to  
2       14 days after the alien has completed the alien’s  
3       State prison sentence in order to effectuate the  
4       transfer of the alien to Federal custody when the  
5       alien is removable or not lawfully present in the  
6       United States; or

7           “(2) issue a detainer that would allow aliens  
8       who have served a State prison sentence to be de-  
9       tained by the State prison until personnel from the  
10      Bureau of Immigration and Customs Enforcement  
11      can take the alien into custody.

12      “(d) TECHNOLOGY USAGE.—Technology such as  
13      videoconferencing shall be used to the maximum extent  
14      practicable in order to make the Institutional Removal  
15      Program (IRP) available in remote locations. Mobile ac-  
16      cess to Federal databases of aliens, such as IDENT, and  
17      live scan technology shall be used to the maximum extent  
18      practicable in order to make these resources available to  
19      State and local law enforcement agencies in remote loca-  
20      tions.

21      “(e) REPORT TO CONGRESS.—The Secretary of  
22      Homeland Security shall submit to Congress a report on  
23      the participation of States in the Institutional Removal  
24      Program and in any other program under subsection (a).

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out the Institu-  
3 tional Removal Program—

4 “(1) \$30,000,000 for fiscal year 2007;

5 “(2) \$40,000,000 for fiscal year 2008;

6 “(3) \$50,000,000 for fiscal year 2009;

7 “(4) \$60,000,000 for fiscal year 2010; and

8 “(5) \$70,000,000 for fiscal year 2011.”.

9 **Subtitle D—State, Local, and Tribal**  
10 **Enforcement of Immigration Laws**

11 **SEC. 231. CONGRESSIONAL AFFIRMATION OF IMMIGRATION**

12 **LAW ENFORCEMENT AUTHORITY BY STATES**

13 **AND POLITICAL SUBDIVISIONS OF STATES.**

14 Notwithstanding any other provision of law and re-  
15 affirming the existing inherent authority of States, law en-  
16 forcement personnel of a State or a political subdivision  
17 of a State have the inherent authority of a sovereign entity  
18 to investigate, identify, apprehend, arrest, detain, or  
19 transfer to Federal custody aliens in the United States  
20 (including the transportation of such aliens across State  
21 lines to detention centers), for the purpose of assisting in  
22 the enforcement of the immigration laws of the United  
23 States in the normal course of carrying out the law en-  
24 forcement duties of such personnel. This State authority  
25 has never been displaced or preempted by a Federal law.

1 **SEC. 232. IMMIGRATION LAW ENFORCEMENT TRAINING OF**  
2 **STATE AND LOCAL LAW ENFORCEMENT PER-**  
3 **SONNEL.**

4 (a) TRAINING FLEXIBILITY.—

5 (1) IN GENERAL.—The Secretary of Homeland  
6 Security shall make training of State and local law  
7 enforcement officers available through as many  
8 means as possible, including residential training at  
9 the Center for Domestic Preparedness of the De-  
10 partment of Homeland Security, onsite training held  
11 at State or local police agencies or facilities, on-line  
12 training courses by computer, teleconferencing, and  
13 videotape, or the digital video display (DVD) of a  
14 training course or courses.

15 (2) ON-LINE TRAINING.—The head of the Dis-  
16 tributed Learning Program of the Federal Law En-  
17 forcement Training Center shall make training avail-  
18 able for State and local law enforcement personnel  
19 via the Internet through a secure, encrypted distrib-  
20 uted learning system that has all its servers based  
21 in the United States.

22 (3) FEDERAL PERSONNEL TRAINING.—The  
23 training of State and local law enforcement per-  
24 sonnel under this section shall not displace the train-  
25 ing of Federal personnel.

1       (b) COOPERATIVE ENFORCEMENT PROGRAMS.—The  
2 Secretary shall negotiate and execute, where practicable,  
3 a cooperative enforcement agreement described in section  
4 287(g) of the Immigration and Nationality Act (8 U.S.C.  
5 1375(g)) with at least one law enforcement agency in each  
6 State, to train law enforcement officers in the detection  
7 and apprehension of individuals engaged in transporting,  
8 harboring, sheltering, or encouraging aliens in violation of  
9 section 274 of such Act (8 U.S.C. 1324).

10       (c) CLARIFICATION.—Nothing in this Act or any  
11 other provision of law shall be construed as making any  
12 immigration-related training a requirement for, or pre-  
13 requisite to, any State or local law enforcement officer ex-  
14 ercising the inherent authority of the officer to investigate,  
15 identify, apprehend, arrest, detain, or transfer to Federal  
16 custody illegal aliens during the normal course of carrying  
17 out the law enforcement duties of the officer.

18       (d) TECHNICAL AMENDMENT.—Section 287(g) of the  
19 Immigration and Nationality Act (8 U.S.C. 1357(g)) is  
20 amended by striking “Attorney General” each place it ap-  
21 pears and inserting “Secretary of Homeland Security”.

1 **SEC. 233. COMMUNICATION BETWEEN GOVERNMENT AGEN-**  
2 **CIES AND THE DEPARTMENT OF HOMELAND**  
3 **SECURITY.**

4 Section 642 of the Illegal Immigration Reform and  
5 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is  
6 amended by adding at the end the following new sub-  
7 sections:

8 “(d) ENFORCEMENT.—

9 “(1) INELIGIBILITY FOR FEDERAL LAW EN-  
10 FORCEMENT AID.—Upon a determination that any  
11 person, or any Federal, State, or local government  
12 agency or entity, is in violation of subsection (a) or  
13 (b), the Attorney General shall not provide to such  
14 person, agency, or entity any grant amount pursuant  
15 to any law enforcement grant program carried out  
16 by any element of the Department of Justice, includ-  
17 ing the program under section 241(i) of the Immig-  
18 ration and Nationality Act (8 U.S.C. 241(i)), or  
19 pursuant to any grant program authorized under  
20 title I of the Housing and Community Development  
21 Act of 1974 (42 U.S.C. 5301 et seq.), and shall en-  
22 sure that no such grant amounts are provided, di-  
23 rectly or indirectly, to such person, agency, or entity.  
24 In the case of grant amounts that otherwise would  
25 be provided to such person, agency, or entity pursu-



1 ant to a formula, such amounts shall be reallocated  
2 among eligible recipients.

3 “(2) VIOLATIONS BY GOVERNMENT OFFI-  
4 CIALS.—In any case in which a Federal, State, or  
5 local government official is in violation of subsection  
6 (a) or (b), the government agency or entity that em-  
7 ploys (or, at the time of the violation, employed) the  
8 official shall be subject to the sanction described in  
9 paragraph (1).

10 “(3) DURATION.—The sanction described in  
11 paragraph (1) shall remain in effect until the Sec-  
12 retary of Homeland Security determines that the  
13 person, agency, or entity has ceased violating sub-  
14 sections (a) and (b).

15 “(e) PRIVATE RIGHT OF ACTION.—A citizen or na-  
16 tional of the United States who is domiciled in a State  
17 or in a political subdivision of a State shall have a right  
18 of action in the United States district court of the State  
19 in which such citizen or national is domiciled to obtain  
20 declaratory and injunctive relief to remedy a violation of  
21 subsection (a) or (b) by an agency, agent, or official of  
22 the State or political subdivision.”.

1 **SEC. 234. REDUCING ILLEGAL IMMIGRATION AND ALIEN**  
2 **SMUGGLING ON TRIBAL LANDS.**

3 (a) GRANTS AUTHORIZED.—The Secretary of Home-  
4 land Security may award grants to Indian tribes with  
5 lands adjacent to an international border of the United  
6 States that have been adversely affected by illegal immi-  
7 gration.

8 (b) USE OF FUNDS.—Grants awarded under sub-  
9 section (a) may be used for—

- 10 (1) law enforcement activities;  
11 (2) health care services;  
12 (3) environmental restoration; and  
13 (4) the preservation of cultural resources.

14 (c) REPORT.—Not later than 180 days after the date  
15 of enactment of this Act, the Secretary of Homeland Secu-  
16 rity shall submit to the Committee on the Judiciary of the  
17 Senate and the Committee on the Judiciary of the House  
18 of Representatives a report that—

- 19 (1) describes the level of access of Border Pa-  
20 trol agents on tribal lands;  
21 (2) describes the extent to which enforcement of  
22 immigration laws may be improved by enhanced ac-  
23 cess to tribal lands;  
24 (3) contains a strategy for improving such ac-  
25 cess through cooperation with tribal authorities; and

1           (4) identifies grants provided by the Depart-  
2           ment of Homeland Security for Indian tribes, either  
3           directly or through State or local grants, relating to  
4           border security expenses.

5           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated \$10,000,000 for each  
7           of fiscal years 2007 through 2011 to carry out this sec-  
8           tion.

9           **SEC. 235. IMMUNITY.**

10          (a) PERSONAL IMMUNITY.—Notwithstanding any  
11          other provision of law, a law enforcement officer of a  
12          State, or of a political subdivision of a State, shall be im-  
13          mune, to the same extent as a Federal law enforcement  
14          officer, from personal liability arising out of the enforce-  
15          ment of any immigration law. The immunity provided by  
16          this subsection shall only apply to an officer of a State,  
17          or of a political subdivision of a State, who is acting within  
18          the scope of such officer's official duties.

19          (b) AGENCY IMMUNITY.—Notwithstanding any other  
20          provision of law, a law enforcement agency of a State, or  
21          of a political subdivision of a State, shall be immune from  
22          any claim for money damages based on Federal, State,  
23          or local civil rights law for an incident arising out of the  
24          enforcement of any immigration law, except to the extent  
25          that the law enforcement officer of such agency, whose ac-

tion the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

## **Subtitle E—Additional Provisions**

### **SEC. 241. NO PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT FOR PUBLIC BENEFITS.**

(a) POST-SECONDARY EDUCATION BENEFITS.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) is amended—

(1) in subsection (a), by striking “on the basis of residence within a State (or a political subdivision)”; and

(2) by adding at the end the following new subsections:

“(c) ANNUAL REPORT.—The Office of Civil Rights of the United States Department of Justice shall annually submit to Congress a report on which, if any, post-secondary educational institutions have provided benefits in contravention of this section.

“(d) LIMITATION ON FEDERAL FINANCIAL ASSISTANCE.—No Federal agency shall provide any grant, reimbursement, or other financial assistance to a post-secondary educational institution determined under subsection (c) to continue to provide benefits in contravention

1 of this section. Any funds withheld under this subsection  
2 shall be reallocated among qualifying educational institu-  
3 tions that are in compliance with subsection (a).”.

4 (b) PUBLIC BENEFITS.—The Personal Responsibility  
5 and Work Opportunity Reconciliation Act of 1996 (Public  
6 Law 104–193) is amended—

7 (1) in section 411(d) (8 U.S.C. 1621(d)), by  
8 striking “provides for such eligibility.” and inserting  
9 “provides for the eligibility of United States citizens  
10 and nationals for such benefit regardless of state  
11 residence.”;

12 (2) by amending subsection (d) of section 432  
13 (8 U.S.C. 1642) to read as follows:

14 “(d) DECLARATIVE RIGHTS.—A lawful resident of a  
15 State may, after exhausting any available administrative  
16 remedies, seek declarative and injunctive relief in Federal  
17 district court from a practice of a government agency or  
18 agent of such State or of a political subdivision therein  
19 that provides a Federal, State, or local public benefit to  
20 an alien in violation of immigration laws, including the  
21 Immigration and Nationality Act.”; and

22 (3) in section 433(a) (8 U.S.C. 1643(a))—

23 (A) by striking paragraph (2); and

1 (B) by striking “LIMITATION” and all that  
 2 follows through “Nothing” and inserting “LIMI-  
 3 TATION.—Nothing”.

4 **SEC. 242. AUTHORIZED APPROPRIATIONS.**

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

9 **TITLE III—VISA REFORM AND**  
 10 **ALIEN STATUS**  
 11 **Subtitle A—Limitations on Visa**  
 12 **Issuance, Validity Due to Abuse,**  
 13 **and Suspension of the Visa**  
 14 **Waiver Program**

15 **SEC. 301. CURTAILMENT OF VISAS FOR COUNTRIES DENY-**  
 16 **ING OR DELAYING REPATRIATION OF NA-**  
 17 **TIONALS.**

18 Section 244 of the Immigration and Nationality Act  
 19 (8 U.S.C. 1253) is amended by adding at the end the fol-  
 20 lowing new subsection:

21 “(e) PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-  
 22 CANT LIKELIHOOD OF REMOVAL.—

23 “(1) IN GENERAL.—The Secretary of Homeland  
 24 Security shall establish and maintain a public listing  
 25 of every alien who is subject to a final order of re-

1        removal and with respect to whom the Secretary or  
2        any Federal court has determined that there is no  
3        significant likelihood of removal in the reasonably  
4        foreseeable future due to the refusal, or unreason-  
5        able delay, of all countries designated by the alien  
6        under this section to receive the alien. The public  
7        listing shall indicate whether such alien has been re-  
8        leased from Federal custody, and the city and state  
9        in which such alien resides.

10        “(2) DISCONTINUATION OF VISAS.—During any  
11        month in which 24 or more of the citizens, subjects,  
12        or nationals of any foreign state have remained on  
13        the public listing described in paragraph (1)  
14        throughout such month, such foreign state shall be  
15        deemed to have denied or unreasonably delayed the  
16        acceptance of such aliens, and the Secretary of  
17        Homeland Security shall make the notification to the  
18        Secretary of State prescribed in subsection (d) of  
19        this section. The Secretary of State shall accordingly  
20        discontinue the issuance of non-immigrant visas to  
21        citizens, subjects, or nationals of such foreign state  
22        until such time as the number of aliens on the public  
23        listing from such foreign state has either (A) de-  
24        clined to fewer than six, or (B) remained below 24  
25        for at least 30 days.”.

1 **SEC. 302. CANCELLATION OF VISAS.**

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

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

8 (2) in paragraph (2)(A), by inserting “or for-  
9 eign residence” after “nationality”.

10 **SEC. 303. NO JUDICIAL REVIEW OF VISA REVOCATION.**

11 Section 221(i) of the Immigration and Nationality  
12 Act (8 U.S.C. 1201(i)) is amended by striking “, except  
13 in the context of a removal proceeding if such revocation  
14 provides the sole ground for removal under section  
15 237(a)(1)(B)”.

16 **SEC. 304. SUSPENSION OF VISA WAIVER PROGRAM.**

17 (a) IN GENERAL.—Notwithstanding any other provi-  
18 sion of law, the visa waiver program established under sec-  
19 tion 217 of the Immigration and Nationality Act is sus-  
20 pended until the Secretary of Homeland Security deter-  
21 mines and certifies to Congress that—

22 (1) the automated entry-exit control system au-  
23 thorized under section 110 of the Illegal Immigra-  
24 tion Reform and Immigrant Responsibility Act of  
25 1996 (8 U.S.C. 1221 note), as amended, is fully im-  
26 plemented and functional;



1           (2) all United States ports of entry have func-  
2           tional biometric machine readers; and

3           (3) all nonimmigrants, including Border Cross-  
4           ing Card holders, are processed through the auto-  
5           mated entry-exit system.

6           (b) REPEALER.—Subparagraph (B) of section  
7           217(a)(3) of the Immigration and Nationality Act (8  
8           U.S.C. 1187(a)(3)) is repealed.

9           **SEC. 305. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**  
10           **GRAM.**

11          (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-  
12          GRANTS.—Section 201 of the Immigration and Nation-  
13          ality Act (8 U.S.C. 1151) is amended—

14               (1) in subsection (a)—

15                       (A) by inserting “and” at the end of para-  
16                       graph (1);

17                       (B) by striking “; and” at the end of para-  
18                       graph (2) and inserting a period; and

19                       (C) by striking paragraph (3); and

20               (2) by striking subsection (e).

21          (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—  
22          Section 203 of such Act (8 U.S.C. 1153) is amended—

23               (1) by striking subsection (c);

24               (2) in subsection (d), by striking “(a), (b), or  
25               (c),” and inserting “(a) or (b),”;

1           (3) in subsection (e), by striking paragraph (2)  
 2           and redesignating paragraph (3) as paragraph (2);  
 3           (4) in subsection (f), by striking “(a), (b), or  
 4           (c)” and inserting “(a) or (b)”; and  
 5           (5) in subsection (g), by striking “(a), (b), and  
 6           (c)” and inserting “(a) and (b)”.

7           (c) PROCEDURE FOR GRANTING IMMIGRANT STA-  
 8 TUS.—Section 204 of such Act (8 U.S.C. 1154) is amend-  
 9 ed—

10           (1) by striking subsection (a)(1)(I); and  
 11           (2) in subsection (e), by striking “(a), (b), or  
 12           (c)” and inserting “(a) or (b)”.

13           (d) EFFECTIVE DATE.—The amendments made by  
 14 this section shall take effect on October 1, 2006.

15 **SEC. 306. EXTENDED FAMILY PREFERENCE CATEGORIES.**

16           (a) IN GENERAL.—Section 203(a) of the Immigra-  
 17 tion and Nationality Act (8 U.S.C. 1153(a)) is amended  
 18 to read as follows:

19           “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
 20 SORED IMMIGRANTS.—Qualified immigrants who are the  
 21 spouses or children of an alien lawfully admitted for per-  
 22 manent residence shall be subject to the worldwide level  
 23 specified in section 201(c) for family-sponsored immi-  
 24 grants, and shall be allocated visas in a number not to  
 25 exceed such level.”.

1 (b) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-  
2 MIGRANTS.—Section 201(c) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1151(c)) is amended—

4 (1) by striking “480,000” and inserting  
5 “87,934”; and

6 (2) by striking “226,000” and inserting  
7 “87,934”.

8 (c) NUMERICAL LIMITATION TO ANY SINGLE FOR-  
9 EIGN STATE.—Section 202 of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1152) is amended—

11 (1) in subsection (a)(4), by striking subpara-  
12 graph (A) and inserting the following new subpara-  
13 graph:

14 “(A) 75 PERCENT NOT SUBJECT TO PER  
15 COUNTRY LIMITATION.—Of the visa numbers  
16 made available under section 203(a) in any fis-  
17 cal year, 75 percent shall be issued without re-  
18 gard to the numerical limitation under para-  
19 graph (2).”; and

20 (2) in subsection (e)—

21 (A) in paragraph (1), by adding “and” at  
22 the end;

23 (B) by striking paragraph (2); and

24 (C) by redesignating paragraph (3) as  
25 paragraph (2).

1 (d) PROCEDURE FOR GRANTING IMMIGRANT STA-  
2 TUS.—Section 204 of the Immigration and Nationality  
3 Act (8 U.S.C. 1154) is amended—

4 (1) in subsection (a)(1)—

5 (A) in subparagraph (A)(i), by striking  
6 “paragraph (1), (3), or (4) of”;

7 (B) in subparagraph (B), by striking  
8 “203(a)(2)” and “203(a)(2)(A)” each place  
9 such terms appear and inserting “203(a)”; and

10 (C) in subparagraph (D)(i)—

11 (i) in subclause (I), by striking “a pe-  
12 titioner for preference status under para-  
13 graph (1), (2), or (3)” and all that follows  
14 through the period at the end and insert-  
15 ing “to be an individual under 21 years of  
16 age for purposes of adjudicating such peti-  
17 tion, and for purposes of admission as an  
18 immediate relative under section  
19 201(b)(2)(A)(i), notwithstanding the actual  
20 age of the individual.”; and

21 (ii) in subclause (III), by striking  
22 “paragraph (1), (2), or (3) of section  
23 203(a), whichever paragraph is applica-  
24 ble,” and inserting “section 203(a), and

1 under 21 years of age (notwithstanding the  
2 actual age of the individual),”; and

3 (2) in subsection (f), by striking “201(b),  
4 203(a)(1), or 203(a)(3), as appropriate.” and insert-  
5 ing “201(b).”.

6 (e) CLASSES OF DEPORTABLE ALIENS.—Section  
7 237(a)(1)(E)(ii) of the Immigration and Nationality Act  
8 (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking  
9 “203(a)(2)” and inserting “203(a)”.

10 (f) CONDITIONAL PERMANENT RESIDENT STATUS  
11 FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGH-  
12 TERS.—Section 216(g)(1)(C) of the Immigration and Na-  
13 tionality Act (8 U.S.C. 1186a(g)(1)(C)) is amended by  
14 striking “203(a)(2)” and inserting “203(a)”.

15 (g) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on the date of the enactment  
17 of this Act.

18 **SEC. 307. SPONSORSHIP LEVELS.**

19 Section 213A(f) of the Immigration and Nationality  
20 Act (8 U.S.C. 1183a(f)) is amended by striking “125 per-  
21 cent of the Federal poverty line” and inserting “225 per-  
22 cent of the Federal poverty line” each place it appears.

1     **Subtitle B—Visa Term Compliance**  
2                     **Bonds**

3     **SEC. 311. DEFINITION AND ISSUANCE OF VISA TERM COM-**  
4                     **PLIANCE BONDS.**

5             (a) DEFINITIONS.—For purposes of this section:

6                 (1) VISA TERM COMPLIANCE BOND.—The term  
7             “visa term compliance bond” means a written  
8             suretyship undertaking entered into by an alien indi-  
9             vidual seeking admission to the United States on a  
10            nonimmigrant visa whose performance is guaranteed  
11            by a bail agent.

12            (2) SURETYSHIP UNDERTAKING.—The term  
13            “suretyship undertaking” means a written agree-  
14            ment, executed by a bail agent, which binds all par-  
15            ties to its certain terms and conditions and which  
16            provides obligations for the visa applicant while  
17            under the bond and penalties for forfeiture to ensure  
18            the obligations of the principal under the agreement.

19            (3) BAIL AGENT.—The term “bail agent”  
20            means any individual properly licensed, approved,  
21            and appointed by power of attorney to execute or  
22            countersign bail bonds in connection with judicial  
23            proceedings and who receives a premium.

24            (4) SURETY.—The term “surety” means an en-  
25            tity, as defined by, and that is in compliance with,

1 sections 9304 through 9308 of title 31, United  
2 States Code, that agrees—

3 (A) to guarantee the performance, where  
4 appropriate, of the principal under a visa term  
5 compliance bond;

6 (B) to perform as required in the event of  
7 a forfeiture; and

8 (C) to pay over the principal (penal) sum  
9 of the bond for failure to perform.

10 (b) ISSUANCE OF BOND.—A consular officer may re-  
11 quire an applicant for a nonimmigrant visa, as a condition  
12 for granting such application, to obtain a visa term com-  
13 pliance bond.

14 (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-  
15 CELLATION OF BONDS.—

16 (1) VALIDITY.—A visa term compliance bond  
17 undertaking is valid if it—

18 (A) states the full, correct, and proper  
19 name of the alien principal;

20 (B) states the amount of the bond;

21 (C) is guaranteed by a surety and  
22 countersigned by an attorney-in-fact who is  
23 properly appointed;

24 (D) is an original signed document;

1           (E) is filed with the Secretary of Home-  
2           land Security along with the original application  
3           for a visa; and

4           (F) is not executed by electronic means.

5           (2) EXPIRATION.—A visa term compliance bond  
6           undertaking shall expire at the earliest of—

7           (A) 1 year from the date of issue;

8           (B) at the expiration, cancellation, or sur-  
9           render of the visa; or

10          (C) immediately upon nonpayment of the  
11          premium.

12          (3) RENEWAL.—The bond may be renewed—

13          (A) annually with payment of proper pre-  
14          mium at the option of the bail agent or surety;  
15          and

16          (B) provided there has been no breach of  
17          conditions, default, claim, or forfeiture of the  
18          bond.

19          (4) CANCELLATION.—The bond shall be can-  
20          celed and the surety and bail agent exonerated—

21          (A) for nonrenewal;

22          (B) if the surety or bail agent provides  
23          reasonable evidence that there was misrepresen-  
24          tation or fraud in the application for the bond;

25          (C) upon termination of the visa;



1 (D) upon death, incarceration of the prin-  
2 cipal, or the inability of the surety to produce  
3 the principal for medical reasons;

4 (E) if the principal is detained in any city,  
5 State, country, or political subdivision thereof;

6 (F) if the principal departs from the  
7 United States for any reason without permis-  
8 sion of the Secretary of Homeland Security and  
9 the surety or bail agent; or

10 (G) if the principal is surrendered by the  
11 surety.

12 (5) EFFECT OF EXPIRATION OR CANCELLA-  
13 TION.—When a visa term compliance bond expires  
14 without being immediately renewed, or is canceled,  
15 the nonimmigrant status of the alien shall be re-  
16 voked immediately.

17 (6) SURRENDER OF PRINCIPAL; FORFEITURE  
18 OF BOND PREMIUM.—

19 (A) SURRENDER.—At any time before a  
20 breach of any of the conditions of the bond, the  
21 surety or bail agent may surrender the prin-  
22 cipal, or the principal may surrender, to any of-  
23 fice or facility of the Department of Homeland  
24 Security charged with immigration enforcement  
25 or border protection.

1 (B) FORFEITURE OF BOND PREMIUM.—A  
2 principal may be surrendered without the re-  
3 turn of any bond premium if the visa holder—

4 (i) changes address or, if required,  
5 pre-approved itinerary without notifying  
6 the surety or bail agent and the Secretary  
7 of Homeland Security in writing at least  
8 three working days after such change;

9 (ii) changes schools, jobs, or occupa-  
10 tions without written permission of the  
11 surety, bail agent, and the Secretary;

12 (iii) conceals himself or herself;

13 (iv) fails to report to the Secretary as  
14 required at least annually; or

15 (v) violates the contract with the bail  
16 agent or surety, commits any act that may  
17 lead to a breach of the bond, or otherwise  
18 violates any other obligation or condition  
19 of the visa established by the Secretary.

20 (7) CERTIFIED COPY OF UNDERTAKING OR  
21 WARRANT TO ACCOMPANY SURRENDER.—

22 (A) IN GENERAL.—A person desiring to  
23 make a surrender of the visa holder—

1 (i) shall have the right to petition any  
2 Federal court for an arrest warrant for the  
3 arrest of the visa holder;

4 (ii) shall forthwith be provided a cer-  
5 tified copy of the arrest warrant and the  
6 undertaking; and

7 (iii) shall have the right to pursue, ap-  
8 prehend, detain, and deliver the visa hold-  
9 er, together with the certified copy of the  
10 arrest warrant and the undertaking, to any  
11 official or facility of the Department of  
12 Homeland Security charged with immigra-  
13 tion enforcement or border protection or  
14 any detention facility authorized to hold  
15 Federal detainees.

16 (B) EFFECTS OF DELIVERY.—Upon deliv-  
17 ery of a person under subparagraph (A)(iii)—

18 (i) the official to whom the delivery is  
19 made shall detain the visa holder in cus-  
20 tody and issue a written certificate of sur-  
21 render; and

22 (ii) the court issuing the warrant de-  
23 scribed in subparagraph (A)(i) and the  
24 Secretary of Homeland Security shall im-  
25 mediately exonerate the surety and bail

1 agent from any further liability on the  
2 bond.

3 (8) FORM OF BOND.—A visa term compliance  
4 bond shall in all cases state the following and be se-  
5 cured by a surety:

6 (A) BREACH OF BOND; PROCEDURE, FOR-  
7 FEITURE, NOTICE.—

8 (i) If a visa holder violates any condi-  
9 tions of the visa or the visa bond, the Sec-  
10 retary of Homeland Security shall—

11 (I) order the visa canceled;

12 (II) immediately obtain a war-  
13 rant for the visa holder's arrest;

14 (III) order the bail agent and  
15 surety to take the visa holder into  
16 custody and surrender the visa holder  
17 to the Secretary; and

18 (IV) mail notice to the bail agent  
19 and surety via certified mail return  
20 receipt at each of the addresses in the  
21 bond.

22 (ii) A bail agent or surety shall have  
23 full and complete access to all information,  
24 electronic or otherwise, in the care, cus-  
25 tody, and control of the United States

1 Government or any State or local govern-  
2 ment or any subsidiary or police agency  
3 thereof regarding the visa holder that the  
4 court issuing the warrant believes is crucial  
5 in locating the visa holder.

6 (iii) If the visa holder is later ar-  
7 rested, detained, or otherwise located out-  
8 side the United States and the outlying  
9 possessions of the United States (as de-  
10 fined in section 101(a) of the Immigration  
11 and Nationality Act (8 U.S.C. 1101(a)),  
12 the Secretary of Homeland Security  
13 shall—

14 (I) order that the bail agent and  
15 surety are completely exonerated, and  
16 the bond canceled and terminated;  
17 and

18 (II) if the Secretary has issued  
19 an order under clause (i), the surety  
20 may request, by written, properly filed  
21 motion, reinstatement of the bond.  
22 This subclause may not be construed  
23 to prevent the Secretary from revok-  
24 ing or resetting a higher bond.

25 (iv) The bail agent or surety must—

1 (I) produce the visa bond holder;

2 or

3 (II)(aa) prove within 180 days  
4 that producing the bond holder was  
5 prevented—

6 (AA) by the bond hold-  
7 er's illness or death;

8 (BB) because the bond  
9 holder is detained in custody  
10 in any city, State, country,  
11 or political subdivision there-  
12 of;

13 (CC) because the bond  
14 holder has left the United  
15 States or its outlying posses-  
16 sions (as defined in section  
17 101(a) of the Immigration  
18 and Nationality Act (8  
19 U.S.C. 1101(a)); or

20 (DD) because required  
21 notice was not given to the  
22 bail agent or surety; and

23 (bb) prove within 180 days that  
24 the inability to produce the bond hold-

1                   er was not with the consent or conniv-  
2                   ance of the bail agent or sureties.

3                   (v) If the bail agent or surety does  
4                   not comply with the terms of this bond  
5                   within 60 days after the mailing of the no-  
6                   tice required under subparagraph  
7                   (A)(i)(IV), a portion of the face value of  
8                   the bond shall be assessed as a penalty  
9                   against the surety, as follows:

10                   (I) If compliance occurs more  
11                   than 60 days but not more than 90  
12                   days after the mailing of the notice,  
13                   the amount assessed shall be one-third  
14                   of the face value of the bond.

15                   (II) If compliance occurs more  
16                   than 90 days, but not more than 180  
17                   days, after the mailing of the notice,  
18                   the amount assessed shall be two-  
19                   thirds of the face value of the bond.

20                   (III) If compliance does not  
21                   occur within 180 days after the mail-  
22                   ing of the notice, the amount assessed  
23                   shall be 100 percent of the face value  
24                   of the bond.

1           (vi) All penalty fees shall be paid by  
2           the surety within 45 days after the end of  
3           such 180-day period.

4           (B) The Secretary of Homeland Security  
5           may waive the penalty fees or extend the period  
6           for payment or both, if—

7                 (i) a written request is filed with the  
8                 Secretary; and

9                 (ii) the bail agent or surety provides  
10            evidence satisfactory to the Secretary that  
11            diligent efforts were made to effect compli-  
12            ance of the visa holder.

13           (C) COMPLIANCE; EXONERATION; LIMITA-  
14           TION OF LIABILITY.—

15                 (i) COMPLIANCE.—The bail agent or  
16            surety shall have the absolute right to lo-  
17            cate, apprehend, arrest, detain, and sur-  
18            render any visa holder, wherever he or she  
19            may be found, who violates any of the  
20            terms and conditions of the visa or bond.

21                 (ii) EXONERATION.—Upon satisfying  
22            any of the requirements of the bond, the  
23            surety shall be completely exonerated.



1 (iii) LIMITATION OF LIABILITY.—The  
2 total liability on any undertaking shall not  
3 exceed the face amount of the bond.

4 (d) REGULATIONS.—The Secretary of State and the  
5 Secretary of Homeland Security shall, after consultation,  
6 issue provisional regulations implementing the provisions  
7 of this section, to take effect no later than 120 days the  
8 date of the enactment of this Act. Final regulations shall  
9 be issued after public notice and comment, as provided  
10 by law.

11 **SEC. 312. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

12 (a) IN GENERAL.—Section 236(a)(2) of the Immi-  
13 gration and Nationality Act (8 U.S.C. 1226(a)(2)) is  
14 amended to read as follows:

15 “(2) subject to section 241(a)(8), may release  
16 the alien on bond of at least \$10,000, with security  
17 approved by, and containing conditions prescribed  
18 by, the Secretary of Homeland Security, but the  
19 Secretary shall not release the alien on or to his own  
20 recognizance unless an order of an immigration  
21 judge expressly finds that the alien is not a flight  
22 risk and is not a threat to the United States; and”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall take effect on the date of the enact-  
25 ment of this Act.

1 **SEC. 313. DETENTION OF ALIENS DELIVERED BY BONDS-**  
2 **MEN.**

3 (a) IN GENERAL.—Section 241(a) of the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1231(a)) is amended  
5 by adding at the end the following new paragraph:

6 “(8) EFFECT OF PRODUCTION OF ALIEN BY  
7 BONDSMAN.—Notwithstanding any other provision  
8 of law, the Secretary of Homeland Security shall  
9 take into custody any alien subject to a final order  
10 of removal, and cancel any bond previously posted  
11 for the alien, if the alien is produced within the pre-  
12 scribed time limit by the obligor on the bond. The  
13 obligor on the bond shall be deemed to have substan-  
14 tially performed all conditions imposed by the terms  
15 of the bond, and shall be released from liability on  
16 the bond, if the alien is produced within such time  
17 limit.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on the date of the enact-  
20 ment of this Act and shall apply to all immigration bonds  
21 posted before, on, or after such date.

22 **Subtitle C—Adjustment of Alien**  
23 **Status**

24 **SEC. 321. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.**

25 (a) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—  
26 Section 245(c) of the Immigration and Nationality Act (8

1 U.S.C. 1255(c)) is amended by striking “(other than an  
2 immediate relative as defined in section 201(b) or a special  
3 immigrant described in subparagraphs (H), (I), (J), or  
4 (K) of section 101(a)(27))”.

5 (b) INAPPLICABILITY OF CERTAIN PROVISIONS FOR  
6 CERTAIN IMMIGRANTS.—Section 245(k) of the Immigra-  
7 tion and Nationality Act (8 U.S.C. 1255(k)) is amended  
8 to read as follows:

9 “(k) INAPPLICABILITY OF CERTAIN PROVISIONS FOR  
10 CERTAIN IMMIGRANTS.—An alien who is eligible to receive  
11 an immigrant visa under paragraph (1), (2), or (3) of sec-  
12 tion 203(b), as an immediate relative as defined in section  
13 201(b), or, in the case of an alien who is an immigrant  
14 described in subparagraph (C), (H), (I), (J), or (K) of  
15 section 101(a)(27), under section 203(b)(4), may adjust  
16 status pursuant to subsection (a) and notwithstanding  
17 paragraphs (2), (7), and (8) of subsection (c), if—

18 “(1) the alien, on the date of filing an applica-  
19 tion for adjustment of status, is present in the  
20 United States pursuant to a lawful admission; and

21 “(2) the alien, subsequent to such lawful admis-  
22 sion has not, for an aggregate period exceeding 180  
23 days—

24 “(A) failed to maintain continuously a law-  
25 ful status;

1 “(B) engaged in unauthorized employment;

2 or

3 “(C) otherwise violated the terms and con-

4 ditions of the alien’s admission.”.

5 **SEC. 322. EXPANSION OF NATURALIZATION REQUIREMENT**

6 **TO CERTAIN NONIMMIGRANT ALIENS.**

7 (a) IN GENERAL.—Section 101 of the Immigration  
8 and Nationality Act (8 U.S.C. 1101) is amended by insert-  
9 ing after subsection (c) the following new subsection:

10 “(d) For purposes of section 301(a), a person born  
11 in the United States shall be considered as ‘subject to the  
12 jurisdiction of the United States’ if—

13 “(1) the child was born in wedlock in the  
14 United States to a parent either of whom is (A) a  
15 citizen or national of the United States, or (B) an  
16 alien who is lawfully admitted for permanent resi-  
17 dence and maintains his or her residence (as defined  
18 in subsection 101(a)(33)) in the United States; or

19 “(2) the child was born out of wedlock in the  
20 United States to a mother who is (A) a citizen or  
21 national of the United States, or (B) an alien who  
22 is lawfully admitted for permanent residence and  
23 maintains her residence in the United States.

24 For purposes of this subsection, a child is not considered  
25 to be ‘born in wedlock’ if the mother and the father of

1 the child are not married to each other, or such marriage  
 2 is only a common law marriage.”.

3 (b) CONFORMING AMENDMENT.—Section 301 of  
 4 such Act (8 U.S.C. 1401) is amended by inserting “(as  
 5 defined in section 101(d))” after “subject to the jurisdic-  
 6 tion thereof”.

7 (c) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to aliens born on or after the date  
 9 of the enactment of this Act.

10 **SEC. 323. TEMPORARY PROTECTED STATUS.**

11 (a) IN GENERAL.—Section 244 of the Immigration  
 12 and Nationality Act (8 U.S.C. 1254a) is amended—

13 (1) in subsection (a)—

14 (A) by striking paragraph (3)(D);

15 (B) in paragraph (4)—

16 (i) by striking subparagraph (B);

17 (ii) by moving the text of subpara-  
 18 graph (A) up and to the right so that it  
 19 follows immediately after the paragraph  
 20 heading; and

21 (iii) by striking “(A)”; and

22 (C) in paragraph (5), by striking “to deny  
 23 temporary protected status to an alien based on  
 24 the alien’s immigration status or”;

25 (2) in subsection (b)—

1 (A) in paragraph (1)—

2 (i) in subparagraph (A), by adding  
3 “or” at the end;

4 (ii) in subparagraph (B)—

5 (I) in clause (i), by striking “dis-  
6 ruption of living conditions” and in-  
7 serting “physical destruction of homes  
8 and businesses”;

9 (II) by amending clause (ii) to  
10 read as follows:

11 “(ii) the foreign state is unable, tem-  
12 porarily, to house and employ the aliens  
13 who are nationals of the state residing in  
14 the United States, but has officially re-  
15 quested designation and submitted to the  
16 Secretary of State a specific plan to repa-  
17 triate such nationals as expeditiously as  
18 possible; and”;

19 (III) in clause (iii), by striking “;  
20 or” and inserting a period;

21 (iii) by striking subparagraph (C);  
22 and

23 (iv) by adding at the end the fol-  
24 lowing:

1        “An initial designation, or extension of a designation,  
2 of a foreign state (or part of such foreign state) under  
3 this paragraph shall not become effective if the Secretary  
4 of Homeland Security finds that permitting the aliens to  
5 remain temporarily in the United States is contrary to the  
6 national interest of the United States.”

7                (B) in the last sentence of paragraph (2),  
8 by striking “18 months” and inserting “12  
9 months”;

10              (C) in paragraph (3)—

11                      (i) in subparagraph (A), by inserting  
12 “all” after “and shall determine whether”;

13                      (ii) in subparagraph (B), by inserting  
14 “all” after “no longer continues to meet”;  
15 and

16                      (iii) by amending subparagraph (C) to  
17 read as follows:

18                “(C) EXTENSION OF DESIGNATION.—If  
19 the Secretary of Homeland Security determines  
20 under subparagraph (A) that a foreign state (or  
21 part of such foreign state) continues to meet all  
22 the conditions for designation under paragraph  
23 (1) and that the foreign state warrants an ex-  
24 tension, the period of designation of the foreign  
25 State is extended for an additional period of 6

1 months (or, in the discretion of the Secretary,  
2 a period of 12 months).”; and

3 (D) in paragraph (5)—

4 (i) by striking subparagraph (B);

5 (ii) by moving the text of subpara-  
6 graph (A) up and to the right so that it  
7 follows immediately after the paragraph  
8 heading; and

9 (iii) by striking “(A) DESIGNA-  
10 TIONS.—”;

11 (3) in subsection (c)—

12 (A) in paragraph (1)(B), by striking “The  
13 amount of any such fee shall not exceed \$50.”;

14 (B) in paragraph (2)—

15 (i) in subparagraph (A), by striking  
16 “of paragraph (1)—” and all that follows  
17 through the end and inserting the fol-  
18 lowing: “, the provisions of section  
19 212(a)(1) may be waived in the Secretary  
20 of Homeland Security’s discretion if a de-  
21 nial of temporary protected status would  
22 separate the alien from a spouse or child  
23 of the alien in the United States.”;

24 (ii) in subparagraph (B)—



1 (I) by amending clause (i) to  
2 read as follows:

3 “(i) the alien is inadmissible under  
4 section 212(a) by reason of having been  
5 convicted of a crime committed in the  
6 United States, or the alien is deportable  
7 under section 237(a) (other than under  
8 section 237(a)(1)(B));”;

9 (II) in clause (ii), by striking the  
10 period at the end and inserting “; or”;  
11 and

12 (III) by adding at the end the  
13 following new clause:

14 “(iii) the alien was unlawfully present  
15 in the United States on the effective date  
16 of the designation of the applicable foreign  
17 state (or part of a state), or the effective  
18 date of any extension of such designation,  
19 unless a law to the contrary is enacted be-  
20 fore such date, except that if the Congress  
21 is adjourned sine die on such date, the  
22 alien may be granted temporary protected  
23 status for a period of not more than 4  
24 months.”;

25 (C) in paragraph (3)—

1 (i) by striking “, or” at the end of  
2 subparagraph (B) and inserting a semi-  
3 colon;

4 (ii) in subparagraph (C)—

5 (I) by inserting “and record the  
6 alien’s current address” after “reg-  
7 ister”; and

8 (II) by striking the period at the  
9 end and inserting a semicolon; and

10 (iii) by adding at the end the fol-  
11 lowing new subparagraphs:

12 “(D) the alien commits a crime after being  
13 granted temporary protected status; or

14 “(E) the alien travels, no matter how brief-  
15 ly, to the foreign state (or part of such state)  
16 the designation of which was the basis of the  
17 alien being granted such status.”;

18 (D) in paragraph (4), in each of subpara-  
19 graphs (A) and (B), by inserting before the pe-  
20 riod at the end the following: “, unless the alien  
21 travels, no matter how briefly, to the foreign  
22 state (or part of such state) the designation of  
23 which was the basis of the alien being granted  
24 such status”; and

25 (E) by striking paragraph (6);

1 (4) in subsection (d), by striking paragraph (4);

2 (5) in subsection (e), by striking “, unless the  
3 Attorney General determines that extreme hardship  
4 exists” in the first sentence;

5 (6) in subsection (f)—

6 (A) by inserting “and” at the end of para-  
7 graph (2);

8 (B) in paragraph (3), by striking “Attor-  
9 ney General; and” and inserting “Secretary of  
10 Homeland Security, except to the foreign state  
11 (or part of such state) the designation of which  
12 was the basis of the alien being granted such  
13 status.”; and

14 (C) by striking paragraph (4); and

15 (7) in subsection (h)—

16 (A) in paragraph (1), by inserting “or the  
17 House of Representatives” after “Senate”;

18 (B) in paragraph (2), by striking “three-  
19 fifths” and inserting “two-thirds”; and

20 (C) by inserting “and the House of Rep-  
21 resentatives” after “Senate” each place such  
22 term appears in paragraphs (2) and (3).

23 (b) INELIGIBILITY OF CERTAIN ALIENS.—

24 (1) IN GENERAL.—In the case of a foreign  
25 state (or part of a foreign state) initially designated

1 under section 244 of the Immigration and Nation-  
2 ality Act (8 U.S.C. 1254a), or having such a des-  
3 ignation extended, before the date of the enactment  
4 of this Act, an alien who is a national of such state  
5 (or in the case of an alien having no nationality, is  
6 a person who last habitually resided in such state),  
7 and was unlawfully present in the United States on  
8 the date of such designation or extension, shall be  
9 subject to paragraph (2).

10 (2) ALIENS INELIGIBLE.—An alien described in  
11 paragraph (1) shall not be considered eligible for  
12 temporary protected status under section 244 pursu-  
13 ant to any initial or succeeding extension of a des-  
14 ignation described in such paragraph that takes ef-  
15 fect after the date of the enactment of this Act, un-  
16 less a law to the contrary is enacted before such ef-  
17 fective date, except that if the Congress is adjourned  
18 sine die on such effective date, the alien may be  
19 granted temporary protected status for a period of  
20 not more than 4 months.

21 **SEC. 324. COMPLETION OF BACKGROUND AND SECURITY**  
22 **CHECKS.**

23 Section 103 of the Immigration and Nationality Act  
24 (8 U.S.C. 1103) is amended by adding at the end the fol-  
25 lowing new subsection:

1 “(i) Notwithstanding any other provision of law, the  
2 Secretary of Homeland Security, the Attorney General, or  
3 any court shall not—

4 “(1) grant or order the grant of adjustment of  
5 status to that of an alien lawfully admitted for per-  
6 manent residence;

7 “(2) grant or order the grant of any other sta-  
8 tus, relief, protection from removal, or other benefit  
9 under the immigration laws; or

10 “(3) issue any documentation evidencing or re-  
11 lated to such grant by the Attorney General, the  
12 Secretary, or any court,  
13 until such background and security checks as the Sec-  
14 retary may in his discretion require have been completed  
15 to the satisfaction of the Secretary.”.

16 **SEC. 325. DENIAL OF BENEFITS TO TERRORISTS AND**  
17 **CRIMINALS.**

18 Chapter 4 of title III of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1501 et seq.) is amended by adding  
20 at the end the following new section:

21 “CONSTRUCTION

22 “SEC. 362. (a) Nothing in this Act or any other pro-  
23 vision of law shall be construed to require the Secretary  
24 of Homeland Security, the Attorney General, the Sec-  
25 retary of State, the Secretary of Labor, or any other au-  
26 thorized head of any agency to grant any application, ap-

1 prove any petition, or grant or continue any status or ben-  
 2 efit under the immigration laws by, to, or on behalf of—

3 “(1) any alien described in subparagraphs  
 4 (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or  
 5 subparagraphs (A)(i), (A)(iii), or (B) of section  
 6 237(a)(4);

7 “(2) any alien with respect to whom a criminal  
 8 or other investigation or case is pending that is ma-  
 9 terial to the alien’s inadmissibility, deportability, or  
 10 eligibility for the status or benefit sought; or

11 “(3) any alien for whom all law enforcement  
 12 checks, as deemed appropriate by such authorized  
 13 official, have not been conducted and resolved.

14 “(b) An official described in subsection (a) may—

15 “(1) with respect to an alien described in sub-  
 16 section (a)(1), deny or withhold any such applica-  
 17 tion, petition, status, or benefit on such basis; or

18 “(2) with respect to an alien described in para-  
 19 graph (2) or (3) of subsection (a), withhold pending  
 20 resolution of the investigation, case, or law enforce-  
 21 ment checks any such application, petition, status,  
 22 or benefit on such basis.”.

23 **SEC. 326. REPEAL OF SECTION 245(I).**

24 Section 245(i) of the Immigration and Nationality  
 25 Act (8 U.S.C. 1255(i)) is repealed.

1 **SEC. 327. AUTHORIZED APPROPRIATIONS.**

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

6 **TITLE IV—WORKPLACE EN-**  
7 **FORCEMENT AND IDENTI-**  
8 **FICATION INTEGRITY**

9 **Subtitle A—In General**

10 **SEC. 401. SHORT TITLE.**

11 This title may be cited as the “Employment Security  
12 Act of 2005”.

13 **SEC. 402. CONGRESSIONAL FINDINGS.**

14 Congress makes the following findings:

15 (1) The failure of Federal, State and local gov-  
16 ernments to control and sanction the unauthorized  
17 employment and unlawful exploitation of illegal alien  
18 workers is the primary cause of illegal immigration.

19 (2) The use of modern technology not available  
20 in 1986 will enable employers to rapidly and accu-  
21 rately verify the identity and work authorization of  
22 their employees and independent contractors.

23 (3) The Federal Government and the American  
24 people share a compelling interest in protection of  
25 United States employment authorization, income tax

1 withholding, and social security accounting systems,  
2 against unauthorized access by illegal aliens.

3 (4) Limited data-sharing between the Depart-  
4 ment of Homeland Security, the Internal Revenue  
5 Service, and the Social Security Administration is  
6 essential to the integrity of these vital programs,  
7 which protect the employment and retirement secu-  
8 rity of all working Americans.

9 (5) The Federal judiciary must be open to pri-  
10 vate United States citizens, legal foreign workers,  
11 and law-abiding enterprises who seek judicial protec-  
12 tion against injury to their wages and working con-  
13 ditions due to unlawful competition from illegal alien  
14 workers and the United States enterprises that uti-  
15 lize the labor or services provided by illegal aliens,  
16 especially where lack of resources constrains enforce-  
17 ment of Federal immigration law Federal immigra-  
18 tion officials.

19 **SEC. 403. EFFECTIVE DATES; IMPLEMENTATION.**

20 (a) EFFECTIVE DATE.—Except where otherwise pro-  
21 vided in this Act, the provisions of this title shall take ef-  
22 fect not later than 45 days after the date of the enactment  
23 of this Act.

24 (b) INTERIM WORK ELIGIBILITY VERIFICATION PRO-  
25 GRAM.—The provisions of section 411 of this Act, (requir-



1 ing use by employers of the Interim Work Eligibility  
2 Verification Program, as extended in scope by section  
3 411(b), shall be implemented not later than 12 months  
4 after the date of the enactment of this Act.

5 (c) ALIEN WORK ELIGIBILITY DATABASE.—The pro-  
6 visions of section 421 of this Act (establishing the Alien  
7 Work Eligibility Database and transferring the Interim  
8 Work Eligibility Program previously operated by the De-  
9 partment of Homeland Security to the Social Security Ad-  
10 ministration) shall be implemented not later than 24  
11 months after the date of the enactment of this Act.

12 (d) WORK ELIGIBILITY VERIFICATION SYSTEM.—  
13 The provisions of section 412 of this Act (creating the  
14 Work Eligibility Verification System) shall be imple-  
15 mented as follows:

16 (1) IN GENERAL.—The Commissioner and the  
17 Secretary shall issue regulations to carry out the  
18 Work Eligibility Verification System not later than  
19 12 months after the date of the enactment of this  
20 Act.

21 (2) PROVISION FOR ISSUANCE OF NEW SOCIAL  
22 SECURITY CARDS.—Such regulations shall include  
23 provision for the issuance and use of the new social  
24 security cards in accordance with section 422 of this  
25 Act.

1 (A) APPLICATION PROCEDURES.—The ap-  
2 plication procedures for new Social Security  
3 cards described in section 422 shall be imple-  
4 mented not later than 12 months after the im-  
5 plementation of the Alien Work Eligibility  
6 Database at the Social Security Administration.

7 (B) VERIFICATION REQUIREMENTS.—The  
8 verification requirements described in section  
9 274A(a)(1)(B) of the Immigration and Nation-  
10 ality Act, as amended by section 412 this Act,  
11 shall be effective for employers hiring—

12 (i) a noncitizen, beginning 12 months  
13 after the establishment of the Alien Work  
14 Eligibility Database; or

15 (ii) a citizen or national of the United  
16 States, not later than 10 years after the  
17 date of the enactment of this Act.

18 (3) INDEPENDENT CONTRACTORS.—Inde-  
19 pendent contractors shall, for purposes of implemen-  
20 tation of the verification requirements of section 412  
21 of this Act, be treated as applicants for employment.

22 (4) PILOT PROGRAM FOR FEDERAL WORKSITES  
23 AND THE DISTRICT OF COLUMBIA.—

24 (A) IN GENERAL.—The Secretary of  
25 Homeland Security and the Social Security

1 Commissioner, after consultation, shall imple-  
2 ment the verification requirements of section  
3 412 for all applicants for employment at facili-  
4 ties and worksites in the United States oper-  
5 ated by the Federal government, and for all em-  
6 ployers in the District of Columbia, beginning  
7 four years after the date of enactment of this  
8 Act.

9 (B) REPORT.—The Secretary of Homeland  
10 Security and the Social Security Commissioner  
11 shall jointly submit a report to Congress evalu-  
12 ating implementation of the Interim Work Eli-  
13 gibility Verification Program and providing rec-  
14 ommendations for full implementation of the  
15 Work Eligibility Verification System within 12  
16 months after implementation of the Interim  
17 Program.

18 (5) EARLY IMPLEMENTATION OPTION.—An em-  
19 ployer may elect to require that the verification re-  
20 quirements of section 412 shall be effective for all  
21 applicants for employment with the employer begin-  
22 ning five years after the date of the enactment of  
23 this Act.

1       **Subtitle B—Reform of the Work**  
2       **Eligibility Verification System**

3       **SEC. 411. BASIC PILOT PROGRAM RENAMED INTERIM**  
4               **WORK ELIGIBILITY VERIFICATION PROGRAM;**  
5               **VERIFICATION REQUIREMENT FOR INDE-**  
6               **PENDENT CONTRACTORS.**

7       (a) RENAMING OF BASIC PILOT PROGRAM.—The  
8       basic pilot program established under section 403(a) of  
9       the Illegal Immigration Reform and Immigrant Responsi-  
10      bility Act of 1996 (division C of Public Law 104–208; 8  
11      U.S.C. 1324a note) is hereby renamed as the “Interim  
12      Work Eligibility Verification Program”.

13      (b) EXTENSION OF SCOPE OF PROGRAM.—The Sec-  
14      retary of Homeland Security and the Commissioner of So-  
15      cial Security shall provide for the implementation of the  
16      Interim Work Eligibility Verification Program throughout  
17      the United States on a timely basis, consistent with sec-  
18      tion 403(b) and such Program shall continue in operation  
19      until the Commissioner certifies to the Secretary that the  
20      transfer of functions to the Work Eligibility Verification  
21      System (as created by section 412) is complete.

22      (c) REQUIREMENT FOR USE OF EMPLOYMENT ELIGI-  
23      BILITY VERIFICATION.—

24              (1) IN GENERAL.—Any person or other entity  
25              that hires any individual for employment in the

1 United States, or engages an independent contractor  
 2 to perform services of any kind in the United States,  
 3 shall participate in the Interim Work Eligibility  
 4 Verification Program.

5 (2) SANCTIONS FOR NONCOMPLIANCE.—Section  
 6 402(e) of the Illegal Immigration Reform and Immigrant  
 7 Responsibility Act of 1996 (division C of Public  
 8 Law 104–208; 8 U.S.C. 1324a note) is amended  
 9 by striking paragraphs (2) and (3) and inserting the  
 10 following new paragraph:

11 “(2) If a person or other entity is required to  
 12 participate in a work eligibility confirmation pro-  
 13 gram in this subsection and fails to comply with the  
 14 requirements of such program with respect to an in-  
 15 dividual who is subject to such program, such failure  
 16 shall be treated as a violation of section  
 17 274A(a)(1)(B) of the Immigration and Nationality  
 18 Act with respect to that individual.”.

19 **SEC. 412. WORK ELIGIBILITY VERIFICATION SYSTEM.**

20 (a) IN GENERAL.—Section 274A of the Immigration  
 21 and Nationality Act (8 U.S.C. 1324a(a)) is amended to  
 22 read as follows:

23 “WORK ELIGIBILITY VERIFICATION SYSTEM

24 “SEC. 274A. (a)(1) IN GENERAL.—

25 “(A) REQUIREMENTS FOR EMPLOYEES.—No in-  
 26 dividual may commence employment with an em-

1        employer in the United States unless such individual  
2        has—

3                “(i) where required by law, obtained a  
4        work authorization document that has been de-  
5        termined by the Commissioner of Social Secu-  
6        rity to comply with the requirements of section  
7        205(c)(2)(G) of the Social Security Act; and

8                “(ii) displayed such document to the em-  
9        ployer pursuant to the employer’s request for  
10       purposes of the verification required under sub-  
11       paragraph (B).

12       “(B) REQUIREMENTS FOR EMPLOYERS.—

13                “(i) IN GENERAL.—No employer may hire  
14       for employment an individual in the United  
15       States in any capacity unless such employer  
16       verifies under this subparagraph, where re-  
17       quired by law, that such individual has in the  
18       individual’s possession a work authorization  
19       document described in subparagraph (A)(i) and  
20       that such individual is authorized to work in  
21       the United States in such capacity.

22                “(ii) VERIFICATION PROCEDURES.—Con-  
23       firmation of authorization to work shall be  
24       made by query to the Social Security Adminis-  
25       tration in accordance with regulations to be

1 promulgated by the Commissioner of Social Se-  
2 curity and the Secretary of Homeland Security.  
3 Such regulations shall ensure against  
4 fraudulent use of the documents and provide  
5 for accurate, prompt, and secure verification of  
6 the authorization of such individual to work in  
7 the United States in such capacity. The  
8 verification system so adopted shall be made  
9 available at minimal cost to the employer. The  
10 verification system shall at a minimum include  
11 use of—

12 “(I) a card-reader verification system  
13 approved by the Commissioner as capable  
14 of reading the electronic identification strip  
15 borne by the work authorization document;

16 “(II) telephonic and online computer  
17 verification systems which shall be estab-  
18 lished by the Commissioner as valid alter-  
19 native verification methods; and

20 “(III) a unique transaction code to be  
21 produced by the verification system and  
22 provided to an employer as evidence of em-  
23 ployer compliance with the requirements of  
24 this paragraph, and as confirmation of the  
25 employee’s work authorization.

1           “(iii) VERIFICATION OF CITIZENS.—In the  
2 case of United States citizen or national,  
3 verification means confirming the cardholder’s  
4 identity and social security number with the So-  
5 cial Security Administration.

6           “(iv) VERIFICATION OF NON-CITIZENS.—In  
7 the case of a noncitizen, verification means con-  
8 firming the cardholder’s identity and social se-  
9 curity number with the Social Security Admin-  
10 istration and confirming the cardholder’s term  
11 of authorization to work in the United States  
12 through the Alien Work Eligibility Database.

13           “(v) EXCEPTION.—The Secretary of  
14 Homeland Security may, after consultation with  
15 the Commissioner of Social Security and the  
16 Secretary of Labor, issue regulations providing  
17 for alternative work eligibility verification proce-  
18 dures for United States citizens or nationals in  
19 individual cases where display of a work author-  
20 ization document would be a hardship, because  
21 the individual is less than 18 or more than 67  
22 years of age, or does not possess a required  
23 document due to religious conviction, or is eligi-  
24 ble for a rehabilitation or other sheltered em-  
25 ployment development or assistance program.



1       Such procedures shall at a minimum require  
2       compliance by the employer with the attestation  
3       requirements of subsection (b) and confirmation  
4       of the individual’s citizenship status and social  
5       security number.

6               “(vi) ACCESS TO DATABASE.—The Com-  
7       missioner shall ensure that, by means of such  
8       procedures, the employer will have such access  
9       to the Alien Work Eligibility Database estab-  
10      lished and operated by the Commissioner of So-  
11      cial Security pursuant to section 421, so as to  
12      enable the employer to verify the citizenship,  
13      lawful immigration status, and work eligibility  
14      information presented by an individual seeking  
15      work with the employer in any capacity.

16              “(vii) GOOD FAITH COMPLIANCE.—Not-  
17      withstanding any other provision of law, an em-  
18      ployer who establishes that the employer com-  
19      plied in good faith with the requirements of this  
20      subparagraph shall not be liable for hiring an  
21      unauthorized worker or for discharging an au-  
22      thorized worker, if—

23                      “(I) such hiring or discharge occurred  
24                      due to an error in the telephone, online, or  
25                      card-reader verification system or the Alien

1 Work Eligibility Database which was un-  
2 known to the employer at the time of such  
3 employment action; and

4 “(II) the employer, upon being in-  
5 formed of the error, discharges the unau-  
6 thorized worker, or rescinds the discharge  
7 of the authorized worker retroactive to the  
8 date such discharge occurred.

9 “(C) SECURITY AND EFFECTIVENESS.—The  
10 regulations issued by the Commissioner of Social Se-  
11 curity, in consultation with the Secretary of Home-  
12 land Security, shall ensure that—

13 “(i) the telephonic and online computer  
14 verification systems described in subparagraph  
15 (B)(ii)(II) are as secure and reliable as the  
16 card-reader verification system described in  
17 subclause (I) of such subparagraph;

18 “(ii) any personal information encrypted  
19 on the work authorization document is secured  
20 against disclosure to unauthorized third parties;  
21 and

22 “(iii) a procedure to promptly correct any  
23 error in personal data maintained in the  
24 verification system is available to any employee  
25 or applicant for employment for whom the

1           Work Authorization Verification System has  
2           been unable to initially confirm work authoriza-  
3           tion.

4           “(2) CONTINUING EMPLOYMENT.—It is unlawful for  
5   a person or other entity, after hiring an alien for employ-  
6   ment in accordance with paragraph (1), to continue to em-  
7   ploy the alien in the United States knowing the alien is  
8   (or has become) an unauthorized alien with respect to  
9   such employment.

10          “(3) USE OF LABOR THROUGH CONTRACT.—A person  
11   or other entity who uses a contract, subcontract, or ex-  
12   change, entered into, renegotiated, or extended after the  
13   date of enactment of this section, to obtain the labor of  
14   an alien in the United States without confirming that the  
15   contractor, subcontractor, or actual employer of the alien  
16   has verified the work authorization of the alien as required  
17   by this section shall be considered to have hired the alien  
18   for employment in the United States in violation of para-  
19   graph (1)(A).

20          “(4) APPLICATION TO GOVERNMENT ENTITIES.—For  
21   purposes of this section, the term ‘entity’ shall refer to  
22   any entity of the Federal or any State government, or any  
23   political subdivision thereof, and as well as any other enti-  
24   ty exempted from taxation of income by a Federal or State  
25   government.

1 “(b) ELIGIBILITY VERIFICATION FORMS.—

2 “(1) EMPLOYER ATTESTATION OF COMPLI-  
3 ANCE.—The verification procedures prescribed under  
4 subsection (a)(1)(B) shall include an attestation,  
5 made under penalty of perjury and in a format des-  
6 ignated or established by the Commissioner of Social  
7 Security by regulation, that the employer has com-  
8 plied with such procedures.

9 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-  
10 MENT AUTHORIZATION.—The individual must attest,  
11 under penalty of perjury in the format designated  
12 for purposes of paragraph (1), that the individual is  
13 a citizen or national of the United States, an alien  
14 lawfully admitted for permanent residence, or an  
15 alien who is authorized by this Act or by the Sec-  
16 retary of Homeland Security to be referred, re-  
17 cruited, or hired for such employment. Such attesta-  
18 tion must include the individual’s social security  
19 number, and may be manifested by either a hand-  
20 written or electronic signature.

21 “(3) RETENTION OF VERIFICATION FORM.—  
22 After completion of such form in accordance with  
23 paragraphs (1) and (2), the employer must retain a  
24 paper, microfilm, or electronic version of the form  
25 and make it available for inspection, as provided in

1       subparagraph (5), during a period beginning on the  
2       date of the hiring, recruiting or referral of the indi-  
3       vidual and ending three years after the date of re-  
4       cruiting, referral without hiring, hiring, or termi-  
5       nation from employment, whichever is later. The  
6       verification form shall include the transaction code  
7       described in subsection (a)(1)(B)(ii)(III).

8               “(4) COPYING OF DOCUMENTATION PER-  
9       MITTED.—Notwithstanding any other provision of  
10      law, the person or entity may copy a document as  
11      presented by an individual pursuant to this sub-  
12      section.

13              “(5) LIMITATION ON USE OF ATTESTATION  
14      FORM.—A form designated or established by the  
15      Commissioner of Social Security under this section,  
16      and any information provided by an individual or  
17      employer on such form, may not be used for pur-  
18      poses other than implementation and enforcement of  
19      the criminal, immigration, employment, social secu-  
20      rity, or tax laws of the United States, or of the  
21      State wherein the attestation was made.

22              “(c) NO AUTHORIZATION OF NATIONAL IDENTIFICA-  
23      TION CARDS.—Nothing in this section shall be construed  
24      to authorize, directly or indirectly, the issuance or use of

1 national identification cards or the establishment of a na-  
2 tional identification card.

3 “(d) ENFORCEMENT BY THE DEPARTMENT OF  
4 HOMELAND SECURITY.—

5 “(1) IN GENERAL.—The Secretary of Homeland  
6 Security may assess a penalty, payable to the Sec-  
7 retary, and shall issue an order to comply with Fed-  
8 eral immigration law, against any employer who—

9 “(A) hires an individual for employment in  
10 the United States in any capacity who is known  
11 by the employer not to be authorized to work  
12 in the United States in such capacity; or

13 “(B) fails to comply with the procedures  
14 prescribed by the Secretary pursuant to this  
15 section in connection with the employment of  
16 any individual.

17 “(2) AMOUNT.—Such penalty shall not exceed  
18 \$50,000 for each occurrence of a violation described  
19 in paragraph (1) with respect to the individual, plus,  
20 in the event of the removal of such individual from  
21 the United States based on findings developed in  
22 connection with the assessment or collection of such  
23 penalty, the costs incurred by the Federal Govern-  
24 ment, cooperating State and local governments, and

1 State and local law enforcement agencies, in connec-  
2 tion with such removal.

3 “(3) ACTIONS BY SECRETARY.—If any person is  
4 assessed a penalty under paragraph (1) and fails to  
5 pay the assessment when due, or any person other-  
6 wise fails to meet any requirement of this section,  
7 the Secretary may bring a civil action in any district  
8 court of the United States within the jurisdiction of  
9 which such person’s assets are located or in which  
10 such person resides or is found for the recovery of  
11 the amount of the assessment or for appropriate eq-  
12 uitable relief to redress the violation or enforce the  
13 provisions of this section, and process may be served  
14 in any other district. The district courts of the  
15 United States shall have jurisdiction over actions  
16 brought under this section by the Secretary without  
17 regard to the amount in controversy.

18 “(e) COMPLAINTS AND INVESTIGATIONS.—

19 “(1) IN GENERAL.—The Secretary of Homeland  
20 Security shall establish procedures for private par-  
21 ties and agencies of any State or political subdivision  
22 therein to file a written, signed complaint, including  
23 a complaint filed in electronic form, alleging viola-  
24 tions of this section, consistent with this subsection.

1           “(A) REVIEW AND INITIAL DETERMINA-  
2           TION.—Each complaint shall be reviewed and a  
3           determination made as to whether the com-  
4           plaint, on its face, provides sufficient informa-  
5           tion to identify the entity and any persons  
6           claimed to be in violation of this section, and  
7           whether the alleged violation occurred or is oc-  
8           curring within 180 days of the date the com-  
9           plaint is filed. A notice of such determination  
10          shall be provided to the complainant.

11          “(B) ENFORCEMENT INVESTIGATION.—If  
12          the review under subparagraph (A) indicates  
13          that sufficient information has been provided,  
14          the Secretary shall conduct a civil or criminal  
15          enforcement investigation.

16          “(C) ASSISTANCE.—The Secretary may  
17          authorize a law enforcement agency of the State  
18          or local jurisdiction in which a civil or criminal  
19          investigation is authorized to conduct or assist  
20          in such investigation.

21          “(2) CIVIL ENFORCEMENT BY OTHER PAR-  
22          TIES.—

23                 “(A) IN GENERAL.—Any private party, or  
24                 an agency of any political subdivision of any  
25                 State, may file a civil complaint directly with



1 the Office of the Chief Administrative Hearing  
2 Officer of the Department of Justice against a  
3 person or entity that has recruited, hired, or  
4 employed 12 or more unauthorized aliens within  
5 any 365 day period.

6 “(B) TIME OF VIOLATION.—The alleged  
7 violation shall have occurred within 180 days of  
8 the date the complaint was filed.

9 “(C) PROCEDURES FOR ADJUDICATION.—  
10 The adjudication of the complaint shall be con-  
11 ducted pursuant to the requirements for admin-  
12 istrative adjudication procedures established by  
13 the chapter 5 of title 5, United States Code  
14 (popularly known as the Administrative Proce-  
15 dure Act). The complainant shall have the bur-  
16 den of proof in such proceedings.

17 “(D) RECOVERY.—A prevailing complain-  
18 ant shall be entitled to issuance of an order for  
19 compliance against the entity or persons found  
20 to be in violation, as well as a civil penalty with  
21 damages equal to three times the amount of  
22 any civil fines or monetary penalties that could  
23 be levied against the entity and the persons,  
24 plus reasonable attorneys’ fees and costs.

1           “(3) AUTHORITY IN INVESTIGATIONS.—In con-  
2     ducting investigations and hearings under sub-  
3     sections (d) or (e), immigration officers and admin-  
4     istrative law judges shall have reasonable access to  
5     examine evidence of any person or entity being in-  
6     vestigated, and may compel by subpoena the attend-  
7     ance of witnesses and the production of evidence at  
8     any designated place or hearing. Upon application  
9     by the Secretary, an appropriate district court of the  
10    United States may issue an order requiring compli-  
11    ance with such subpoena and any failure to obey  
12    such order may be punished by such court as a con-  
13    tempt thereof.

14       “(f) APPELLATE REVIEW OF DECISIONS AND OR-  
15    DERS.—

16       “(1) DEPARTMENT OF HOMELAND SECURITY  
17    ENFORCEMENT ACTIONS.—

18           “(A) IN GENERAL.—A decision by the Sec-  
19     retary under subsections (d) or (e)(1) to assess  
20     a civil penalty or to issue an order for compli-  
21     ance shall become final unless, within 45 days  
22     of the date of such decision, a party adversely  
23     affected by such decision files a petition for ad-  
24     ministrative review with the Office of the Chief  
25     Administrative Hearing Officer of the Executive

1           Officer for Immigration Review in the Depart-  
2           ment of Justice.

3           “(B) REGULATIONS.—The Chief Adminis-  
4           trative Hearing Officer shall promulgate regula-  
5           tions governing proceedings for review of the  
6           petition under this paragraph.

7           “(C) JUDICIAL REVIEW.—A party assert-  
8           ing an error of law or the infringement of a  
9           right protected by the Constitution made in a  
10          decision by the Office of the Chief Administra-  
11          tive Hearing Officer may, within 45 days of the  
12          date of such decision, file a petition for judicial  
13          review in the Court of Appeals for the District  
14          of Columbia Circuit.

15          “(2) OTHER ENFORCEMENT ACTIONS.—A deci-  
16          sion by the Office of the Chief Administrative Hear-  
17          ing Officer under subsection (e)(2) to issue an order  
18          for compliance or to assess a civil penalty or dam-  
19          ages shall become final unless, within 45 days of the  
20          date of such decsiion, a party adversely affected by  
21          such decision files a petition for judicial review in  
22          the United States district court for the judicial dis-  
23          trict wherein the entity or person that is the subject  
24          to the complaint is domiciled.

1       “(g) PROHIBITION OF INDEMNITY BONDS.—It is un-  
2 lawful for a person or other entity, in the hiring, recruit-  
3 ing, or referring for employment of any individual, to re-  
4 quire the individual to post a bond or security, or other-  
5 wise to provide or agree to provide any financial guarantee  
6 or indemnity against any potential liability arising under  
7 this section.

8       “(h) MISCELLANEOUS PROVISIONS.—

9               “(1) DOCUMENTATION.—In providing docu-  
10 mentation or endorsement of authorization of any  
11 alien for employment in the United States, the Sec-  
12 retary shall provide that any limitation with respect  
13 to the duration or type of employment or employer  
14 shall be conspicuously stated on the documentation.

15               “(2) PREEMPTION.—The provisions of this sec-  
16 tion do not preempt any State or local law that may  
17 impose additional or increased civil or criminal pen-  
18 alties upon those who recruit, hire, employ or shelter  
19 unauthorized aliens in violation of Federal law.

20               “(3) DEFINITIONS.—For purposes of this sec-  
21 tion:

22                       “(A) The term ‘authorized to work in the  
23 United States’, when applied to an individual,  
24 means that the individual is not an unauthor-  
25 ized alien.

1 “(B) The term ‘employer’ means—

2 “(i) any person or entity who hires an  
3 individual; or

4 “(ii) any individual earning self-em-  
5 ployment income (as defined in section  
6 211(b) of the Social Security Act (42  
7 U.S.C. 411(b))).

8 “(C) The term ‘employee’ shall have the  
9 meaning given such term in section 210(j) of  
10 the Social Security Act (42 U.S.C. 410(j)).

11 “(D) The term ‘hire’ means to recruit,  
12 refer, or hire an individual for employment in  
13 the United States.

14 “(E) The term ‘unauthorized alien’ means,  
15 with respect to the employment of an alien at  
16 a particular time, that the alien is not at that  
17 time—

18 “(i) an alien lawfully admitted for  
19 permanent residence; or

20 “(ii) otherwise authorized to be so em-  
21 ployed by this Act or by the Secretary of  
22 Homeland Security.

23 “(F) The term ‘work authorization docu-  
24 ment’ means—

1 “(i) in the case of a citizen or national  
2 of the United States, a social security card  
3 described in section 205(c)(2)(G)(ii) of the  
4 Social Security Act (42 U.S.C.  
5 405(c)(2)(G)(ii)), as amended by this Act,  
6 or a State driver’s license or identification  
7 card that has been certified pursuant to  
8 section 202(a)(2) of the REAL ID Act of  
9 2005 (Public Law 109–13) and is compat-  
10 ible with the card-reader verification sys-  
11 tem described in subsection  
12 (a)(1)(B)(ii)(I); or

13 “(ii) in the case of a noncitizen, a so-  
14 cial security card described in section  
15 205(c)(2)(G)(iii) of the Social Security  
16 Act, as amended.”.

17 (b) INVESTIGATION NOT A WARRANTLESS ENTRY.—

18 Section 287(e) of the Immigration and Nationality Act (8  
19 U.S.C. 1357(e)) is amended by adding at the end the fol-  
20 lowing: “An investigation authorized pursuant to sub-  
21 sections (d) or (e) of section 274A is not a warrantless  
22 entry.”.

1 **SEC. 413. PROTECTION FOR UNITED STATES WORKERS AND**  
2 **INDIVIDUALS REPORTING IMMIGRATION LAW**  
3 **VIOLATIONS.**

4 Section 274B(a) of the Immigration and Nationality  
5 Act (8 U.S.C. 1324b(a)) is amended by adding at the end  
6 the following:

7 “Notwithstanding any other provision of law, the  
8 rights protected by this paragraph include the right  
9 of any individual to report a violation or suspected  
10 violation of any immigration law to the Department  
11 of Homeland Security or a law enforcement agen-  
12 cy.”.

13 **SEC. 414. INADMISSIBILITY FOR FAILURE TO PRESENT**  
14 **DOCUMENTATION OF WORK ELIGIBILITY.**

15 Section 212(a)(9)(B)(i) of the Immigration and Na-  
16 tionality Act (8 U.S.C. 1182(a)(9)(B)) is amended—

17 (1) in subclause (I), by striking “or” at the  
18 end;

19 (2) in subclause (II), by adding “or” at the  
20 end; and

21 (3) by inserting after subclause (II) the fol-  
22 lowing new subclause:

23 “(III) commenced employment  
24 without complying with the require-  
25 ments of section 274A(a)(1)(A),”.

1 **Subtitle C—Work Eligibility**  
2 **Verification Reform in the So-**  
3 **cial Security Administration**

4 **SEC. 421. ALIEN WORK ELIGIBILITY DATABASE.**

5 (a) IN GENERAL.—The Commissioner for Social Se-  
6 curity shall establish and maintain an Alien Work Eligi-  
7 bility Database.

8 (b) CONTENTS OF DATABASE.—The Database shall  
9 include data comprised of the immigration and work au-  
10 thorization status (including expiration dates) of individ-  
11 uals and the work and residency eligibility information (in-  
12 cluding expiration dates) with respect to individuals who  
13 are not citizens or nationals of the United States but are  
14 authorized to work in the United States. Such data shall  
15 incorporate the employment authorization information,  
16 processes and procedures maintained by the Department  
17 of Homeland Security for the operation of the Work Eligi-  
18 bility Verification System, as established pursuant to sec-  
19 tion 274A of the Immigration and Nationality Act (8  
20 U.S.C. 1324a), as amended by section 412.

21 (c) OPERATION OF DATABASE.—The Commissioner  
22 shall maintain ongoing consultations with the Secretary  
23 of Homeland Security to ensure efficient and effective  
24 transfer and maintenance of the Database.



1 (d) INCORPORATION OF ONGOING PILOT PRO-  
 2 GRAMS.—The Alien Work Eligibility Database shall incor-  
 3 porate the information, processes, and procedures em-  
 4 ployed in connection with the Interim Work Eligibility  
 5 Verification Program, as designated by section 411 of this  
 6 Act, into the operation and maintenance of the Database  
 7 under subsection (a).

8 **SEC. 422. ANTI-FRAUD MEASURES FOR SOCIAL SECURITY**  
 9 **CARDS.**

10 Section 205(c)(2)(G) of the Social Security Act (42  
 11 U.S.C. 405(c)(2)(G)) is amended—

12 (1) by inserting “(i)” after “(G)”;

13 (2) by striking “banknote paper” and inserting  
 14 “durable plastic or similar material”; and

15 (3) by adding at the end the following new  
 16 clauses:

17 “(ii) In addition to the requirements de-  
 18 scribed in clause (i), the Social Security card  
 19 shall be a machine-readable, tamper-resistant  
 20 document, incorporating at a minimum the pho-  
 21 tograph, security features and machine readable  
 22 technology and data elements required to meet  
 23 the minimum standards for Federal use pre-  
 24 scribed for State identification cards in Section  
 25 202 of the REAL ID Act of 2005, Public Law

109–12. The Commissioner shall specify the required machine-readable technology in consultation with the Secretary of Homeland Security, so as to enable employers to use the Work Authorization Document, in conformance with the employment eligibility verification procedures of sections 274A of the Immigration and Nationality Act and section 421 of the TRUE Enforcement and Border Security Act of 2005, to request and obtain verification of work authorization, with respect to the individual to whom the card has been issued.

“(iii) Social Security cards issued to non-citizens shall have, in addition to the characteristics described in clauses (i) and (ii), a different color or other readily distinguishable feature than cards that are issued to United States citizens and shall be compatible with document authentication standards required for verification of immigration documents by section 303(b)(1) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173).

“(iv) Each Social Security card issued under this subparagraph shall contain physical

1 security features designed to prevent tampering,  
2 counterfeiting, or duplication of the card for  
3 fraudulent purposes. The Commissioner shall  
4 maintain an ongoing program to develop meas-  
5 ures in relation to the Social Security card and  
6 the issuance thereof to preclude fraudulent use  
7 thereof.

8 “(v) The Commissioner shall provide for  
9 the issuance (or reissuance) of a Social Security  
10 card which meets the preceding requirements of  
11 this subparagraph to each individual who—

12 “(I) has been assigned a Social Secu-  
13 rity account number under subparagraph  
14 (B),

15 “(II) has attained the minimum age  
16 applicable, in the jurisdiction in which such  
17 individual engages in employment, for le-  
18 gally engaging in such employment, and

19 “(III) files an application for such  
20 card under this clause in such form and  
21 manner as shall be prescribed by the Com-  
22 missioner.”.

1 **SEC. 423. NOTIFICATION BY COMMISSIONER OF FAILURE**  
2 **TO CORRECT SOCIAL SECURITY INFORMA-**  
3 **TION.**

4 The Commissioner of Social Security shall promptly  
5 notify the Secretary of Homeland Security of the failure  
6 of any individual to provide, upon any request of the Com-  
7 missioner made pursuant to section 205(c)(2) of the Social  
8 Security Act (42 U.S.C. 405(c)(2)), evidence necessary,  
9 under such section to—

- 10 (1) establish the age, citizenship, immigration  
11 or work eligibility status of the individual;  
12 (2) establish such individual's true identity;  
13 (3) determine which (if any) social security ac-  
14 count number has previously been assigned to such  
15 individual.

16 **SEC. 424. RESTRICTION ON ACCESS AND USE; NO NATIONAL**  
17 **IDENTIFICATION CARD.**

18 Section 405(c)(2) of the Social Security Act (42  
19 U.S.C. 405(c)(2) is amended by adding at the end the fol-  
20 lowing new subparagraph:

21 “(I)(i) Access to any information contained  
22 in the Alien Work Eligibility Database shall be  
23 prohibited for any purpose other than the ad-  
24 ministration or enforcement of Federal immi-  
25 gration, social security, and tax laws, unless  
26 otherwise authorized by Federal law.

1           “(ii) Nothing in this Act may be construed  
2           to require the presentment of a social security  
3           card for any purpose other than administration  
4           or enforcement of the social security and immi-  
5           gration laws of the United States, or to estab-  
6           lish the social security card as a national identi-  
7           fication (ID) card.

8           “(J) No person or entity may—

9           “(i) use the information in the Alien  
10          Work Eligibility Database for any purpose  
11          other than as permitted by Federal law; or

12          “(ii) require that any person present  
13          or carry on his person a social security  
14          card for any purpose other than as per-  
15          mitted by Federal law.

16          Whoever knowingly uses, discloses, publishes, or  
17          permits the unauthorized use of information in  
18          the Alien Work Eligibility Database in violation  
19          of this section shall be fined not more than  
20          \$10,000, by the Social Security Administration.  
21          Sixty percent of any such fine imposed shall be  
22          awarded to each individual injured by such vio-  
23          lation.”.

1 **SEC. 425. SHARING OF INFORMATION WITH THE COMMIS-**  
2 **SIONER OF INTERNAL REVENUE SERVICE.**

3 Section 405(c)(2)(H) of the Social Security Act (42  
4 U.S.C. 605(c)(2)(H)) is amended to read as follows:

5 “(H) The Commissioner of Social Security  
6 shall share with the Secretary of the Treas-  
7 ury—

8 “(i) the information obtained by the  
9 Commissioner pursuant to the second sen-  
10 tence of subparagraph (B)(ii) and to sub-  
11 paragraph (C)(ii) for the purpose of ad-  
12 ministering those sections of the Internal  
13 Revenue Code of 1986 that grant tax bene-  
14 fits based on support or residence of chil-  
15 dren;

16 “(ii) information relating to the detec-  
17 tion of wages or income from self-employ-  
18 ment of unauthorized aliens (as defined by  
19 section 274 of the Immigration and Na-  
20 tionality Act (8 U.S.C. 1324a)), or the in-  
21 vestigation of false statements or fraud by  
22 such persons incident to administration of  
23 the immigration, social security, or tax  
24 laws of the United States; and

25 “(iii) information disclosed under this  
26 subparagraph shall be solely for the use of

1           the officers and employees to whom such  
2           information is disclosed in such response  
3           or investigation.”.

4 **SEC. 426. SHARING OF INFORMATION WITH THE SEC-**  
5 **RETARY OF HOMELAND SECURITY.**

6       Section 405(c)(2) of the Social Security Act (42  
7 U.S.C. 405(c)(2)), as amended by section 424, is amended  
8 by adding at the end the following new subparagraph:

9           “(K) Upon the issuance of a Social Secu-  
10       rity account number under subparagraph (B) to  
11       any individual or the issuance of a Social Secu-  
12       rity card under subparagraph (G) to any indi-  
13       vidual, the Commissioner of Social Security  
14       shall transmit to the Secretary of Homeland Se-  
15       curity such information received by the Com-  
16       missioner in the individual’s application for  
17       such number or such card as such Secretary de-  
18       termines necessary and appropriate for admin-  
19       istration of the immigration or social security  
20       laws of the United States.”.

1 **Subtitle D—Work Eligibility**  
2 **Verification System Reform in**  
3 **the Internal Revenue Agency**

4 **SEC. 431. SHARING OF INFORMATION WITH THE SEC-**  
5 **RETARY OF HOMELAND SECURITY AND THE**  
6 **COMMISSIONER OF SOCIAL SECURITY.**

7 Section 6103(i) of the Internal Revenue Code of 1986  
8 is amended by adding at the end the following new para-  
9 graph:

10 “(9) DISCLOSURE OF INFORMATION RELATING  
11 TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—

12 “(A) Upon receipt by the Secretary of a  
13 written request, by the Secretary of Homeland  
14 Security, or the Social Security Commissioner,  
15 the Secretary shall disclosure return informa-  
16 tion to officers and employees of such agency  
17 who are personally and directly—

18 “(i) engaged in preparation for any  
19 judicial or administrative civil or criminal  
20 enforcement proceeding against an alien  
21 under the Immigration and Nationality Act  
22 (8 U.S.C. 1101 et seq), other than the ad-  
23 judication of any application for a change  
24 in immigration status or other benefit by  
25 such alien, or



1 “(ii) preparation for a civil or criminal  
2 enforcement proceeding against a citizen or  
3 national of the United States under sec-  
4 tions 274, 274A, or 274C of the Immigra-  
5 tion and Nationality Act (8 U.S.C. 1324,  
6 1324a, or 1324c), or

7 “(iii) any investigation which may re-  
8 sult in such a proceeding.

9 “(B) LIMITATION ON USE OF INFORMA-  
10 TION.—

11 “(i) Information disclosed under this  
12 paragraph shall be solely for the use of the  
13 officers and employees to whom such infor-  
14 mation is disclosed in such response or in-  
15 vestigation.

16 “(ii) Should the proceeding for which  
17 such information has been disclosed not  
18 commence within two years after the date  
19 on which the information was disclosed by  
20 the Secretary, the such information shall  
21 be returned to the Secretary in its entirety,  
22 and shall not be retained in any form by  
23 the requestor, unless the taxpayer is noti-  
24 fied in writing as to the information that  
25 has been retained.”.

1 **SEC. 432. INELIGIBILITY FOR NONRESIDENT ALIEN TAX**  
2 **STATUS.**

3 Section 7701(b)(1) of the Internal Revenue Code of  
4 1986 is amended by adding at the end the following new  
5 subparagraph:

6 “(C)(i) An alien who is present in the  
7 United States while working in any capacity in  
8 violation of section 274A of the Immigration  
9 and Nationality Act (8 U.S.C. 1324a) during  
10 any portion of a calendar year shall be treated  
11 as an undocumented alien with respect to such  
12 calendar year.

13 “(ii) Such an undocumented alien shall not  
14 be eligible for nonresident alien tax status dur-  
15 ing such calendar year.

16 “(iii) The Secretary shall provide the Sec-  
17 retary of Homeland Security and the Social Se-  
18 curity Commissioner with information sufficient  
19 to establish the identity and last known address  
20 of any undocumented alien identified by the  
21 Secretary.”.

22 **SEC. 433. UNLAWFUL USE OF INDIVIDUAL TAXPAYER IDEN-**  
23 **TIFICATION NUMBERS.**

24 Chapter 75 of the Internal Revenue Code of 1986 is  
25 amended by inserting after section 7217 the following:

1 **“SEC. 7218. PROHIBITED USES OF TAXPAYER IDENTIFICA-**  
2 **TION NUMBERS.**

3 “(a) It is unlawful for a person to request or use for  
4 any purpose the taxpayer identification number (TIN) as-  
5 signed to an alien described in section 7701(b)(1), other  
6 than a resident alien described in subparagraph (A), ex-  
7 cept where required by regulation, or requested for admin-  
8 istration of the tax laws by an officer or employee of the  
9 Internal Revenue Service.

10 “(b) Any person who willfully violates this section  
11 shall be guilty of a misdemeanor and, upon conviction  
12 thereof, shall be punished by a fine of not more than  
13 \$2,000 or imprisonment for not more than 1 year, or  
14 both.”.

15 **SEC. 434. NO DEDUCTION ALLOWED FOR COMPENSATION**  
16 **PAID TO UNAUTHORIZED WORKERS.**

17 (a) IN GENERAL.—Section 162(c)(2) of the Internal  
18 Revenue Code of 1986 is amended by adding at the end  
19 the following new paragraph:

20 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-  
21 THORIZED ALIENS.—

22 “(A) IN GENERAL.—No deduction shall be  
23 allowed under subsection (a) for any recruiting  
24 expense or wage paid to or behalf of an unau-  
25 thorized alien, as defined under section  
26 274A(h)(3) of the Immigration and Nationality

1 Act (8 U.S.C. 1324a(h)(3)), unless the alien's  
2 eligibility for employment was first verified  
3 through the Alien Work Eligibility Verification  
4 System, as implemented by the TRUE Enforce-  
5 ment and Border Security Act of 2005.

6 “(B) DEFINITIONS.—For the purposes of  
7 this paragraph:

8 “(i) The term ‘recruiting expense’  
9 means any payment made to a third party  
10 to identify, recruit, or prepare an indi-  
11 vidual for employment.

12 “(ii) The term ‘wages’ means all re-  
13 munerations for employment, including the  
14 cash value of all remuneration (to include  
15 benefits) paid in any medium other than  
16 cash.”.

17 (b) 7-YEAR LIMITATION ON ASSESSMENT AND COL-  
18 LECTION.—Subsection (c) of section 6501 of such Code  
19 (relating to exceptions) is amended by adding at the end  
20 the following new paragraph:

21 “(10) DEDUCTION CLAIMED FOR RECRUITING  
22 EXPENSE OR WAGES OF UNAUTHORIZED ALIENS.—  
23 In the case of a return of tax on which a deduction  
24 is shown in violation of section 162(c)(4), any tax  
25 under chapter 1 may be assessed, or a proceeding

1 for the collection of such tax may be begun without  
2 assessment, at any time within 7 years after the re-  
3 turn is filed.”.

4 (c) AVAILABILITY OF INFORMATION.—The Commis-  
5 sioner of Social Security shall make available to the Com-  
6 missioner of Internal Revenue any information related to  
7 the investigation and enforcement of section 162(c)(4) of  
8 the Internal Revenue Code of 1986, including any no-  
9 match letter and any information in the suspense earnings  
10 file.

11 (d) EFFECTIVE DATE.—The amendments made by  
12 subsections (a) and (b) shall apply to taxable years begin-  
13 ning with the first taxable year beginning at least 365  
14 days after enactment of this Act.

## 15 **Subtitle E—Identification**

## 16 **Document Integrity**

### 17 **SEC. 441. CONSULAR IDENTIFICATION DOCUMENTS.**

18 (a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOC-  
19 UMENTS.—

20 (1) IN GENERAL.—For purposes of personal  
21 identification, no agency, commission, entity, or  
22 agent of the executive or legislative branches of the  
23 Federal Government may accept, acknowledge, rec-  
24 ognize, or rely on any identification document issued  
25 by a foreign government, unless otherwise mandated

1 by Federal law. For purposes of this section, an  
2 agent shall include:

3 (A) a Federal contractor or grantee; or

4 (B) an institution or entity exempted from  
5 Federal income taxation under the Internal  
6 Revenue Code of 1986.

7 (2) EXCEPTIONS.—

8 (A) IN GENERAL.—A person who is not a  
9 citizen or national of the United States may  
10 present for personal identification purposes an  
11 official identification document issued by a for-  
12 eign government, or other foreign identification  
13 document recognized by treaty, if—

14 (i) such noncitizen also simultaneously  
15 presents valid verifiable documentation of  
16 lawful presence in the United States issued  
17 by an agency of the Federal Government;

18 (ii) reporting a violation of law or  
19 seeking government assistance in an emer-  
20 gency; or

21 (iii) such use is expressly permitted by  
22 Federal law.

23 (B) NONAPPLICATION.—The provisions of  
24 paragraph (1) shall not apply to—

- 1 (i) inspections of alien applicants for  
2 admission to the United States; or  
3 (ii) verification of personal identifica-  
4 tion outside the United States.

5 (3) LISTING OF ACCEPTABLE DOCUMENTS.—

6 The Secretary of Homeland Security shall issue,  
7 maintain in printed and electronic media, and dis-  
8 seminate to the public at no cost an updated listing,  
9 compiled in consultation with the Secretary of State,  
10 and including sample facsimiles, of all acceptable  
11 Federal documents that satisfy the requirements of  
12 paragraph (2)(A). Such listing may, at the discre-  
13 tion of the Secretary of Homeland Security, include  
14 a similar listing of documents establishing employ-  
15 ment authorization or identity under section  
16 274A(b) of the Immigration and Nationality Act (8  
17 U.S.C. 1324a(b)).

18 (b) ESTABLISHMENT OF PERSONAL IDENTITY.—Sec-  
19 tion 274C of the Immigration and Nationality Act (8  
20 U.S.C. 1324c) is amended—

21 (1) in subsection (a)—

22 (A) by redesignating paragraph (6) as  
23 paragraph (7); and

24 (B) by inserting after paragraph (5) the  
25 following new paragraph:

1 “(6) to use to establish personal identity, before  
2 any agent of the Federal Government, or before any  
3 agency of the Federal Government or of a State or  
4 any political subdivision therein, a travel or identi-  
5 fication document issued by a foreign government  
6 that is not accepted by the Secretary of Homeland  
7 Security to establish personal identity for purposes  
8 of admission to the United States at a port of entry,  
9 except where a person who is not a citizen of the  
10 United States (A) simultaneously presents valid  
11 verifiable documentation of lawful presence in the  
12 United States issued by an agency of the Federal  
13 Government, or (B) is reporting a violation of law  
14 or seeking government assistance in an emergency,  
15 or (C) such use is expressly permitted by Federal  
16 law.”; and

17 (2) in subsection (d)—

18 (A) by redesignating paragraphs (2)  
19 though (7) as paragraphs (3) through (8), re-  
20 spectively; and

21 (B) by inserting after paragraph (1) the  
22 following new paragraph:

23 “(2) CIVIL COMPLAINT PROCEDURE.—

24 “(A) The Secretary of Homeland Security  
25 shall establish procedures to file a written,



1 signed complaint, which may be submitted in  
2 electronic form, alleging a violation of sub-  
3 section (a). A complaint may be filed by a state  
4 or local government agency, or by a private  
5 party injured by a violation of subsection (a).

6 “(B) Each complaint filed shall be re-  
7 viewed and a determination made as to whether  
8 the complaint, on its face, provides sufficient in-  
9 formation to identify the entity and any persons  
10 claimed to be in violation of this section, to  
11 identify the prohibited activity, and whether the  
12 alleged violation occurred or is occurring within  
13 180 days of the date the complaint was filed. A  
14 notice of such determination shall be provided  
15 to the complainant.

16 “(C) If the review under paragraph (2) in-  
17 dicates that sufficient information has been pro-  
18 vided, the Secretary shall conduct a civil or  
19 criminal enforcement investigation.

20 “(D) The Secretary may authorize a law  
21 enforcement agency of the state or local juris-  
22 diction in which a civil or criminal investigation  
23 is authorized to conduct or assist in such inves-  
24 tigation.”.

1       (c) QUALIFIED IMMUNITY.—Actions taken in viola-  
 2       tion of subsection (a) of this section, or section 274C of  
 3       the Immigration and Nationality Act (8 U.S.C. 1324c),  
 4       as amended by subsection (b), shall be deemed outside the  
 5       official capacity of the elected official or officer, employee,  
 6       or agent of a Federal agency so acting.

7       **SEC. 442. MACHINE-READABLE TAMPER-RESISTANT IMMI-**  
 8                                   **GRATION DOCUMENTS.**

9       Section 303 of the Enhanced Border Security and  
 10      Visa Entry Reform Act of 2002 (Public Law 107–173)  
 11      (8 U.S.C. 1732) is amended—

12               (1) in the header, by striking “**ENTRY AND**  
 13               **EXIT DOCUMENTS**” and inserting “**TRAVEL AND**  
 14               **ENTRY DOCUMENTS AND EVIDENCE OF STA-**  
 15               **TUS**”;

16               (2) in subsection (b)(1)—

17                       (A) by striking “Not later than October  
 18                       26, 2004, the Attorney General” and inserting  
 19                       “**The Secretary of Homeland Security**”; and

20                       (B) by striking “visas and” each place it  
 21                       appears and inserting “visas, evidence of status,  
 22                       and”; and

23               (3) by striking subsection (d); and inserting  
 24      after subsection (c) the following new subsections:

1       “(d) OTHER DOCUMENTS.—Not later than October  
2 26, 2007, every document, other than an interim docu-  
3 ment, issued by the Department of Homeland Security,  
4 which may be used as evidence of immigrant, non-  
5 immigrant, parole, asylee, or refugee status, shall be ma-  
6 chine-readable, tamper-resistant, and incorporate a bio-  
7 metric identifier to allow the Department of Homeland Se-  
8 curity to electronically verify the identity and status of the  
9 alien.

10       “(e) AUTHORIZATION OF APPROPRIATIONS.—

11               “(1) IN GENERAL.—There are authorized to be  
12 appropriated such sums as may be necessary to  
13 carry out this section, including reimbursements to  
14 international and domestic standards organizations.

15               “(2) FEE.—During any fiscal year for which  
16 appropriations sufficient to issue documents de-  
17 scribed in subsection (d) have not been made by  
18 Congress, the Secretary is authorized to implement  
19 and collect a fee sufficient to cover the direct cost  
20 of issuance of such document from the alien to  
21 whom the document will be issued.

22               “(3) EXCEPTION.—The fee described in para-  
23 graph (2) may not be levied against nationals of a  
24 foreign state, where the Secretary has determined  
25 that the total estimated population of such state who

1       are unlawfully present in the United States does not  
2       exceed 3,000 aliens.”.

3   **SEC. 443. BIRTH CERTIFICATES.**

4       (a) MINIMUM STANDARDS FOR FEDERAL RECOGNITION.—  
5

6           (1) IN GENERAL.—A Federal agency may not  
7       accept, for any official purpose, a birth certificate  
8       issued by a State to any person unless the State sat-  
9       isfies the requirements of this section.

10          (2) STATE CERTIFICATIONS.—The Secretary of  
11       Homeland Security shall determine whether a State  
12       is meeting the requirements of this section based on  
13       certifications made by the State to the Secretary.  
14       Such certifications shall be made at such times and  
15       in such manner as the Secretary, in consultation  
16       with the Secretary of Health and Human Services,  
17       may prescribe by regulation.

18          (3) MINIMUM DOCUMENT STANDARDS.—

19           (A) IN GENERAL.—Each birth certificate  
20       issued to a person by the State shall be printed  
21       on safety paper and shall include the seal of the  
22       issuing custodian of record and such other fea-  
23       tures as the Secretary determines necessary to  
24       prevent tampering, counterfeiting, or otherwise  
25       duplicating the birth certificate for fraudulent

1 purposes. The Secretary may not require birth  
2 certificates issued by all States to conform to a  
3 single design.

4 (B) ELECTRONIC ISSUANCE AND TRACKING  
5 SYSTEM.—The Secretary of Homeland Security,  
6 in consultation with the Secretary of Health  
7 and Human Services and the Commissioner of  
8 Social Security, shall develop an electronic sys-  
9 tem for issuing and tracking birth certificates  
10 so that entities requiring such documents can  
11 quickly confirm their validity.

12 (4) MINIMUM ISSUANCE STANDARDS.—

13 (A) IN GENERAL.—Before issuing an au-  
14 thenticated copy of a birth certificate of any  
15 child, a State shall require the requestor to pro-  
16 vide, and shall verify—

17 (i) the name of the child that will ap-  
18 pear on the birth certificate;

19 (ii) the date and location of the child's  
20 birth;

21 (iii) the maiden name of the child's  
22 mother; and

23 (iv) substantial proof of the reques-  
24 tor's identity.

1           (B) ISSUANCE TO PERSONS NOT NAMED  
2           ON BIRTH CERTIFICATE.—A State shall not  
3           issue a birth certificate to a requestor who is  
4           not named on the birth certificate unless the re-  
5           questor presents legal authorization in support  
6           of the request.

7           (C) ISSUANCE TO FAMILY MEMBERS.—Not  
8           later than 1 year after the date of enactment of  
9           this Act, the Secretary, in consultation with the  
10          Secretary of Health and Human Services and  
11          appropriate State representatives, shall estab-  
12          lish minimum standards for issuance of a birth  
13          certificate to specific family members, their au-  
14          thorized representatives, and others who dem-  
15          onstrate that the certificate is needed for the  
16          protection of the requestor's personal or prop-  
17          erty rights.

18          (D) WAIVERS.—A State may waive the re-  
19          quirements set forth in subparagraphs (A)  
20          through (C) in exceptional circumstances, such  
21          as the incapacitation of the registrant.

22          (E) APPLICATION BY ELECTRONIC  
23          MEANS.—A State shall employ third party  
24          verification, or equivalent verification, of the  
25          identity of the requestor for applications by

1           electronic means, through the mail, or by phone  
2           or fax.

3           (F) VERIFICATION OF DOCUMENTS.—A  
4           State shall verify the documents used to provide  
5           proof of identity of the requestor.

6           (5) EFFECTIVE DATE.—This subsection shall  
7           take effect on May 11, 2008.

8           (b) APPLICABILITY OF MINIMUM STANDARDS TO  
9           LOCAL GOVERNMENTS.—The minimum standards set  
10          forth in subsection (a) for birth certificates issued by a  
11          State shall apply to birth certificates issued by a local gov-  
12          ernment in the State. It shall be the responsibility of the  
13          State to ensure that local governments in the State comply  
14          with the minimum standards.

15          (c) OTHER REQUIREMENTS.—When issuing and ad-  
16          ministering birth certificates, each State shall—

17               (1) establish and implement minimum building  
18               security standards for State and local vital record  
19               offices;

20               (2) restrict public access to birth certificates  
21               and information gathered in the issuance process to  
22               ensure that access is restricted to entities with which  
23               the State has a binding privacy protection agree-  
24               ment;

1           (3) subject all persons with access to vital  
2 records to appropriate security clearance require-  
3 ments;

4           (4) establish fraudulent document recognition  
5 training programs for appropriate employees en-  
6 gaged in the issuance process;

7           (5) establish and implement internal operating  
8 system standards for paper and for electronic sys-  
9 tems;

10          (6) establish a central database that can pro-  
11 vide interoperative data exchange with other States  
12 and with Federal agencies, subject to privacy restric-  
13 tions and confirmation of the authority and identity  
14 of the requestor;

15          (7) ensure that birth and death records are  
16 matched in a comprehensive and timely manner, and  
17 that all electronic birth records and paper birth cer-  
18 tificates of decedents are marked deceased; and

19          (8) cooperate with the Secretary in the imple-  
20 mentation of electronic verification of vital events  
21 under subsection (f).

22          (d) VERIFICATION OF BIRTH RECORDS PROVIDED IN  
23 SOCIAL SECURITY APPLICATIONS.—



1           (1) IN GENERAL.—Section 205(c)(2)(B)(ii) of  
2       the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii))  
3       is amended—

4                     (A) by inserting “(I)” after “(ii)”; and

5                     (B) by adding at the end the following new  
6       subclause:

7                                 “(II) With respect to an applica-  
8                                 tion for a social security account num-  
9                                 ber for an individual, other than for  
10                                purposes of enumeration at birth, the  
11                               Commissioner shall require inde-  
12                               pendent verification of any birth  
13                               record provided by the applicant in  
14                               support of the application.”.

15           (2) EFFECTIVE DATE.—The amendment made  
16       by subsection (a) shall take effect and apply with re-  
17       spect to applications filed on or after the date that  
18       is 180 days after the date of the enactment of this  
19       Act.

20       (e) ELECTRONIC BIRTH AND DEATH REGISTRATION  
21       SYSTEMS.—In consultation with the Secretary of Health  
22       and Human Services and the Commissioner of Social Se-  
23       curity, the Secretary of Homeland Security shall—

24                     (1) work with the States to establish a common  
25       data set and common data exchange protocol for

1 electronic birth registration systems and death reg-  
2 istration systems;

3 (2) coordinate requirements for such systems to  
4 align with a national model;

5 (3) ensure that fraud prevention is built into  
6 the design of electronic vital registration systems in  
7 the collection of vital event data, the issuance of  
8 birth certificates, and the exchange of data among  
9 government agencies;

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

15 (5) establish uniform field requirements for  
16 State birth registries;

17 (6) not later than six months after the date of  
18 the enactment of this Act, submit to Congress a re-  
19 port examining whether there is a need for Federal  
20 laws to address penalties for fraud and misuse of  
21 vital records and whether violations are sufficiently  
22 enforced;

23 (7) not later than one year after the date of the  
24 enactment of this Act—

1 (A) establish a process with the Secretary  
2 of Defense that will result in the sharing of  
3 data, with the States and the Social Security  
4 Administration, regarding deaths of United  
5 States military personnel and the birth and  
6 death of their dependents; and

7 (B) establish a process with the Secretary  
8 of State to improve registration, notification,  
9 and the sharing of data with the States and the  
10 Social Security Administration, regarding births  
11 and deaths of United States citizens abroad;  
12 and

13 (8) not later than three years after the date of  
14 the establishment of databases provided for under  
15 this section, require States to record and retain elec-  
16 tronic records of pertinent identification information  
17 collected from requesters who are not the reg-  
18 istrants.

19 (f) ELECTRONIC VERIFICATION OF VITAL EVENTS.—

20 (1) LEAD AGENCY.—The Secretary of Health  
21 and Human Services shall lead the implementation  
22 of electronic verification of a person's birth and  
23 death.

24 (2) REGULATIONS.—In carrying out paragraph  
25 (1), such Secretary shall promulgate regulations to

1       establish a means by which authorized Federal and  
2       State agency users with a single interface will be  
3       able to generate an electronic query to any partici-  
4       pating vital records jurisdiction throughout the  
5       United States to verify the contents of a paper birth  
6       certificate. Pursuant to the regulations, an electronic  
7       response from the participating vital records juris-  
8       diction as to whether there is a birth record in the  
9       database of such jurisdiction that matches the paper  
10      birth certificate will be returned to the user, along  
11      with an indication if the matching birth record has  
12      been marked as deceased. The regulations shall take  
13      effect not later than five years after the date of the  
14      enactment of this Act.

15      (g) GRANTS TO STATES AND LOCAL GOVERN-  
16      MENTS.—

17           (1) IN GENERAL.—The Secretary of Homeland  
18      Security may make grants to a State or local gov-  
19      ernment to assist the State or local government to  
20      conform to the minimum standards set forth in this  
21      section.

22           (2) AUTHORIZATION OF APPROPRIATIONS.—  
23      There are authorized to be appropriated to such Sec-  
24      retary for each of the fiscal years 2007 through

1       2011 such sums as may be necessary to carry out  
2       this section.

3       (h) AUTHORITY.—

4               (1) PARTICIPATION WITH FEDERAL AGEN-  
5       CIES.—All authority to issue regulations, certify  
6       standards, and issue grants under this section shall  
7       be carried out by the Secretary, with the concur-  
8       rence of the Secretary of Health and Human Serv-  
9       ices and in consultation with State vital statistics of-  
10      fices and appropriate Federal agencies.

11              (2) EXTENSION OF DEADLINES.—The Sec-  
12      retary may grant to a State an extension of time to  
13      meet the requirements of subsection (b)(1)(A) of  
14      this section if, in the discretion of the Secretary, the  
15      State provides adequate justification for noncompli-  
16      ance.

17      (i) REPEAL.—Section 7211 of the Intelligence Re-  
18      form and Terrorism Prevention Act of 2004 (Public Law  
19      108–458) is repealed.

1     **Subtitle F—Limitations on Illegal**  
2     **Alien Collection of Social Security**

3     **SEC. 451. EXCLUSION OF UNAUTHORIZED EMPLOYMENT**  
4                     **FROM EMPLOYMENT UPON WHICH CRED-**  
5                     **ITABLE WAGES MAY BE BASED.**

6             Section 210(a)(19) of the Social Security Act (42  
7     U.S.C. 410(a)(19)) is amended—

8             (1) by striking “(19) Service” and inserting the  
9             following:

10            “(19)(A) Service performed by an alien while  
11            employed in the United States for any period during  
12            which the alien is not authorized to be so employed.

13            “(B) Service”.

14     **SEC. 452. EXCLUSION OF UNAUTHORIZED FUNCTIONS AND**  
15                     **SERVICES FROM TRADE OR BUSINESS FROM**  
16                     **WHICH CREDITABLE SELF-EMPLOYMENT IN-**  
17                     **COME MAY BE DERIVED.**

18             Section 211(c) of the Social Security Act (42 U.S.C.  
19     411(c)) is amended by inserting after paragraph (6) the  
20     following new paragraph:

21            “(7) The performance of a function or service  
22            in the United States by an alien during any period  
23            for which the alien is not authorized to perform such  
24            function or service in the United States.”.

1 **SEC. 453. EFFECTIVE DATE.**

2       The amendments made by this subtitle shall apply  
 3 with respect to wages earned, and self-employment income  
 4 derived, before, on, or after the date of the enactment of  
 5 this Act. Notwithstanding section 215(f)(1) of the Social  
 6 Security Act (42 U.S.C. 415(f)(1)), as soon as practicable  
 7 after the date of the enactment of this Act, the Commis-  
 8 sioner of Social Security shall recompute all primary in-  
 9 surance amounts to the extent necessary to carry out such  
 10 amendments. Such amendments shall affect benefits only  
 11 for months after the date of the enactment of this Act.

12 **SEC. 454. AUTHORIZED APPROPRIATIONS.**

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

17       **TITLE V—PENALTIES AND**  
 18       **ENFORCEMENT**  
 19       **Subtitle A—Criminal and Civil**  
 20       **Penalties**

21 **SEC. 501. CRIMINAL PENALTIES FOR ALIEN SMUGGLING.**

22       Section 274(a) of the Immigration and Nationality  
 23 Act (8 U.S.C. 1324(a)) is amended—

24               (1) in paragraph (1)(B)—

25                       (A) in clause (i), by striking “10 years”  
 26                       and inserting “15 years”;

1 (B) in clause (ii), by striking “5 years”  
2 and inserting “10 years”; and

3 (C) in clause (iii), by striking “20 years”  
4 and inserting “40 years”;  
5 (2) in paragraph (2)—

6 (A) in subparagraph (A), by striking “one  
7 year, or both; or” and inserting “3 years, or  
8 both”;

9 (B) in subparagraph (B)—

10 (i) in clause (i), by adding at the end  
11 the following: “be fined under title 18,  
12 United States Code, and imprisoned not  
13 less than 5 years nor more than 25  
14 years,”;

15 (ii) in clause (ii), by striking “or” at  
16 the end and inserting the following: “be  
17 fined under title 18, United States Code,  
18 and imprisoned not less than 3 years not  
19 more than 20 years, or”;

20 (iii) in clause (iii), by adding at the  
21 end the following: “be fined under title 18,  
22 United States Code, and imprisoned not  
23 more than 15 years, or”; and



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

4 “(C) in the case of a third or subsequent  
5 offense described in subparagraph (B) and for  
6 any other violation, shall be fined under title  
7 18, United States Code, and imprisoned not  
8 less than 5 years nor more than 15 years.”;

9 (3) in paragraph (3)(A), by striking “5 years”  
10 and inserting “10 years”;

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

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

17 **SEC. 502. STRENGTHENED ENFORCEMENT OF ALIEN REG-**  
18 **ISTRATION LAWS.**

19 (a) FORMS AND PROCEDURE.—Section 264(e) of the  
20 Immigration and Nationality Act (8 U.S.C. 1304(e)) is  
21 amended—

22 (1) in the first sentence, by inserting “willfully”  
23 before “fails to comply”; and

1           (2) in the second sentence, by striking “\$100”  
2           and “thirty days” and inserting “\$2,000” and “18  
3           months”.

4           (b) PENALTIES.—Section 266 of such Act (8 U.S.C.  
5   1306) is amended—

6           (1) in subsection (a), by striking “\$1,000” and  
7           “six months” and inserting “\$2,000” and “18  
8           months”;

9           (2) in subsection (b), by inserting “willfully”  
10          before “fails to give written notice”, and by striking  
11          “\$200” and “thirty days” and inserting “\$2,000”  
12          and “18 months”;

13          (3) in subsection (c)—

14                (A) by striking “be guilty of a mis-  
15                demeanor and shall, upon conviction thereof,”;  
16                and

17                (B) by striking “\$1,000” and “six  
18                months” and inserting “\$2,000” and “18  
19                months”; and

20          (4) by inserting after subsection (d) the fol-  
21          lowing new subsection:

22          “(e) AUTHORITY TO ARREST.—No officer or person  
23          shall have authority to make an arrest for a violation of  
24          any provision of this section except officers and employees  
25          so authorized under the provisions of section 287, and all

1 other law enforcement officers whose duty it is to enforce  
2 criminal laws, unless designated, individually or as a class,  
3 by the Secretary of Homeland Security.”.

4 **SEC. 503. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF**  
5 **ALIENS AT IMPROPER TIME OR PLACE,**  
6 **AVOIDANCE OF EXAMINATION OR INSPEC-**  
7 **TION, UNLAWFUL PRESENCE AND MISREPRE-**  
8 **SENTATION OR CONCEALMENT OF FACTS.**

9 Section 275 of the Immigration and Nationality Act  
10 (8 U.S.C. 1325) is amended to read as follows:

11 “ENTRY AT IMPROPER TIME OR PLACE; AVOIDANCE OF  
12 EXAMINATION OR INSPECTION; UNLAWFUL PRES-  
13 ENCE; MISREPRESENTATION OR CONCEALMENT OF  
14 FACTS

15 “SEC. 275. (a) IN GENERAL.—Any alien who—

16 “(1) enters or attempts to enter the United  
17 States at any time or place other than as designated  
18 by immigration officers;

19 “(2) eludes examination or inspection by immi-  
20 gration officers; or

21 “(3) attempts to enter or obtains entry to the  
22 United States by a willfully false or misleading rep-  
23 resentation or the willful concealment of a material  
24 fact,

25 shall, for the first commission of any such offense, be fined  
26 under title 18, United States Code, or imprisoned not

1 more than 2 years, or both. For each subsequent unlawful  
2 entry or attempted entry in violation of this section, an  
3 alien shall be fined under title 18, United States Code,  
4 or imprisoned not more than 5 years, or both.

5 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
6 ALTIES.—Any alien who is apprehended while entering (or  
7 attempting to enter) the United States at a time or place  
8 other than as designated by immigration officers shall be  
9 subject to a civil penalty of—

10 “(1) at least \$100 and not more than \$10,000  
11 for each such entry (or attempted entry); or

12 “(2) three times the amount specified in para-  
13 graph (1) in the case of an alien who has been pre-  
14 viously subject to a civil penalty under this sub-  
15 section.

16 Civil penalties under this subsection are in addition to,  
17 and not in lieu of, any criminal or other civil penalties  
18 that may be imposed.

19 “(c) MARRIAGE FRAUD.—An individual who know-  
20 ingly enters into a marriage for the purpose of evading  
21 any provision of the immigration laws shall be fined not  
22 more than \$500,000, imprisoned not more than 10 years,  
23 or both.

24 “(d) IMMIGRATION-RELATED ENTREPRENEURSHIP  
25 FRAUD.—Any individual who knowingly established a

1 commercial enterprise for the purpose of evading any pro-  
2 vision of the immigration laws shall be fined not more than  
3 \$500,000, or imprisoned not more than 10 years, or  
4 both.”.

5 **SEC. 504. CIVIL AND CRIMINAL PENALTIES FOR ALIENS UN-**  
6 **LAWFULLY PRESENT IN THE UNITED STATES.**

7 (a) IN GENERAL.—Title II of the Immigration and  
8 Nationality Act (8 U.S.C. 1151 et seq.) is amended by  
9 adding after section 275 the following new section:

10 “CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN  
11 THE UNITED STATES

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

20 “(b) AFFIRMATIVE DEFENSE.—It shall be an affirm-  
21 ative defense to a violation of subsection (a) that the alien  
22 overstayed the time allotted under the alien’s visa due to  
23 an exceptional and extremely unusual hardship or physical  
24 illness that prevented the alien from leaving the United  
25 States by the required date.”.

1 (b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL  
2 ENTRY.—Section 275(a) of the Immigration and Nation-  
3 ality Act (8 U.S.C. 1325(a)) is amended by striking “6  
4 months,” and inserting “1 year,”.

5 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
6 tion shall be construed to limit the authority of any State  
7 or political subdivision therein to enforce criminal trespass  
8 laws against aliens whom a law enforcement agency has  
9 verified to be present in the United States in violation of  
10 this Act.

11 **SEC. 505. INCREASED PENALTIES FOR REENTRY OF RE-**  
12 **MOVED ALIENS.**

13 (a) IN GENERAL.—Subsection (a) of section 276 of  
14 the Immigration and Nationality Act (8 U.S.C. 1326) is  
15 amended to read as follows:

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

19 “(1) has been denied admission, excluded, de-  
20 ported, or removed or has departed the United  
21 States while an order of exclusion, deportation, or  
22 removal is outstanding; and

23 “(2) thereafter enters, attempts to enter, or is  
24 at any time found in, the United States, unless, in  
25 the case of an alien previously denied admission and

1 removed, the alien establishes that the alien was not  
2 required to obtain from the Secretary of Homeland  
3 Security advance consent to reapply for admission  
4 under this Act or any prior Act.”.

5 (b) CRIMINAL PENALTIES FOR REENTRY OF CER-  
6 TAIN REMOVED ALIENS.—Subsection (b) of such section  
7 is amended—

8 (1) in paragraph (3), by striking “sentence.”  
9 and inserting “sentence;”; and

10 (2) in paragraph (4), by striking “(unless the  
11 Attorney General has expressly consented to such  
12 alien’s reentry)”.

13 (c) REENTRY OF ALIENS REMOVED PRIOR TO COM-  
14 PLETION OF IMPRISONMENT.—Subsection (c) of such sec-  
15 tion is amended—

16 (1) by inserting “(as in effect before the effec-  
17 tive date of the amendments made by section 305 of  
18 the Illegal Immigration Reform and Immigrant Re-  
19 sponsibility Act of 1996), or removed under section  
20 241(a)(4),” after “242(h)(2)”;

21 (2) by striking “(unless the Attorney General  
22 has expressly consented to such alien’s reentry)”;

23 (3) by inserting “or removal” after “time of de-  
24 portation”; and

1 (4) by inserting “or removed” after “reentry of  
2 deported”.

3 (d) CHALLENGE TO VALIDITY OF ORDER.—Sub-  
4 section (d) of such section is amended—

5 (1) in the matter before paragraph (1), by  
6 striking “deportation order” and inserting “deporta-  
7 tion or removal order”; and

8 (2) in paragraph (2), by inserting “or removal”  
9 after “deportation”.

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

15 **SEC. 506. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT**  
16 **FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS**  
17 **OF CITIZENSHIP.**

18 (a) CIVIL PENALTIES FOR DOCUMENT FRAUD.—Sec-  
19 tion 274C(d)(3) of the Immigration and Nationality Act  
20 (8 U.S.C. 1324c(d)(3)) is amended—

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



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

4           (b) FRAUD AND FALSE STATEMENTS.—Chapter 47  
5 of title 18, United States Code, is amended—

6           (1) in section 1015, by striking “not more than  
7           5 years” and inserting “not more than 10 years”;  
8           and

9           (2) in section 1028(b)—

10           (A) in paragraph (1), by striking “15  
11           years” and inserting “20 years”;

12           (B) in paragraph (2), by striking “three  
13           years” and inserting “six years”;

14           (C) in paragraph (3), by striking “20  
15           years” and inserting “25 years”; and

16           (D) in paragraph (6), by striking “one  
17           year” and inserting “two years”.

18           (c) DOCUMENT FRAUD.—Section 1546 of title 18,  
19 United States Code, is amended—

20           (1) in subsection (a)—

21           (A) by striking “not more than 25 years”  
22           and inserting “not less than 25 years”;

23           (B) by inserting “and if the terrorism of-  
24           fense resulted in the death of any person, shall

1 be punished by death or imprisoned for life,”  
 2 after “section 2331 of this title)),”;

3 (C) by striking “20 years” and inserting  
 4 “imprisoned not more than 40 years”;

5 (D) by striking “10 years” and inserting  
 6 “imprisoned not more than 20 years”; and

7 (E) by striking “15 years” and inserting  
 8 “imprisoned not more than 25 years”; and

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

11 (d) CRIMES OF VIOLENCE.—

12 (1) IN GENERAL.—Title 18, United States  
 13 Code, is amended by inserting after chapter 51 the  
 14 following:

15 **“CHAPTER 52—ILLEGAL ALIENS**

16 **“SEC. 1131. ENHANCED PENALTIES FOR CERTAIN CRIMES**  
 17 **COMMITTED BY ILLEGAL ALIENS.**

18 “(a) Any alien unlawfully present in the United  
 19 States, who commits, or conspires or attempts to commit,  
 20 a crime of violence or a drug trafficking offense (as de-  
 21 fined in section 924), shall be fined under this title and  
 22 sentenced to not less than 5 years in prison.

23 “(b) If an alien who violates subsection (a) was pre-  
 24 viously ordered removed under the Immigration and Na-  
 25 tionality Act (8 U.S.C. 1101 et seq.) on the grounds of

1 having committed a crime, the alien shall be sentenced to  
 2 not less than 15 years in prison.

3 “(c) A sentence of imprisonment imposed under this  
 4 section shall run consecutively to any other sentence of  
 5 imprisonment imposed for any other crime.”.

6 (2) CLERICAL AMENDMENT.—The table of  
 7 chapters at the beginning of part I of title 18,  
 8 United States Code, is amended by inserting after  
 9 the item relating to chapter 51 the following:

“CHAPTER 52—ILLEGAL ALIENS

“1131. Enhanced penalties for certain crimes committed by illegal aliens.”.

10 **SEC. 507. RENDERING INADMISSIBLE AND DEPORTABLE**  
 11 **ALIENS PARTICIPATING IN CRIMINAL**  
 12 **STREET GANGS.**

13 (a) INADMISSIBLE.—Section 212(a)(2) of the Immi-  
 14 gration and Nationality Act (8 U.S.C. 1182(a)(2)) is  
 15 amended by adding at the end the following:

16 “(J) CRIMINAL STREET GANG PARTICIPA-  
 17 TION.—

18 “(i) IN GENERAL.—Any alien is inad-  
 19 missible if—

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

22 “(II) the consular officer or the  
 23 Secretary of Homeland Security

1 knows, or has reasonable ground to  
2 believe that the alien—

3 “(aa) is a member of a  
4 criminal street gang and has  
5 committed, conspired, or threat-  
6 ened to commit, or seeks to enter  
7 the United States to engage sole-  
8 ly, principally, or incidentally in,  
9 a gang crime or any other unlaw-  
10 ful activity; or

11 “(bb) is a member of a  
12 criminal street gang designated  
13 under section 219A.

14 “(ii) DEFINITIONS.—For purposes of  
15 this subparagraph:

16 “(I) CRIMINAL STREET GANG.—  
17 The term ‘criminal street gang’ means  
18 an ongoing group, group, club organi-  
19 zation or informal association of five  
20 or more persons who engage, or have  
21 engaged within the past 5 years in a  
22 continuing series of 3 or more gang  
23 crimes (one of which is a crime of vio-  
24 lence, as defined in section 16 of title  
25 18, United States Code).

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

7                               “(aa) A crime of violence (as  
8                               defined in section 16 of title 18,  
9                               United States Code).

10                              “(bb) A crime involving ob-  
11                              struction of justice, tampering  
12                              with or retaliating against a wit-  
13                              ness, victim, or informant, or  
14                              burglary.

15                              “(cc) A crime involving the  
16                              manufacturing, importing, dis-  
17                              tributing, possessing with intent  
18                              to distribute, or otherwise dealing  
19                              in a controlled substance or listed  
20                              chemical (as those terms are de-  
21                              fined in section 102 of the Con-  
22                              trolled Substances Act (21  
23                              U.S.C. 802)).

24                              “(dd) Any conduct punish-  
25                              able under section 844 of title

1 18, United States Code (relating  
2 to explosive materials), sub-  
3 section (d), (g)(1) (where the un-  
4 derlying conviction is a violent  
5 felony (as defined in section  
6 924(e)(2)(B) of such title) or is a  
7 serious drug offense (as defined  
8 in section 924(e)(2)(A)), (i), (j),  
9 (k), (o), (p), (q), (u), or (x) of  
10 section 922 of such title (relating  
11 to unlawful acts), or subsection  
12 (b), (c), (g), (h), (k), (l), (m), or  
13 (n) of section 924 of such title  
14 (relating to penalties), section  
15 930 of such title (relating to pos-  
16 session of firearms and dan-  
17 gerous weapons in Federal facili-  
18 ties), section 931 of such title  
19 (relating to purchase, ownership,  
20 or possession of body armor by  
21 violent felons), sections 1028 and  
22 1029 of such title (relating to  
23 fraud and related activity in con-  
24 nection with identification docu-  
25 ments or access devices), section

1 1952 of such title (relating to  
2 interstate and foreign travel or  
3 transportation in aid of racket-  
4 eering enterprises), section 1956  
5 of such title (relating to the laun-  
6 dering of monetary instruments),  
7 section 1957 of such title (relat-  
8 ing to engaging in monetary  
9 transactions in property derived  
10 from specified unlawful activity),  
11 or sections 2312 through 2315 of  
12 such title (relating to interstate  
13 transportation of stolen motor ve-  
14 hicles or stolen property).

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

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

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

6 “(i) IN GENERAL.—Any alien is de-  
7 portable who—

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

13 “(II) is determined by the Sec-  
14 retary of Homeland Security to be a  
15 member of a criminal street gang des-  
16 ignated under section 219A.

17 “(ii) DEFINITIONS.—For purposes of  
18 this subparagraph, the terms ‘criminal  
19 street gang’ and ‘gang crime’ have the  
20 meaning given such terms in section  
21 212(a)(2)(J)(ii).”.

22 (c) DESIGNATION OF CRIMINAL STREET GANGS.—

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



1 “DESIGNATION OF CRIMINAL STREET GANGS

2 “SEC. 219A. (a) DESIGNATION.—

3 “(1) IN GENERAL.—The Attorney General is  
4 authorized to designate a group or association as a  
5 criminal street gang in accordance with this sub-  
6 section if the Attorney General finds that the group  
7 or association meets the criteria described in section  
8 212(a)(2)(J)(ii)(I).

9 “(2) PROCEDURE.—

10 “(A) NOTICE.—

11 “(i) TO CONGRESSIONAL LEADERS.—  
12 Seven days before making a designation  
13 under this subsection, the Attorney Gen-  
14 eral shall, by classified communication, no-  
15 tify the Speaker and Minority Leader of  
16 the House of Representatives, the Presi-  
17 dent pro tempore, Majority Leader, and  
18 Minority Leader of the Senate, and the  
19 members of the relevant committees of the  
20 House of Representatives and the Senate,  
21 in writing, of the intent to designate a  
22 group or association under this subsection,  
23 together with the findings made under  
24 paragraph (1) with respect to that group

1 or association, and the factual basis there-  
2 fore.

3 “(ii) PUBLICATION IN FEDERAL REG-  
4 ISTER.—The Attorney shall publish the  
5 designation in the Federal Register seven  
6 days after providing the notification under  
7 clause (i).

8 “(B) EFFECT OF DESIGNATION.—

9 “(i) A designation under this sub-  
10 section shall take effect upon publication  
11 under subparagraph (A)(ii).

12 “(ii) Any designation under this sub-  
13 section shall cease to have effect upon an  
14 Act of Congress disapproving such des-  
15 ignation.

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

19 “(4) PERIOD OF DESIGNATION.—

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

24 “(B) REVIEW OF DESIGNATION UPON PE-  
25 TITION.—

1           “(i) IN GENERAL.—The Attorney  
2           General shall review the designation of a  
3           criminal street gang under the procedures  
4           set forth in clauses (iii) and (iv) if the des-  
5           ignated gang or association files a petition  
6           for revocation within the petition period  
7           described in clause (ii).

8           “(ii) PETITION PERIOD.—For pur-  
9           poses of clause (i)—

10           “(I) if the designated gang or as-  
11           sociation has not previously filed a pe-  
12           tition for revocation under this sub-  
13           paragraph, the petition period begins  
14           2 years after the date on which the  
15           designation was made; or

16           “(II) if the designated gang or  
17           association has previously filed a peti-  
18           tion for revocation under this sub-  
19           paragraph, the petition period begins  
20           2 years after the date of the deter-  
21           mination made under clause (iv) on  
22           that petition.

23           “(iii) PROCEDURES.—Any criminal  
24           street gang that submits a petition for rev-  
25           ocation under this subparagraph must pro-

1           vide evidence in that petition that the rel-  
2           evant circumstances described in para-  
3           graph (1) are sufficiently different from  
4           the circumstances that were the basis for  
5           the designation such that a revocation with  
6           respect to the gang is warranted.

7           “(iv) DETERMINATION.—

8                   “(I) IN GENERAL.—Not later  
9                   than 180 days after receiving a peti-  
10                  tion for revocation submitted under  
11                  this subparagraph, the Attorney Gen-  
12                  eral shall make a determination as to  
13                  such revocation.

14                  “(II) PUBLICATION OF DETER-  
15                  MINATION.—A determination made by  
16                  the Attorney General under this  
17                  clause shall be published in the Fed-  
18                  eral Register.

19                  “(III) PROCEDURES.—Any rev-  
20                  ocation by the Attorney General shall  
21                  be made in accordance with para-  
22                  graph (6).

23           “(C) OTHER REVIEW OF DESIGNATION.—

24                   “(i) IN GENERAL.—If in a 4-year pe-  
25                  riod no review has taken place under sub-

1 paragraph (B), the Attorney General shall  
2 review the designation of the criminal  
3 street gang in order to determine whether  
4 such designation should be revoked pursu-  
5 ant to paragraph (6).

6 “(ii) PROCEDURES.—If a review does  
7 not take place pursuant to subparagraph  
8 (B) in response to a petition for revocation  
9 that is filed in accordance with that sub-  
10 paragraph, then the review shall be con-  
11 ducted pursuant to procedures established  
12 by the Attorney General. The results of  
13 such review and the applicable procedures  
14 shall not be reviewable in any court.

15 “(iii) PUBLICATION OF RESULTS OF  
16 REVIEW.—The Attorney General shall pub-  
17 lish any determination made pursuant to  
18 this subparagraph in the Federal Register.

19 “(5) REVOCATION BY ACT OF CONGRESS.—The  
20 Congress, by an Act of Congress, may block or re-  
21 voke a designation made under paragraph (1).

22 “(6) REVOCATION BASED ON CHANGE IN CIR-  
23 CUMSTANCES.—

24 “(A) IN GENERAL.—The Attorney General  
25 may revoke a designation made under para-

graph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (b) and (c) of paragraph (4) if the Attorney General finds that—

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

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

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

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

“(8) USE OF DESIGNATION IN HEARING.—If a designation under this subsection has become effective under paragraph (2)(B), an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such

1 designation as a defense or an objection at any hear-  
2 ing.

3 “(b) JUDICIAL REVIEW OF DESIGNATION.—

4 “(1) IN GENERAL.—Not later than 60 days  
5 after publication of the designation in the Federal  
6 Register, an group or association designated as a  
7 criminal street gang may seek judicial review of the  
8 designation in the United States Court of Appeals  
9 for the District of Columbia Circuit.

10 “(2) BASIS OF REVIEW.—Review under this  
11 subsection shall be based solely upon the administra-  
12 tive record.

13 “(3) SCOPE OF REVIEW.—The court shall hold  
14 unlawful and set aside a designation the court finds  
15 to be—

16 “(A) arbitrary, capricious, an abuse of dis-  
17 cretion, or otherwise not in accordance with  
18 law;

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

21 “(C) in excess of statutory jurisdiction, au-  
22 thority, or limitation, or short of statutory  
23 right;

24 “(D) lacking substantial support in the ad-  
25 ministrative record taken as a whole; or

1 “(E) not in accord with the procedures re-  
2 quired by law.

3 “(4) JUDICIAL REVIEW INVOKED.—The pend-  
4 ency of an action for judicial review of a designation  
5 shall not affect the application of this section, unless  
6 the court issues a final order setting aside the des-  
7 ignation.

8 “(c) RELEVANT COMMITTEE DEFINED.—As used in  
9 this section, the term ‘relevant committees’ means the  
10 Committees on the Judiciary of the House of Representa-  
11 tives and of the Senate.”.

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

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

16 **SEC. 508. MANDATORY DETENTION OF SUSPECTED CRIMI-**  
17 **NAL STREET GANG MEMBERS.**

18 (a) IN GENERAL.—Section 236(c)(1)(d) of the Immi-  
19 gration and Nationality Act (8 U.S.C. 1226(c)(1)(d)) is  
20 amended—

21 (1) by inserting “or 212(a)(2)(J)” after  
22 “212(a)(3)(B)”; and

23 (2) by inserting “or 237(a)(2)(F)” before  
24 “237(a)(4)(B)”.



1 (b) ANNUAL REPORT.—Not later than March 1 of  
2 each year (beginning 1 year after the date of the enact-  
3 ment of this Act), the Secretary of Homeland Security,  
4 after consultation with the appropriate Federal agencies,  
5 shall submit a report to the Committees on the Judiciary  
6 of the House of Representatives and of the Senate on the  
7 number of aliens detained under the amendments made  
8 by subsection (a).

9 **SEC. 509. INELIGIBILITY FROM PROTECTION FROM RE-**  
10 **MOVAL AND ASYLUM.**

11 (a) INAPPLICABILITY OF RESTRICTION ON REMOVAL  
12 TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the  
13 Immigration and Nationality Act (8 U.S.C.  
14 1251(b)(3)(B)) is amended, in the matter preceding  
15 clause (i), by inserting “who is described in section  
16 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is” after  
17 “to an alien”.

18 (b) INELIGIBILITY FOR ASYLUM.—Section  
19 208(b)(2)(A) of such act (8 U.S.C. 1158(b)(2)(A)) is  
20 amended—

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

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

23 and

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

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

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

9 “(C) LIMITATION ON JUDICIAL REVIEW.—  
 10 There shall be no judicial review of any finding  
 11 under subparagraph (B) that an alien is de-  
 12 scribed in section 208(b)(2)(A)(vi).”.

13 **SEC. 510. PENALTIES FOR MISUSING SOCIAL SECURITY**  
 14 **NUMBERS OR FILING FALSE INFORMATION**  
 15 **WITH SOCIAL SECURITY ADMINISTRATION.**

16 (a) MISUSE OF SOCIAL SECURITY NUMBERS.—

17 (1) IN GENERAL.—Section 208(a) of the Social  
 18 Security Act (42 U.S.C. 408(a)) is amended—

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

21 “(D) with intent to deceive, discloses, sells,  
 22 or transfers his own social security account  
 23 number, assigned to him by the Commissioner  
 24 of Social Security (in the exercise of the Com-  
 25 missioner’s authority under section 205(c)(2) to

1 establish and maintain records), to any person;  
2 or”;

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

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

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

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

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

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

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

15          (b) REPORT ON ENFORCEMENT EFFORTS CON-  
16          CERNING EMPLOYERS FILING FALSE INFORMATION RE-  
17          TURNS.—The Commissioner of Internal Revenue and the  
18          Commissioner of Social Security shall submit an annual  
19          report to the appropriate congressional committees on ef-  
20          forts taken to identify and enforce penalties against em-  
21          ployers that file incorrect information returns.

1       **Subtitle B—Detention, Removal**  
2                               **and Departure**

3       **SEC. 511. VOLUNTARY DEPARTURE.**

4           (a) IN GENERAL.—Section 240B of the Immigration  
5 and Nationality Act (8 U.S.C. 1229c) is amended to read  
6 as follows:

7                               “VOLUNTARY DEPARTURE

8           “SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The  
9 Secretary of Homeland Security may permit an alien vol-  
10 untarily to depart the United States at the alien’s own  
11 expense under this subsection, in lieu of being subject to  
12 proceedings under section 240 and in lieu of applying for  
13 another form of relief from removal, if the alien is not  
14 deportable under paragraph (2)(A)(iii) or (4)(B) of section  
15 237(a). Permission to depart voluntarily under this sub-  
16 section shall not be valid for a period exceeding 90 days  
17 and cannot be extended. The Secretary of Homeland Secu-  
18 rity shall require an alien permitted to depart voluntarily  
19 under this subsection to post a voluntary departure bond,  
20 in an amount necessary to ensure that the alien will de-  
21 part, to be surrendered upon proof that the alien has de-  
22 parted the United States within the time specified.

23           “(b) PRIOR TO SCHEDULING MERITS HEARING.—  
24 The Secretary of Homeland Security may permit an alien  
25 voluntarily to depart the United States at the alien’s own

1 expense under this subsection prior to the scheduling of  
2 the first merits hearing, in lieu of applying for another  
3 form of relief from removal, if the alien is not deportable  
4 under paragraph (2)(A)(iii) or (4)(B) of section 237(a).  
5 Permission to depart voluntarily under this subsection  
6 shall not be valid for a period exceeding 60 days and can-  
7 not be extended. The Secretary shall require an alien per-  
8 mitted to depart voluntarily under this subsection to post  
9 a voluntary departure bond, in an amount necessary to  
10 ensure that the alien will depart, to be surrendered upon  
11 proof that the alien has departed the United States within  
12 the time specified.

13 “(c) ONCE FIRST MERITS HEARING SCHEDULED.—

14 “(1) IN GENERAL.—Once the first merits hear-  
15 ing has been scheduled under section 240, the Sec-  
16 retary of Homeland Security may permit an alien  
17 voluntarily to depart the United States at the alien’s  
18 own expense under this subsection, in lieu of pur-  
19 suing another form of relief from removal, if the im-  
20 migration judge enters an order granting voluntary  
21 departure in lieu of removal and finds that—

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

1           “(B) the alien is, and has been, a person  
2           of good moral character for at least 5 years im-  
3           mediately preceding the alien’s application for  
4           voluntary departure;

5           “(C) the alien is not deportable under  
6           paragraph (2)(A)(iii) or (4)(B) of section  
7           237(a); and

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

12          “(2) PERIOD.—Permission to depart voluntarily  
13          under this subsection shall not be valid for a period  
14          exceeding 45 days and cannot be extended.

15          “(3) BOND.—The Secretary of Homeland Secu-  
16          rity shall require an alien permitted to depart volun-  
17          tarily under this subsection to post a voluntary de-  
18          parture bond, in an amount necessary to ensure that  
19          the alien will depart, to be surrendered upon proof  
20          that the alien has departed the United States within  
21          the time specified.

22          “(d) ALIENS NOT ELIGIBLE.—The Secretary of  
23          Homeland Security shall not permit an alien to depart vol-  
24          untarily under this section if the alien was previously per-

mitted to depart voluntarily under section 244(e) or this section, or to voluntarily return, at any time.

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

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

“(g) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien’s arrival, subsections (a) through (c) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from with-



1 drawing the application for admission in accordance with  
2 section 235(a)(4).

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

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall take effect on the date of the enact-  
13 ment of this Act and shall apply to aliens who are in pro-  
14 ceedings under the Immigration and Nationality Act on  
15 or after such date if those proceedings have not resulted  
16 in a final administrative order before such date.

17 (c) VOLUNTARY DEPARTURE AGREEMENTS NEGO-  
18 TIATED BY STATE OR LOCAL COURTS.—

19 (1) The Secretary of Homeland Security may  
20 permit an alien voluntarily to depart the United  
21 States at the alien’s own expense under this sub-  
22 section at any time prior to the scheduling of the  
23 first merits hearing, in lieu of applying for another  
24 form of relief from removal, if the alien—

25 (A) is deportable under section 237(a)(1),

1 (B) is charged in a criminal proceeding in  
2 a state or local court for which conviction would  
3 subject the alien to deportation under sub-  
4 sections 237(a)(2) through (a)(6), and

5 (C) has accepted a plea bargain in such  
6 proceeding which stipulates that the alien, after  
7 consultation with counsel in such proceeding, (i)  
8 voluntarily waives application for another form  
9 of relief from removal, (ii) consents to transpor-  
10 tation, under custody of a law enforcement offi-  
11 cer of the state or local court, to an appropriate  
12 international port of entry where departure  
13 from the United States will occur, (iii) pos-  
14 sesses or will promptly obtain travel documents  
15 issued by the foreign state of which the alien is  
16 a national or legal resident, and (iv) possesses  
17 the means to purchase transportation from the  
18 port of entry to the foreign state to which the  
19 alien will depart from the United States.

20 (2) The Secretary shall promptly review an ap-  
21 plication for voluntary departure for compliance with  
22 the requirements of paragraph (1). The Secretary  
23 shall permit voluntary departure under this sub-  
24 section unless the state or local jurisdiction is in-  
25 formed in writing no later than 30 days after such

1 application is filed, that the Secretary intends to  
2 seek removal under section 240.

3 **SEC. 512. EXPEDITED EXCLUSION.**

4 Section 235(b)(1)(A) of the Immigration and Nation-  
5 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking  
6 clauses (i) through (iii) and inserting the following:

7 “(i) IN GENERAL.—If an immigration  
8 officer determines that an alien (other  
9 than an alien described in subparagraph  
10 (F)) who is arriving in the United States,  
11 or who has not been admitted or paroled  
12 into the United States and has not been  
13 physically present in the United States  
14 continuously for the 5- year period imme-  
15 diately prior to the date of the determina-  
16 tion of inadmissibility under this para-  
17 graph, is inadmissible under section  
18 212(a)(6)(c) or 212(a)(7), the officer shall  
19 order the alien removed from the United  
20 States without further hearing or review,  
21 unless—

22 “(I) the alien has been charged  
23 with a crime; or

24 “(II) the alien indicates an inten-  
25 tion to apply for asylum under section

1                   208 or a fear of persecution and the  
2                   officer determines that the alien has  
3                   been physically present in the United  
4                   States for less than 1 year.

5                   “(ii) CLAIMS FOR ASYLUM.—If an im-  
6                   migration officer determines that an alien  
7                   (other than an alien described in subpara-  
8                   graph (F)) who is arriving in the United  
9                   States, or who has not been admitted or  
10                  paroled into the United States and has not  
11                  been physically present in the United  
12                  States continuously for the 5-year period  
13                  immediately prior to the date of the deter-  
14                  mination of inadmissibility under this  
15                  paragraph, is inadmissible under section  
16                  212(a)(6)(C) or 212(a)(7), and the alien  
17                  indicates either an intention to apply for  
18                  asylum under section 208 or a fear of per-  
19                  secution, the officer shall refer the alien  
20                  for an interview by an asylum officer under  
21                  subparagraph (B) if the officer determines  
22                  that the alien has been physically present  
23                  in the United States for less than 1 year.”.

1 **SEC. 513. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

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

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

7 (2) in subsection (a), by amending the sub-  
8 section heading to read as follows: “EXPEDITED RE-  
9 MOVAL FROM CORRECTIONAL FACILITIES”;

10 (3) in subsection (b), by amending the sub-  
11 section heading to read as follows: “REMOVAL OF  
12 CRIMINAL ALIENS”;

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

15 “(1) IN GENERAL.—The Secretary may, in the  
16 case of an alien described in paragraph (2), deter-  
17 mine the deportability of such alien and issue an  
18 order of removal pursuant to the procedures set  
19 forth in this subsection or section 240.

20 “(2) ALIENS DESCRIBED.—An alien is de-  
21 scribed in this paragraph if the alien, whether or not  
22 admitted into the United States, was convicted of  
23 any criminal offense described in subparagraph  
24 (A)(iii), (C), or (D) of section 237(a)(2).”;

25 (5) in the first subsection (c) (relating to pre-  
26 sumption of deportability), by striking “convicted of

1 an aggravated felony” and inserting “described in  
2 paragraph (b)(2)”;

3 (6) by redesignating the second subsection (c)  
4 (relating to judicial removal) as subsection (d); and  
5 (7) in subsection (d)(5) (as so redesignated), by  
6 striking “, who is deportable under this Act,”.

7 (b) LIMIT ON INJUNCTIVE RELIEF.—Section  
8 242(f)(2) of such Act (8 U.S.C. 1252(f)(2)) is amended  
9 by inserting “or stay, whether temporarily or otherwise,”  
10 after “enjoin”.

11 **SEC. 514. REINSTATEMENT OF PREVIOUS REMOVAL OR-**  
12 **DERS.**

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

15 “(5) REINSTATEMENT OF PREVIOUS REMOVAL  
16 ORDERS.—

17 “(A) REMOVAL.—The Secretary of Home-  
18 land Security shall remove an alien who is an  
19 applicant for admission (other than an admis-  
20 sible alien presenting himself or herself for in-  
21 spection at a port of entry or an alien paroled  
22 into the United States under section  
23 212(d)(5)), after having been, on or after Sep-  
24 tember 30, 1996, excluded, deported, or re-

1 moved, or having departed voluntarily under an  
2 order of exclusion, deportation, or removal.

3 “(B) JUDICIAL REVIEW.—The removal de-  
4 scribed in subparagraph (A) shall not require  
5 any proceeding before an immigration judge,  
6 and shall be under the prior order of exclusion,  
7 deportation, or removal, which is not subject to  
8 reopening or review. The alien is not eligible  
9 and may not apply for or receive any immigra-  
10 tion relief or benefit under this Act or any other  
11 law, with the exception of sections 208 or  
12 241(b)(3) or the United Nations Convention  
13 Against Torture and Other Cruel, Inhuman, or  
14 Degrading Treatment or Punishment in the  
15 case of an alien who indicates either an inten-  
16 tion to apply for asylum under section 208 or  
17 a fear of persecution or torture.”.

18 **SEC. 515. CANCELLATION OF REMOVAL.**

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

22 “(7) An alien who is inadmissible under section  
23 212(a)(9)(B)(i).”.

24 **SEC. 516. DETENTION OF DANGEROUS ALIENS.**

25 (a) REMOVAL OF TERRORIST ALIENS.—

1           (1) IN GENERAL.—Title II of the Immigration  
2           and Nationality Act (8 U.S.C. 1151 et seq.) is  
3           amended—

4                   (A) in section 208(b)(2)(A) (8 U.S.C.  
5           1158(b)(2)(A)), by amending clause (v) to read  
6           as follows:

7           “(v) the alien is described in section 212(a)(3)(B),  
8   212(a)(3)(F), or 237(a)(4)(B) unless, in the case only of  
9   an alien described in section 212(a)(3)(B)(i)(IV), the Sec-  
10   retary of Homeland Security or the Attorney General de-  
11   termines that there are not reasonable grounds for regard-  
12   ing the alien as a danger to the security of the United  
13   States; or”;

14                   (B) in section 240A(c) (8 U.S.C.  
15           1229b(c)), by amending paragraph (4) to read  
16           as follows:

17           “(4) An alien described in section 212(a)(3) or  
18   237(a)(4).”;

19                   (C) in section 240B(b)(1)(C) (8 U.S.C.  
20           1229c(b)(1)(C)), by striking “deportable  
21           under” and inserting “described in”;

22                   (D) in section 241(b)(3)(B) (8 U.S.C.  
23           1251(b)(3)(B))—

24                           (i) in clause (iii), by striking “or” at  
25           the end;



1 (ii) in clause (iv), by striking the pe-  
2 riod at the end and inserting “; or”;

3 (iii) by inserting after clause (iv) the  
4 following:

5 “(v) the alien is described in section  
6 212(a)(3)(B), 212(a)(3)(F), or  
7 237(a)(4)(B), unless, in the case only of  
8 an alien described in section  
9 212(a)(3)(B)(i)(IV), the Secretary of  
10 Homeland Security or the Attorney Gen-  
11 eral determines that there are not reason-  
12 able grounds for regarding the alien as a  
13 danger to the security of the United  
14 States.”; and

15 (iv) by striking “For purposes of  
16 clause (iv)” and all that follows; and  
17 (E) in section 249 (8 U.S.C. 1259)—

18 (i) by striking “inadmissible under  
19 section 212(a)(3)(E) or under section” and  
20 inserting “described in section  
21 212(a)(3)(E) or”; and

22 (ii) in subsection (d), by striking “to  
23 citizenship and is not deportable under”  
24 and inserting “for citizenship and is not  
25 described in”.

1           (2) EFFECTIVE DATE.—The amendments made  
2       by paragraph (1) shall take effect on the date of en-  
3       actment of this Act and shall apply to—

4           (A) all aliens subject to removal, deporta-  
5       tion, or exclusion at any time; and

6           (B) acts and conditions constituting a  
7       ground for inadmissibility, excludability, depor-  
8       tation, or removal occurring or existing before,  
9       on, or after such effective date.

10       (b) DETENTION OF DANGEROUS ALIENS.—

11           (1) IN GENERAL.—Section 241(a) of the Immi-  
12       gration and Nationality Act (8 U.S.C. 1231(a)) is  
13       amended—

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

17           (B) in paragraph (2), by inserting “If a  
18       court orders a stay of removal of an alien who  
19       is subject to an order of removal that is admin-  
20       istratively final, the Secretary of Homeland Se-  
21       curity, in the exercise of the Secretary’s discre-  
22       tion, may detain the alien during the pendency  
23       of such stay of removal, before the beginning of  
24       the removal period, as provided in paragraph  
25       (1)(B)(ii).” after “detain the alien.”; and

1 (C) in paragraph (6), by striking “removal  
2 period and, if released,” and inserting “removal  
3 period, in the discretion of the Secretary, with-  
4 out any limitations other than those specified  
5 by the Secretary of Homeland Security by regu-  
6 lation, until the alien is removed. If an alien is  
7 released, the alien”.

8 (2) EFFECTIVE DATE.—The amendments made  
9 by paragraph (1) shall take effect upon the date of  
10 enactment of this Act, and shall apply to cases in  
11 which the final administrative removal order was  
12 issued before, on, or after such date.

13 **SEC. 517. ALTERNATIVES TO DETENTION.**

14 The Secretary of Homeland Security shall implement  
15 pilot programs in six States with the largest estimated  
16 populations of deportable aliens to study the effectiveness  
17 of alternatives to detention, including electronic moni-  
18 toring devices and intensive supervision programs, in en-  
19 suring alien appearance at court and compliance with re-  
20 moval orders.

21 **SEC. 518. RELEASE OF ALIENS FROM NONCONTIGUOUS**  
22 **COUNTRIES.**

23 (a) MINIMUM BOND.—Section 236(a)(2) of the Im-  
24 migration and Nationality Act (8 U.S.C. 1226(a)(2)) is  
25 amended—

1 (1) by striking “on”;

2 (2) in subparagraph (a)—

3 (A) by inserting “except as provided under  
4 subparagraph (B), upon the giving of a” before  
5 “bond”; and

6 (B) by striking “or” at the end;

7 (3) by redesignating subparagraph (B) as sub-  
8 paragraph (C); and

9 (4) by inserting after subparagraph (A) the fol-  
10 lowing:

11 “(B) if the alien is a national of a non-  
12 contiguous country, has not been admitted or  
13 paroled into the United States, and was appre-  
14 hended within 100 miles of the international  
15 border of the United States or presents a flight  
16 risk, as determined by the Secretary of Home-  
17 land Security, upon the giving of a bond of at  
18 least \$5,000 with security approved by, and  
19 containing conditions prescribed by, the Sec-  
20 retary of Homeland Security or the Attorney  
21 General; or”.

22 (b) REPORT.—Two years after the effective date of  
23 this Act, the Secretary of Homeland Security shall submit  
24 a report to Congress on the number of aliens from non-

1 contiguous countries who are apprehended between land  
2 border ports of entry.

3 **SEC. 519. CONTINUANCES; CHANGES OF VENUE.**

4 (a) IN GENERAL.—Section 240(b)(1) of the Immi-  
5 gration and Nationality Act (8 U.S.C. 1229a(b)(1)) is  
6 amended by adding at the end the following:  
7 “The immigration judge may not grant a continuance to  
8 permit an alien to become eligible for relief under any pro-  
9 vision of law. In proceedings under this section or under  
10 section 236, the immigration judge may not grant a  
11 change of venue for an alien who has not been inspected  
12 and admitted or paroled into the United States. For all  
13 other aliens, the immigration judge may grant a change  
14 of venue only if the alien demonstrates that the alien can-  
15 not obtain a fair proceeding in the current venue.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall take effect on the date of the enact-  
18 ment of this Act and shall apply to continuances and  
19 changes of venue sought after such date.

20 **SEC. 520. AUTHORIZATION OF APPROPRIATIONS.**

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

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