

109TH CONGRESS  
2D SESSION

# S. 2394

To improve border security, to increase criminal penalties for certain crimes related to illegal aliens, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 9, 2006

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

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## A BILL

To improve border security, to increase criminal penalties for certain crimes related to illegal aliens, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Border Security Act of 2006”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—BORDER SECURITY

Sec. 101. Personnel.

- Sec. 102. Federal Law Enforcement Training Center.
- Sec. 103. Interagency asset sharing.
- Sec. 104. Technology and Infrastructure.
- Sec. 105. State and local grants.

## TITLE II—AGRICULTURAL WORKERS

- Sec. 201. Limitation on H-2A nonimmigrant wage requirement.
- Sec. 202. Extension of preemption to required construction of day laborer shelters.

## TITLE III—PENALTIES

- Sec. 301. Increased criminal penalties for alien smuggling.
- Sec. 302. Increased criminal penalties for document fraud.
- Sec. 303. Increased criminal penalties for certain crimes.
- Sec. 304. Increased criminal penalties for criminal street gangs.
- Sec. 305. Additional penalties.

## TITLE IV—REMOVAL AND VIOLATION TRACKING

- Sec. 401. Institutional removal program.
- Sec. 402. Authorization for detention after completion of state or local prison sentence.
- Sec. 403. Use of the National Crime Information Center Database to track violations of immigration law.

### 1 **SEC. 2. DEFINITIONS.**

2       In this Act:

3           (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
 4       **TEES.**—The term “appropriate congressional com-  
 5       mittees” means the Committee on Homeland Secu-  
 6       rity and Governmental Affairs of the Senate and the  
 7       Committee on Homeland Security of the House of  
 8       Representatives.

9           (2) **BORDER.**—The term “border” means the  
 10      international border between the United States and  
 11      Canada and between the United States and Mexico.

12          (3) **SECRETARY.**—The term “Secretary” means  
 13      the Secretary of Homeland Security.

# **TITLE I—BORDER SECURITY**

## **SEC. 101. PERSONNEL.**

(a) CBP AGENTS.—In addition to the positions authorized under section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in each of fiscal years 2007 through 2011, the Secretary shall increase by not less than 1,500 the number of positions for full-time, active-duty agents within the Bureau of Customs and Border Protection.

(b) ICE AGENTS.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in each of fiscal years 2007 through 2011, the Secretary shall increase by not less than 1,500 the number of positions for full-time, active-duty agents within the Bureau of Immigration and Customs Enforcement.

(c) EMPLOYMENT OF RETIRED LAW ENFORCEMENT OFFICERS.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of hiring, on a part-time basis, retired Federal law enforcement officers to supplement the capabilities of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement.

1           (2) REPORT.—Not later than 180 days after  
2           the date of enactment of this Act, the Secretary  
3           shall submit a report, in classified form, if nec-  
4           essary, to the appropriate congressional committees.  
5           The report shall include—

6                   (A) the results of the study conducted  
7                   under paragraph (1); and

8                   (B) a plan to implement a program that  
9                   employs retired Federal law enforcement offi-  
10                  cers for border security, if the Secretary deter-  
11                  mines that such plan is feasible.

12          (3) IMPLEMENTATION.—If the Secretary deter-  
13          mines that the plan described in paragraph (2)(B)  
14          is feasible, the Secretary shall implement the plan  
15          not later than 90 days after the submission of the  
16          report to Congress under paragraph (2).

17          (d) RECRUITMENT AND RETENTION PROGRAM.—

18                (1) IMPLEMENTATION.—The Secretary shall  
19                conduct a 5-year program to facilitate the recruit-  
20                ment and retention of agents within the Bureau of  
21                Customs and Border Protection and the Bureau of  
22                Immigration and Customs Enforcement.

23                (2) REPORT.—Not less frequently than once  
24                every 90 days during the 5-year period of the pro-  
25                gram authorized under paragraph (1), the Secretary

1       shall submit a report on the results and progress of  
2       the program, in classified form, if necessary, to the  
3       appropriate congressional committees.

4       (e) OTHER PERSONNEL.—In each of fiscal years  
5 2007 through 2011, the Secretary and the Attorney Gen-  
6 eral shall increase, to the extent determined necessary by  
7 the Secretary and the Attorney General, the number of—

8           (1) Department of Homeland Security per-  
9       sonnel, including attorneys, who have responsibilities  
10      involving illegal aliens or immigration issues;

11           (2) attorneys participating in the Federal De-  
12      fenders Program;

13           (3) attorneys in United States Attorneys' Of-  
14      fices;

15           (4) attorneys in the Office of Immigration Liti-  
16      gation;

17           (5) deputy marshals in the United States Mar-  
18      shals Service; and

19           (6) immigration judges.

20       (f) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated for each of fiscal years  
22 2007 through 2011 such sums as may be necessary to  
23 carry out this section.

1 **SEC. 102. FEDERAL LAW ENFORCEMENT TRAINING CEN-**  
2 **TER.**

3 (a) INFRASTRUCTURE IMPROVEMENTS.—The Sec-  
4 retary shall make necessary improvements to the following  
5 law enforcement training facilities:

6 (1) The Federal Law Enforcement Training  
7 Center in Glynco, Georgia.

8 (2) The residential training sites located in  
9 Artesia, New Mexico and Charleston, South Caro-  
10 lina.

11 (3) The inservice requalification training facility  
12 located in Cheltenham, Maryland.

13 (b) TRAINING ENHANCEMENTS.—The Secretary  
14 shall improve the training of agents within the Bureau of  
15 Customs and Border Protection and the Bureau of Immi-  
16 gration and Customs Enforcement and other personnel in  
17 the Department of Homeland Security with similar re-  
18 sponsibilities. Such improvements shall include—

19 (1) the acquisition of appropriate training aids;

20 (2) hiring qualified instructors; and

21 (3) instruction on fraudulent document detec-  
22 tion.

23 **SEC. 103. INTERAGENCY ASSET SHARING.**

24 (a) STUDY.—The Secretary, in consultation with the  
25 Secretary of Defense, shall conduct a study of the feasi-  
26 bility of using National Guard personnel and assets of the

1 Department of Defense, including all terrain vehicles and  
 2 unmanned aerial vehicles, to assist the Bureau of Customs  
 3 and Border Protection.

4 (b) REPORT.—

5 (1) IN GENERAL.—Not later than 90 days after  
 6 the date of the enactment of this Act, the Secretary  
 7 shall submit a report, in classified form, if nec-  
 8 essary, to the appropriate congressional committees.

9 (2) CONTENTS.—The report submitted under  
 10 paragraph (1) shall include—

11 (A) the results of the study conducted  
 12 under subsection (a); and

13 (B) a plan to implement a program that  
 14 employs retired Federal law enforcement offi-  
 15 cers for border security, if the Secretary deter-  
 16 mines that such plan is feasible.

17 (c) IMPLEMENTATION.—If the Secretary determines  
 18 that the plan described in subsection (b)(2)(B) is feasible,  
 19 the Secretary shall implement the plan not later than 90  
 20 days after the submission of the report to Congress under  
 21 subsection (b).

## 22 **SEC. 104. TECHNOLOGY AND INFRASTRUCTURE.**

23 (a) TECHNOLOGIES.—Not later than 90 days after  
 24 the date of enactment of this Act, the Secretary shall sub-  
 25 mit a report, in classified form if necessary, to the appro-

1 piate congressional committees. The report shall contain  
2 a plan to utilize new and existing technologies to assist  
3 the Bureau of Customs and Border Protection and the  
4 Bureau of Immigration and Customs Enforcement in se-  
5 curing the border.

6 (b) BORDER WALL.—

7 (1) IN GENERAL.—Not later than 90 days after  
8 the date of enactment of this Act, the Secretary  
9 shall initiate a process for planning, constructing,  
10 and maintaining a permanent barrier, fence, or wall  
11 in appropriate areas along the border.

12 (2) REPORT.—Not less frequently than once  
13 every 90 days, the Secretary shall submit a report,  
14 in a classified form if necessary, to the appropriate  
15 congressional committees on the progress made in  
16 carrying out paragraph (1).

17 (c) DETENTION FACILITIES.—

18 (1) CONSTRUCTION.—The Attorney General  
19 shall plan, construct, maintain, and acquire addi-  
20 tional detention facilities for the purpose of immi-  
21 gration detention and removal.

22 (2) USE OF CLOSED OR UNUSED MILITARY IN-  
23 STALLATIONS.—The Secretary, in consultation with  
24 the Secretary of Defense, shall conduct a study of  
25 the feasibility of using military installations des-



1       ignated for closure or realignment as possible immi-  
2       gration detention centers.

3       (d) PORTS OF ENTRY.—

4               (1) INFRASTRUCTURE REPORT.—The Adminis-  
5       trator of General Services shall submit an annual re-  
6       port to Congress that—

7                       (A) describes the status of the infrastruc-  
8       ture at ports of entry into the United States;  
9       and

10                      (B) identifies projects to improve security  
11       at such ports of entry.

12               (2) VULNERABILITY REPORT.—Not less fre-  
13       quently than once every 6 months, the Secretary  
14       shall submit a report, in classified form if necessary,  
15       to the appropriate congressional committees on  
16       vulnerabilities at ports of entry into the United  
17       States.

18               (3) DEMONSTRATION PROGRAMS.—The Sec-  
19       retary shall establish demonstration programs to  
20       evaluate and assess border security and port of entry  
21       technologies.

22       (e) ACCESS ROADS.—The Secretary is authorized to  
23       plan, construct, and maintain necessary access roads to  
24       secure the border.

1 (f) UNMANNED AERIAL VEHICLES AND ASSOCIATED  
2 INFRASTRUCTURE.—The Secretary shall acquire and  
3 maintain unmanned aerial vehicles for use on the border,  
4 including related equipment such as—

- 5 (1) additional sensors;
- 6 (2) critical spares;
- 7 (3) satellite command and control; and
- 8 (4) other necessary equipment for operational  
9 support.

10 (g) ACQUISITION OF ADDITIONAL ASSETS.—The Sec-  
11 retary shall—

- 12 (1) plan, construct, and maintain new and ex-  
13 isting permanent and temporary checkpoints on the  
14 border; and

- 15 (2) acquire and maintain physical assets nec-  
16 essary to secure the border, including—

- 17 (A) all terrain vehicles;
- 18 (B) police vehicles;
- 19 (C) aircraft, including helicopters;
- 20 (D) interoperable communications equip-  
21 ment;
- 22 (E) firearms;
- 23 (F) sensors;
- 24 (G) cameras;
- 25 (H) lighting; and

1 (I) such other equipment, technologies, and  
2 other assets necessary to secure the border.

3 (h) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There are authorized to be  
5 appropriated for each of fiscal years 2007 through  
6 2011—

7 (A) such sums as may be necessary to  
8 carry out subsection (b);

9 (B) such sums as may be necessary to  
10 carry out subsection (c);

11 (C) \$150,000,000 to be used by the Sec-  
12 retary to plan, construct, maintain, and imple-  
13 ment improvement projects identified under  
14 subsection (d)(1)(B);

15 (D) \$25,000,000 to carry out subsection  
16 (d)(3); and

17 (E) \$1,000,000,000 to carry out sub-  
18 section (g).

19 (2) UNMANNED AERIAL VEHICLES.—There are  
20 authorized to be appropriated to the Department of  
21 Homeland Security to carry out subsection (f)—

22 (A) \$178,400,000 for fiscal year 2007; and

23 (B) \$276,000,000 for each of fiscal years  
24 2008 and 2009.

1 **SEC. 105. STATE AND LOCAL GRANTS.**

2 (a) GRANTS AUTHORIZED.—The Secretary shall  
3 award competitive grants to eligible State, local, and tribal  
4 law enforcement agencies to provide financial assistance  
5 for costs related to border security activities, including ef-  
6 forts to combat criminal activity within the jurisdiction of  
7 such agencies.

8 (b) USE OF FUNDS.—Grants awarded under this sec-  
9 tion shall be used to provide additional resources for law  
10 enforcement agencies to combat criminal activity occur-  
11 ring near the border, including—

12 (1) law enforcement technologies;

13 (2) equipment, such as police-type vehicles, all-  
14 terrain vehicles, firearms, sensors, cameras, and  
15 lighting, and maintenance for such equipment;

16 (3) computer equipment; and

17 (4) such other resources that may be available  
18 to assist the law enforcement agency with border se-  
19 curity.

20 (c) APPLICATION.—A law enforcement agency desir-  
21 ing a grant under this section shall submit an application  
22 to the Secretary at such time, in such manner, and con-  
23 taining such information as the Secretary may require.

24 (d) SELECTION CRITERIA.—In selecting grant recipi-  
25 ents under this section, the Secretary shall give priority

1 to applicants providing law enforcement for jurisdictions  
2 that—

3 (1) are close to the border;

4 (2) have small populations;

5 (3) have more felony criminal cases filed per  
6 United States district court judge;

7 (4) are located in States with more undocu-  
8 mented aliens, based on the most recent decennial  
9 census; or

10 (5) are located in States with more undocu-  
11 mented alien apprehensions in the most recent fiscal  
12 year.

## 13 **TITLE II—AGRICULTURAL** 14 **WORKERS**

### 15 **SEC. 201. LIMITATION ON H-2A NONIMMIGRANT WAGE RE-** 16 **QUIREMENT.**

17 (a) SHORT TITLE.—This section may be cited as the  
18 “Wage Equity Act of 2006”.

19 (b) CONDITIONS FOR APPROVAL OF H-2A PETI-  
20 TIONS.—Section 218(a) of the Immigration and Nation-  
21 ality Act (8 U.S.C. 1188(a)) is amended—

22 (1) by redesignating paragraph (2) as para-  
23 graph (3); and

24 (2) by inserting after paragraph (1) the fol-  
25 lowing:

1       “(2)(A) In making the certification described in para-  
2 graph (1), the Secretary of Labor may not require an em-  
3 ployer to pay workers an amount that is greater than—

4               “(i) the prevailing wage for seasonal agricul-  
5 tural workers in the occupation in the area of in-  
6 tended employment, or

7               “(ii) the greater of—

8                       “(I) the hourly wage described in section  
9 6(a)(1) of the Fair Labor Standards Act of  
10 1938 (29 U.S.C. 206(a)(1)); or

11                      “(II) the applicable State minimum wage.

12       “(B) In complying with subparagraph (A)(i), an em-  
13 ployer (or the employer’s agent) may request and obtain  
14 a prevailing wage determination from the State employ-  
15 ment security agency. An employer who obtains such a  
16 determination and pays the wage determined to be pre-  
17 vailing shall be considered to have met the requirement  
18 of subparagraph (A)(i).

19       “(C) In lieu of the procedure described in subpara-  
20 graph (B), an employer may rely on other wage informa-  
21 tion, including a survey of the prevailing wages of workers  
22 in the occupation in the area of intended employment that  
23 has been conducted or funded by the employer or a group  
24 of employers, that meets criteria specified by the Secretary  
25 of Labor in regulations.

1       “(D) If the prevailing wage described in subpara-  
2 graph (A)(i) is an hourly wage, the employer may pay  
3 workers in the occupation by an incentive method of pay  
4 such as a piece rate, task rate, group incentive rate, or  
5 other incentive method, if the average hourly earnings of  
6 the employer’s workers paid by such incentive method,  
7 taken as a group, are at least equal to the prevailing hour-  
8 ly wage required by subparagraph (A)(i) for the hours  
9 worked at the incentive payment method, after making  
10 any additions to any worker’s pay required to comply sub-  
11 paragraph (A)(ii).”.

12       (c) DEFINITION.—Section 218(i) of the Immigration  
13 and Nationality Act (8 U.S.C. 1188(i)) is amended by  
14 adding at the end the following:

15               “(3) The term ‘prevailing wage’ means, with re-  
16 spect to an agricultural occupation in an area of in-  
17 tended employment, the rate of wages that includes  
18 the 51st percentile of employees with similar experi-  
19 ence and qualifications in the agricultural occupation  
20 in the area of intended employment, expressed in  
21 terms of the prevailing method of pay for the occu-  
22 pation in the area of intended employment.”.

1 **SEC. 202. EXTENSION OF PREEMPTION TO REQUIRED CON-**  
 2 **STRUCTION OF DAY LABORER SHELTERS.**

3 Section 274A(h)(2) of the Immigration and Nation-  
 4 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as  
 5 follows:

6 “(2) PREEMPTION.—This section preempts any  
 7 State or local law that—

8 “(A) imposes civil or criminal sanctions  
 9 (other than through licensing and similar laws)  
 10 upon those who employ, or recruit or refer for  
 11 employment (for a fee), unauthorized aliens; or

12 “(B) requires, as a condition of con-  
 13 ducting, continuing, or expanding a business,  
 14 that a business entity—

15 “(i) provide, build, fund, or maintain  
 16 a shelter, structure, or designated area for  
 17 use by day laborers at or near its place of  
 18 business; or

19 “(ii) take other steps to facilitate the  
 20 employment of day laborers by others.”.

21 **TITLE III—PENALTIES**

22 **SEC. 301. INCREASED CRIMINAL PENALTIES FOR ALIEN**  
 23 **SMUGGLING.**

24 Section 274(a) of the Immigration and Nationality  
 25 Act (8 U.S.C. 1324(a)) is amended—

26 (1) in paragraph (1)(B)—



1 (A) in clause (i), by striking “10 years”  
2 and inserting “15 years”;

3 (B) in clause (ii), by striking “5 years”  
4 and inserting “10 years”; and

5 (C) in clause (iii), by striking “20 years”  
6 and inserting “40 years”;

7 (2) in paragraph (2)—

8 (A) in subparagraph (A), by striking “one  
9 year, or both; or” and inserting “3 years, or  
10 both”;

11 (B) in subparagraph (B)—

12 (i) in clause (i), by adding at the end  
13 the following: “be fined under title 18,  
14 United States Code, and imprisoned not  
15 less than 5 years or more than 25 years;”;

16 (ii) in clause (ii), by striking “or” at  
17 the end and inserting the following: “be  
18 fined under title 18, United States Code,  
19 and imprisoned not less than 3 years or  
20 more than 20 years; or”; and

21 (iii) in clause (iii), by adding at the  
22 end the following: “be fined under title 18,  
23 United States Code, and imprisoned not  
24 more than 15 years; or”; and

1 (C) by striking the matter following clause  
 2 (iii) and inserting the following:

3 “(C) in the case of a third or subsequent  
 4 offense described in subparagraph (B) and for  
 5 any other violation, shall be fined under title  
 6 18, United States Code, and imprisoned not  
 7 less than 5 years nor more than 15 years.”;

8 (3) in paragraph (3)(A), by striking “5 years”  
 9 and inserting “10 years”; and

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

12 **SEC. 302. INCREASED CRIMINAL PENALTIES FOR DOCU-**  
 13 **MENT FRAUD.**

14 Section 1546 of title 18, United States Code, is  
 15 amended—

16 (1) in subsection (a)—

17 (A) by striking “not more than 25 years”  
 18 and inserting “not less than 25 years”;

19 (B) by inserting “and if the terrorism of-  
 20 fense resulted in the death of any person, shall  
 21 be punished by death or imprisoned for life,”  
 22 after “section 2331 of this title)),”;

23 (C) by striking “20 years” and inserting  
 24 “imprisoned not more than 40 years”;

1 (D) by striking “10 years” and inserting  
 2 “imprisoned not more than 20 years”; and  
 3 (E) by striking “15 years” and inserting  
 4 “imprisoned not more than 30 years”; and  
 5 (2) in subsection (b), by striking “5 years” and  
 6 inserting “10 years”.

7 **SEC. 303. INCREASED CRIMINAL PENALTIES FOR CERTAIN**  
 8 **CRIMES.**

9 (a) IN GENERAL.—Title 18, United States Code, is  
 10 amended by inserting after chapter 51 the following:

11 **“CHAPTER 52—ILLEGAL ALIENS**

12 **“SEC. 1131. ENHANCED PENALTIES FOR CERTAIN CRIMES**  
 13 **COMMITTED BY ILLEGAL ALIENS.**

14 “(a) Any alien unlawfully present in the United  
 15 States, who commits, or conspires or attempts to commit,  
 16 a crime of violence or a drug trafficking offense (as de-  
 17 fined in section 924), shall be fined under this title and  
 18 sentenced to not less than 5 years in prison.

19 “(b) If an alien who violates subsection (a) was pre-  
 20 viously ordered removed under the Immigration and Na-  
 21 tionality Act (8 U.S.C. 1101 et seq.) on the grounds of  
 22 having committed a crime, the alien shall be sentenced to  
 23 not less than 15 years in prison.

1       “(c) A sentence of imprisonment imposed under this  
2 section shall run consecutively to any other sentence of  
3 imprisonment imposed for any other crime.”.

4       (b) CLERICAL AMENDMENT.—The table of chapters  
5 at the beginning of part I of title 18, United States Code,  
6 is amended by inserting after the item relating to chapter  
7 51 the following:

“52. Illegal aliens ..... 1131”.

8       **SEC. 304. INCREASED CRIMINAL PENALTIES FOR CRIMINAL**  
9                               **STREET GANGS.**

10       (a) INADMISSIBILITY.—Section 212(a)(2) of the Im-  
11 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is  
12 amended—

13               (1) by redesignating subparagraph (F) as sub-  
14 paragraph (J); and

15               (2) by inserting after subparagraph (E) the fol-  
16 lowing:

17               “(F) ALIENS WHO ARE MEMBERS OF  
18 CRIMINAL STREET GANGS.—Any alien who is  
19 determined by a court to be a member of a  
20 criminal street gang (as defined in section  
21 521(a) of title 18, United States Code) is inad-  
22 missible.”.

23       (b) DEPORTABILITY.—Section 237(a)(2) of the Im-  
24 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is  
25 amended by adding at the end the following:

1           “(F) ALIENS WHO ARE MEMBERS OF  
 2           CRIMINAL STREET GANGS.—Any alien who is  
 3           determined by a court to be a member of a  
 4           criminal street gang (as defined in section  
 5           521(a) of title 18, United States Code) is de-  
 6           portable.”.

7           (c) TEMPORARY PROTECTED STATUS.—Section  
 8   244(c)(2)(B) of the Immigration and Nationality Act (8  
 9   U.S.C. 1254a(c)(2)(B)) is amended—

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

11           (2) in clause (ii), by striking the period at the  
 12           end and inserting “; or”; and

13           (3) by adding at the end the following:

14                   “(iii) the alien is determined by a  
 15                   court to be a member of a criminal street  
 16                   gang (as defined in section 521(a) of title  
 17                   18, United States Code).”.

18   **SEC. 305. ADDITIONAL PENALTIES.**

19           (a) IN GENERAL.—Section 218A of the Immigration  
 20   and Nationality Act, as added by section 402, is amended  
 21   by adding at the end the following:

22           “(f) PENALTIES.—

23                   “(1) GUEST WORKERS.—A guest worker who  
 24                   violates any of the terms described in subsection (d)

1 shall be subject to deportation and shall be ineligible  
2 to receive a nonimmigrant visa under this section.

3 “(2) EMPLOYERS.—

4 “(A) NOTIFICATION OF VIOLATION.—An  
5 employer who fails to notify the Secretary of  
6 Homeland Security after discovering that a  
7 guest worker has violated any of the terms de-  
8 scribed in subsection (d) shall be ineligible to  
9 employ any alien in possession of a non-  
10 immigrant visa issued under section.

11 “(B) EMPLOYMENT OF ILLEGAL WORK-  
12 ERS.—Any employer who knowingly employs a  
13 worker in the United States who is not author-  
14 ized to work in the United States shall be sub-  
15 ject to—

16 “(i) for the first violation, a civil pen-  
17 alty in an amount not to exceed \$25,000;  
18 and

19 “(ii) for the second or subsequent vio-  
20 lation—

21 “(I) a term of imprisonment not  
22 to exceed 2 years for the individual  
23 who hired the unauthorized worker;  
24 and

1 “(II) disqualification of the em-  
 2 ployer from further participation in  
 3 the guest worker program authorized  
 4 under this section.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall take effect on the date which is 2  
 7 years after the date of the enactment of this Act.

## 8 **TITLE IV—REMOVAL AND** 9 **VIOLATION TRACKING**

### 10 **SEC. 401. INSTITUTIONAL REMOVAL PROGRAM.**

11 (a) INSTITUTIONAL REMOVAL PROGRAM.—

12 (1) CONTINUATION.—The Secretary shall con-  
 13 tinue to operate the Institutional Removal Program  
 14 of the Department of Homeland Security to—

15 (A) identify removable criminal aliens in  
 16 Federal and State correctional facilities;

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

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

21 (2) EXPANSION.—Not later than 5 years after  
 22 the date of the enactment of this Act, the Secretary  
 23 shall expand the Institutional Removal Program to  
 24 every State.

1           (3) STATE PARTICIPATION.—The appropriate  
2 officials of each State in which the Secretary is oper-  
3 ating the Institutional Removal Program should—

4                   (A) cooperate with Federal officials car-  
5 rying out the Institutional Removal Program;

6                   (B) expeditiously and systematically iden-  
7 tify criminal aliens in the prison and jail popu-  
8 lations of the State; and

9                   (C) promptly convey the information de-  
10 scribed in subparagraph (B) to the appropriate  
11 officials carrying out the Institutional Removal  
12 Program.

13       (b) REPORT TO CONGRESS.—Not later than 2 years  
14 after of the date of the enactment of this Act, the Sec-  
15 retary shall submit a report to Congress on the participa-  
16 tion of the States in the Institutional Removal Program.

17       (c) AUTHORIZATION OF APPROPRIATIONS.—There  
18 are authorized to be appropriated \$50,000,000 to carry  
19 out the expanded Institutional Removal Program author-  
20 ized under subsection (a).



1 **SEC. 402. AUTHORIZATION FOR DETENTION AFTER COM-**  
2 **PLETION OF STATE OR LOCAL PRISON SEN-**  
3 **TENCE.**

4 (a) IN GENERAL.—Law enforcement officers of a  
5 State or political subdivision of a State are authorized  
6 to—

7 (1) hold an illegal alien for a period of up to  
8 14 days after the alien has completed the alien's  
9 State or local prison sentence in order to effectuate  
10 the transfer of the alien to Federal custody when the  
11 alien is removable or not lawfully present in the  
12 United States; or

13 (2) issue a detainer that would allow aliens who  
14 have served a State or local prison sentence to be  
15 detained by an appropriate prison until personnel  
16 from the Bureau of Immigration and Customs En-  
17 forcement can take the alien into Federal custody.

18 (b) REIMBURSEMENT.—

19 (1) IN GENERAL.—The Secretary shall reim-  
20 burse a State or a political subdivision of a State for  
21 all reasonable expenses incurred by the State or the  
22 political subdivision for the detention of an alien as  
23 described in subsection (a).

24 (2) COST COMPUTATION.—The amount of reim-  
25 bursement provided for costs incurred carrying out

1 subsection (a) shall be determined pursuant to a for-  
 2 mula determined by the Secretary.

3 (c) TECHNOLOGY USAGE.—Technology, such as  
 4 videoconferencing, shall be used to the maximum extent  
 5 possible to make the Institutional Removal Program avail-  
 6 able in remote locations. Mobile access to Federal data-  
 7 bases of aliens and live scan technology shall be used to  
 8 the maximum extent practicable to make these resources  
 9 available to State and local law enforcement agencies in  
 10 remote locations.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 12 are authorized to be appropriated such sums as may be  
 13 necessary to reimburse a State or political subdivision of  
 14 a State for the detention of an illegal alien pursuant to  
 15 subsection (b).

16 **SEC. 403. USE OF THE NATIONAL CRIME INFORMATION**  
 17 **CENTER DATABASE TO TRACK VIOLATIONS**  
 18 **OF IMMIGRATION LAW.**

19 (a) PROVISION OF INFORMATION TO THE NATIONAL  
 20 CRIME INFORMATION CENTER.—

21 (1) IN GENERAL.—Not later than 1 year after  
 22 the date of the enactment of this Act, the Secretary  
 23 shall provide the National Crime Information Center  
 24 of the Department of Justice with such information  
 25 as the Director may have related to—

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

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

7 (C) any alien whose visa has been revoked.

8 (2) REQUIREMENT TO PROVIDE AND USE IN-  
9 FORMATION.—The information described in para-  
10 graph (1) shall be provided to the National Crime  
11 Information Center, and the Center shall enter the  
12 information into the Immigration Violators File of  
13 the National Crime Information Center database if  
14 the name and date of birth are available for the indi-  
15 vidual, regardless of whether the alien received no-  
16 tice of a final order of removal or the alien has al-  
17 ready been removed.

18 (3) REMOVAL OF INFORMATION.—If an indi-  
19 vidual is granted cancellation of removal under sec-  
20 tion 240A of the Immigration and Nationality Act  
21 (8 U.S.C. 1229b), or granted permission to legally  
22 enter the United States pursuant to such Act after  
23 a voluntary departure under section 240B of such  
24 Act (8 U.S.C. 1229c), information entered into the

1 National Crime Information Center under paragraph  
2 (1) shall be promptly removed.

3 (b) INCLUSION OF INFORMATION IN THE NATIONAL  
4 CRIME INFORMATION CENTER DATABASE.—Section  
5 534(a) of title 28, United States Code, is amended—

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

8 (2) by redesignating paragraph (4) as para-  
9 graph (5); and

10 (3) by inserting after paragraph (3) the fol-  
11 lowing:

12 “(4) acquire, collect, classify, and preserve  
13 records of violations of the immigration laws of the  
14 United States, regardless of whether the alien has  
15 received notice of the violation or the alien has al-  
16 ready been removed; and”.

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