

110TH CONGRESS
1ST SESSION

S. 1269

To improve border security in the United States and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2007

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

A BILL

To improve border security in the United States 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 “Engaging the Nation to Fight for Our Right to Control
6 Entry Act” or the “ENFORCE Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM

Sec. 101. National Border Neighborhood Watch Program.
Sec. 102. Definitions.

- Sec. 103. BRAVE Force.
- Sec. 104. Civilian volunteers.
- Sec. 105. Liability of BRAVE Force employees and civilian volunteers.
- Sec. 106. Authorization of appropriations.

TITLE II—CRIMINAL PENALTIES

- Sec. 201. Forgery of Federal documents.
- Sec. 202. Penalties for aliens unlawfully present in the United States and for illegal entry.

TITLE III—ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE

- Sec. 301. Findings.
- Sec. 302. Requirement to establish a field office in Tulsa, Oklahoma.

TITLE IV—IMMIGRATION ENFORCEMENT TRAINING

- Sec. 401. Immigration enforcement training demonstration project.
- Sec. 402. Expansion of program.
- Sec. 403. Authorization of appropriations.

TITLE V—CITIZENSHIP

- Sec. 501. Short title.
- Sec. 502. Purpose.
- Sec. 503. Citizenship at birth for children of noncitizen, nonpermanent resident aliens.

TITLE VI—GUARANTEEING UNIFORM ENFORCEMENT TO STOP TERRORISM

Subtitle A—Identification Standards

- Sec. 601. Identification standards for Federal benefits.
- Sec. 602. Independent verification of birth records provided in support of applications for social security account numbers.
- Sec. 603. Electronic birth and death registration systems.

Subtitle B—Reversing Unlawful Immigration

- Sec. 611. Limited duration social security account numbers for nonimmigrants.
- Sec. 612. Mandatory notification of social security account number mismatches and multiple uses.
- Sec. 613. No social security credit for work performed while unlawfully present.
- Sec. 614. Reducing individual taxpayer identification number abuse.
- Sec. 615. Limited eligibility for tax credits.
- Sec. 616. Penalties for failure to file correct information returns.
- Sec. 617. Clarification of inherent authority of State and local law enforcement.
- Sec. 618. United States Immigration and Customs Enforcement response to requests for assistance from State and local law enforcement.

Subtitle C—Technology

- Sec. 621. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.
- Sec. 622. Study and report on the use of technology to prevent unlawful immigration.

TITLE VII—DAY LABORER CENTERS

- Sec. 701. Use of day laborer centers to secure employment for illegal aliens.
- Sec. 702. Investigation of illegal aliens.
- Sec. 703. Referrals to the IRS.
- Sec. 704. Amendments to Immigration and Nationality Act.
- Sec. 705. Amendment to Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

TITLE VIII—HIGHER EDUCATION BENEFITS FOR ILLEGAL ALIENS

- Sec. 801. Limitation on eligibility.

TITLE IX—IMMIGRATION LITIGATION PROCEDURES

- Sec. 901. Short title.
- Sec. 902. Appropriate remedies for immigration litigation.
- Sec. 903. Severability.
- Sec. 904. Effective date.

1 **TITLE I—NATIONAL BORDER
2 NEIGHBORHOOD WATCH PRO-
3 GRAM**

4 **SEC. 101. NATIONAL BORDER NEIGHBORHOOD WATCH PRO-
5 GRAM.**

6 The Commissioner shall establish a National Border
7 Neighborhood Watch Program to combat illegal immigra-
8 tion and shall permit retired law enforcement officers and
9 civilian volunteers to assist in carrying out the NBNW
10 Program, as described in this title.

11 **SEC. 102. DEFINITIONS.**

12 In this title:

13 (1) BRAVE FORCE.—The term “BRAVE
14 Force” means the Border Regiment Assisting in
15 Valuable Enforcement Force established pursuant to
16 section 103. The term “Commissioner” means the

1 Commissioner responsible for United States Customs
2 and Border Protection.

3 (2) DEPARTMENT.—The term “Department”
4 means the Department of Homeland Security.

5 (3) NBNW PROGRAM.—The term “NBNW
6 Program” means the National Border Neighborhood
7 Watch Program established pursuant to section 101.

8 (4) UNITED STATES CUSTOMS AND BORDER
9 PROTECTION.—The term “United States Customs
10 and Border Protection” means the United States
11 Customs and Border Protection of the Department.

12 **SEC. 103. BRAVE FORCE.**

13 (a) ESTABLISHMENT.—The Commissioner shall es-
14 tablish a Border Regiment Assisting in Valuable Enforce-
15 ment Force to assist the Commissioner in carrying out the
16 NBNW Program.

17 (b) COMPOSITION OF BRAVE FORCE.—

18 (1) IN GENERAL.—The BRAVE force shall be
19 composed of retired law enforcement officers hired
20 by the Commissioner.

21 (2) RETIRED LAW ENFORCEMENT OFFICERS
22 DEFINED.—In this subsection, the term “retired law
23 enforcement officer” means an individual who—

24 (A) has retired from employment as a Fed-
25 eral, State, or local law enforcement officer; and

(B) has not reached retirement age (as that term is defined in section 216(l) of the Social Security Act (42 U.S.C. 416(l))).

4 (c) EFFECT ON PERSONNEL CAPS.—Employees of
5 the BRAVE Force shall not count against any limit on
6 the number of employees of United States Customs and
7 Border Protection or of the Department.

8 (d) RETIRED ANNUITANTS.—An employee of the
9 BRAVE Force who was employed by an agency or depart-
10 ment of the United States prior to employment in the
11 BRAVE Force shall be considered a rehired annuitant and
12 shall have no reduction in annuity as a result of employ-
13 ment in the BRAVE Force.

14 SEC. 104. CIVILIAN VOLUNTEERS.

15 (a) IN GENERAL.—The Commissioner shall provide
16 the opportunity for civilian volunteers to participate in the
17 NBNW Program under the terms and conditions that the
18 Commissioner determines are appropriate.

19 (b) ORGANIZATION.—To the extent possible, not less
20 than 3 civilian volunteers participating in the NBNW Pro-
21 gram may report to each employee of BRAVE Force.

22 (c) DUTIES OF VOLUNTEERS.—A civilian volunteer
23 who is participating in the NBNW Program shall report
24 any violation of Federal immigration law to an appropriate

1 employee of BRAVE Force as soon as possible after ob-
2 serving such violation.

3 (d) REIMBURSEMENT.—The Commissioner shall re-
4 imburse any civilian volunteer participating in the NBNW
5 Program for any reasonable expenses incurred by the vol-
6 untee related to such participation.

7 **SEC. 105. LIABILITY OF BRAVE FORCE EMPLOYEES AND CI-**

8 **VILIAN VOLUNTEERS.**

9 (a) CIVILIANS.—A civilian volunteer participating in
10 the NBNW Program under this title shall not be entitled
11 to any immunity from personal liability by virtue of such
12 volunteer's participation in the NBNW Program.

13 (b) EMPLOYEES.—No employee of the BRAVE Force
14 or of the Department may be held liable for any act of
15 a civilian volunteer participating in the NBNW Program
16 under this title.

17 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as may be necessary to carry out this title.

20 **TITLE II—CRIMINAL PENALTIES**

21 **SEC. 201. FORGERY OF FEDERAL DOCUMENTS.**

22 (a) IN GENERAL.—Chapter 25 of title 18, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 **“§ 515. Federal records, documents, and writings,**2 **generally**

3 “Any person who—

4 “(1) falsely makes, alters, forges, or counter-
5 feits any Federal record, Federal document, Federal
6 writing, or record, document, or writing character-
7 izing, or purporting to characterize, official Federal
8 activity, service, contract, obligation, duty, property,
9 or chose;10 “(2) utters or publishes as true, or possesses
11 with intent to utter or publish as true, any record,
12 document, or writing described in paragraph (1),
13 knowing, or negligently failing to know, that such
14 record, document, or writing has not been verified,
15 has been inconclusively verified, is unable to be
16 verified, or is false, altered, forged, or counterfeited;17 “(3) transmits to, or presents at any office, or
18 to any officer, of the United States, any record, doc-
19 ument, or writing described in paragraph (1), know-
20 ing, or negligently failing to know, that such record,
21 document, or writing has not been verified, has been
22 inconclusively verified, is unable to be verified, or is
23 false, altered, forged, or counterfeited;24 “(4) attempts, or conspires to commit, any of
25 the acts described in paragraphs (1) through (3); or

1 “(5) while outside of the United States, engages
2 in any of the acts described in paragraphs (1)
3 through (3),
4 shall be fined under this title, imprisoned not more than
5 10 years, or both.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for chapter 25 of title 18, United States Code, is amended
8 by inserting after the item relating to section 514 the fol-
9 lowing:

“515. Federal records, documents, and writings, generally.”.

10 SEC. 202. PENALTIES FOR ALIENS UNLAWFULLY PRESENT
11 IN THE UNITED STATES AND FOR ILLEGAL
12 ENTRY.

13 (a) ALIENS UNLAWFULLY PRESENT.—

14 (1) IN GENERAL.—Title II of the Immigration
15 and Nationality Act (8 U.S.C. 1151 et seq.) is
16 amended by inserting after section 275 the fol-
17 lowing:

18 "CRIMINAL PENALTIES AND FORFEITURE FOR
19 UNLAWFUL PRESENCE IN THE UNITED STATES

20 "SEC. 275A. (a) IN GENERAL.—In addition to any
21 other penalty, an alien who is present in the United States
22 in violation of this Act shall be guilty of a felony and shall
23 be fined under title 18, United States Code, imprisoned
24 not less than 1 year, or both, and the assets of such an

1 alien shall be subject to forfeiture under title 18, United
2 States Code.

3 “(b) DEFENSE.—An alien who is present in the
4 United States in violation of this Act shall not be subject
5 to the penalties described in subsection (a), if such period
6 of unlawful presence began upon the expiration of a period
7 of the alien’s lawful presence in the United States and
8 the alien failed to depart the United States at the expira-
9 tion of the period of lawful presence due to an exceptional
10 and extremely unusual hardship or physical illness that
11 prevented the alien from departing the United States.”.

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents of the Immigration and Nationality Act is
14 amended by inserting after the item relating to sec-
15 tion 275 the following:

“See. 275A. Criminal penalties and forfeiture for unlawful presence in the
United States.”.

16 (b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL
17 ENTRY.—Section 275(a) of the Immigration and Nation-
18 ality Act (8 U.S.C. 1325(a)) is amended by striking “not
19 more than 6 months,” and inserting “not less than 1
20 year.”.

1 **TITLE III—ESTABLISHMENT OF**
2 **IMMIGRATION AND CUSTOMS**
3 **ENFORCEMENT FIELD OF-**
4 **FICE**

5 **SEC. 301. FINDINGS.**

6 Congress makes the following findings:

7 (1) On July 17, 2002, 18 aliens who were ille-
8 gally present in the United States, including 3 mi-
9 nors, were taken into custody by the Tulsa County
10 Sheriff's Department. The aliens were later released
11 by officials of the former Immigration and Natu-
12 ralization Service.

13 (2) On August 13, 2002, an immigration task
14 force meeting convened in Tulsa, Oklahoma, with
15 the goal of bringing together local law enforcement
16 and the Immigration and Naturalization Service to
17 open a dialogue to find effective ways to better en-
18 force Federal immigration laws in Oklahoma.

19 (3) On January 22, 2003, 4 new agents were
20 hired for duty at the Immigration and Naturaliza-
21 tion Service office in Oklahoma City.

22 (4) On January 30, 2003, 6 new special agents
23 were added to the staff of Immigration and Natu-
24 ralization Service in Oklahoma.

12 (6) Oklahoma has 1 Office of Investigations of
13 United States Immigration and Customs Enforce-
14 ment, which is located in Oklahoma City. In 2005,
15 12 agents of United States Immigration and Cus-
16 toms Enforcement served the 3,500,000 people re-
17 siding in Oklahoma.

22 (8) Seven agents of the Drug Enforcement Ad-
23 ministration and an estimated 22 agents of the Fed-
24 eral Bureau of Investigation are assigned to duty
25 stations in Tulsa, Oklahoma, and there are no

1 agents of United States Immigration and Customs
2 Enforcement who are assigned to a duty station in
3 Tulsa, Oklahoma.

9 SEC. 302. REQUIREMENT TO ESTABLISH A FIELD OFFICE IN
10 TULSA, OKLAHOMA.

11 Not later than 180 days after the date of the enact-
12 ment of this Act, the Secretary of Homeland Security shall
13 establish a field office of the Office of Investigations of
14 United States Immigration and Customs Enforcement in
15 Tulsa, Oklahoma.

16 **TITLE IV—IMMIGRATION** 17 **ENFORCEMENT TRAINING**

18 SEC. 401. IMMIGRATION ENFORCEMENT TRAINING DEM-
19 ONSTRATION PROJECT

20 (a) IN GENERAL —

1 project described in this title (referred to in this title
2 as the “Project”).

3 (2) PURPOSE.—The purposes of the Project
4 shall be to assess the feasibility of establishing a na-
5 tionwide training curriculum that is provided elec-
6 tronically through the Internet that covers basic im-
7 migration law enforcement issues to be used by
8 State, local, and tribal law enforcement officers in
9 order to improve and enhance the ability of such of-
10 ficers, during the routine course of duties, to assist
11 Federal immigration officers in the enforcement of
12 immigration laws of the United States.

13 (b) PROJECT DIRECTOR RESPONSIBILITIES.—The
14 Project shall be carried out by the Project Director, who
15 shall, not later than 90 days after the date that assistance
16 is provided to the President of Cameron University under
17 subsection (a)(1)—

18 (1) develop an interactive website that—

19 (A) provides State, local, and tribal law en-
20 forcement officers access to the training cur-
21 riculum described in paragraph (2);

22 (B) enrolls officers in such curriculum;

23 (C) records the performance of officers
24 who complete the curriculum;

(D) tracks officers' proficiency in learning the concepts taught in the curriculum;

(E) ensures a high-level of security; and

(F) encrypts personal and sensitive information;

(2) develop a training curriculum that—

(A) is comprised of not more than 4 hours

of training;

(B) is accessible through the website developed in paragraph (1);

(C) covers the basic principles and practices of immigration law and the policies that relate to the enforcement of immigration laws;

(D) includes instruction related to immigration matters including—

(i) employment-based and family-based immigration;

(ii) the types of nonimmigrant visas available to aliens;

(iii) the differences between immigrant and nonimmigrant status;

(iv) the differences between lawful and unlawful presence in the United States;

(v) the criminal and civil consequences of unlawful presence in the United States;

(vi) the grounds for removal of aliens;

(vii) the types of false identification

commonly used by illegal and criminal

aliens;

(viii) the common methods of smug-

gling aliens into the United States and

groups that commonly participate in alien

smuggling rings;

(ix) the inherent legal authority of

local law enforcement officers to enforce

Federal immigration laws; and

(x) detention and removal procedures

for aliens, including expeditious removal;

(E) is accessible through

bed in paragraph (1); and

(F) incorporates content similar to that

red in the 4-hour training course provided

the employees of the Immigration and Natu-

ation Service to Alabama State Troopers

ng 2003, and content similar to that in the

ning given pursuant to an agreement by the

e under section 287(g) of the Immigration

Nationality Act (8 U.S.C. 1357(g)), includ-

training in identifying fraudulent immigra-

documents; and

(c) DURATION OF THE PROJECT.—Subsection to section 402, the Project Director shall carry out the Project during the 2-year period beginning 90 days after the date that assistance is provided to the President of Cameron University under subsection (a)(1).

11 (d) PARTICIPATION.—

20 (A) Alabama;

21 (B) Colorado;

22 (C) Florida;

23 (D) Oklahoma;

24 (E) Texas; and

1 (F) at least 1, but not more than 3, other
2 States.

(A) is apportioned among the States described in paragraph (2) according the population of each such State;

9 (B) is equally apportioned between State,
10 county, and municipal law enforcement agency
11 officers;

12 (C) includes, when practicable, a significant number of tribal law enforcement officers;
13
14 and

15 (D) includes law enforcement officers from
16 urban, rural, and highly rural areas.

23 (5) LIMITATION ON PARTICIPATION.—An offi-
24 cer is ineligible to participate in the demonstration

1 project if the officer is employed by a State, local,
2 or tribal law enforcement agency that—

3 (A) has in effect a statute, policy, or prac-
4 tice that prohibits its law enforcement officers
5 from cooperating with Federal immigration en-
6 forcement agents; or

7 (B) is otherwise not in compliance with the
8 requirements of section 642(a) of the Illegal
9 Immigration Reform and Immigrant Responsi-
10 bility Act of 1996 (8 U.S.C. 1373(a)).

11 (6) ADDITIONAL REQUIREMENTS.—Each law
12 enforcement officer selected to participate in the
13 training course described in subsection (b)(2)—

14 (A) shall undergo standard vetting proce-
15 dures, similar to the procedures in the Federal
16 Law Enforcement Training Center Distributed
17 Learning Program, to ensure that each partici-
18 pant is a bona fide law enforcement officer; and

19 (B) shall be granted continuous access,
20 throughout the 2-year period of the Project, to
21 the training curriculum and to other training
22 and reference resources accessible through the
23 website described in subsection (b)(1).

24 (e) REPORT.—

8 (A) the cost savings realized by offering
9 training through the training course described
10 in subsection (b)(2) instead of through the resi-
11 dential classroom method;

12 (B) the difference between the number of
13 law enforcement officers who received training
14 through such training course and the number of
15 law enforcement officers who could have re-
16 ceived training through the residential class-
17 room method in the same 2-year period;

18 (C) the effectiveness of such training
19 course with respect to the performance of offi-
20 cers who participated in such training course;

21 (D) the convenience afforded to officers
22 who participated in such training course as a
23 result of the officers' ability to access the
24 course at their own convenience and to return

1 to the website described in subsection (b)(1) for
2 refresher training and reference; and

3 (E) the ability of such website to safeguard
4 the private and personal information of officers
5 who took such training course while providing
6 supervisors with appropriate information about
7 the officers' performance and course comple-
8 tion.

9 (2) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES DEFINED.—In this subsection the term “ap-
11 propriate congressional committees” means the
12 Committee on the Judiciary and the Committee on
13 Homeland Security and Governmental Affairs of the
14 Senate and the Committee on the Judiciary and the
15 Committee on Homeland Security of the House of
16 Representatives.

17 **SEC. 402. EXPANSION OF PROGRAM.**

18 (a) IN GENERAL.—After the completion of the
19 Project, the Secretary of Homeland Security shall—

20 (1) continue to make the website described in
21 section 401(b)(1) and the training course described
22 in section 401(b)(2) available to law enforcement of-
23 ficers;

7 (b) LIMITATION ON PARTICIPATION.—A law enforce-
8 ment officer is ineligible to participate in the expansion
9 of the Project if the law enforcement officer is employed
10 by a State, local, or tribal law enforcement agency that—

15 (2) is otherwise not in compliance with the re-
16 quirements of section 642(a) of the Illegal Immigra-
17 tion Reform and Immigrant Responsibility Act of
18 1996 (8 U.S.C. 1373(a)).

19 SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

20 (a) FISCAL YEAR 2008.—There are authorized to be
21 appropriated \$3,000,000 to the Secretary of Homeland
22 Security in fiscal year 2008 to carry out this title.

23 (b) SUBSEQUENT FISCAL YEARS.—There are author-
24 ized to be appropriated to the Secretary of Homeland Se-
25 curity during each fiscal year after fiscal year 2008 such

1 sums as may be necessary to continue to operate, promote,
2 and recruit participants for the Project and the expansion
3 of the Project described in section 402.

4 (c) AVAILABILITY OF FUNDS.—Funds appropriated
5 under this section are authorized to remain available until
6 expended.

7 **TITLE V—CITIZENSHIP**

8 **SEC. 501. SHORT TITLE.**

9 This title may be cited as the “Citizenship Reform
10 Act of 2007”.

11 **SEC. 502. PURPOSE.**

12 The purpose of this title is to clarify that citizenship
13 at birth is available to a child born in the United States
14 to a parent who is a citizen of the United States or an
15 alien lawfully admitted for permanent residence in the
16 United States.

17 **SEC. 503. CITIZENSHIP AT BIRTH FOR CHILDREN OF NON-** 18 **CITIZEN, NONPERMANENT RESIDENT ALIENS.**

19 (a) IN GENERAL.—Section 301 of the Immigration
20 and Nationality Act (8 U.S.C. 1401) is amended—

21 (1) by redesignating subsections (a) through (h)
22 as paragraphs (1) through (8); and

23 (2) by striking “The following” and inserting
24 “(a) IN GENERAL.—Except as otherwise provided in
25 subsection (b), the following”; and

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

2 "(b) CHILDREN BORN TO NATIONALS OF THE
3 UNITED STATES OR TO ALIENS LAWFULLY ADMITTED
4 FOR PERMANENT RESIDENCE IN THE UNITED STATES.—

5 For the purposes of subsection (a)(1), a person born in
6 the United States shall be considered to be subject to the
7 jurisdiction of the United States only if the person was
8 born in the United States to parents, one of whom is—

9 “(1) a national of the United States; or

10 “(2) an alien who is lawfully admitted for per-
11 manent residence and maintains his or her residence
12 in the United States.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply only to individuals born on or after
15 the date of the enactment of this Act.

16 **TITLE VI—GUARANTEEING UNI-**
17 **FORM ENFORCEMENT TO**
18 **STOP TERRORISM**

19 **Subtitle A—Identification**
20 **Standards**

21 SEC. 601. IDENTIFICATION STANDARDS FOR FEDERAL BEN-
22 FFITS

23 (a) FEDERAL AGENCIES.—No department, agency,
24 commission, other entity, or employee of the Federal Gov-
25 ernment may, for the purpose of establishing identity, ac-

1 cept, recognize, rely on, or authorize the acceptance, rec-
2 ognition, or reliance on, any document not described in
3 subsection (c).

4 (b) STATE AND LOCAL AGENCIES.—No department,
5 agency, commission, other entity, or employee of a State
6 or local government charged with providing or approving
7 applications for public benefits or services funded in whole
8 or in part with Federal funds may, for the purpose of es-
9 tablishing identity, accept, recognize, rely on, or authorize
10 the acceptance, recognition, or reliance on, any document
11 except those described in subsection (c).

12 (c) ACCEPTABLE IDENTIFICATION.—Documents ac-
13 ceptable for the purpose of establishing identity are—

14 (1) a valid, unexpired United States passport,
15 immigration document, and other identity document
16 issued by a Federal authority, excluding an indi-
17 vidual taxpayer identification number issued by the
18 Internal Revenue Service;

19 (2) a valid, unexpired driver's license or identi-
20 fication card (as those terms are defined in section
21 201 of the REAL ID Act of 2005 (division B of
22 Public Law 109–13; 49 U.S.C. 30301 note)) issued
23 by a State, if the State—

24 (A) is in compliance with the minimum
25 standards for the issuance of a driver's license

1 or identification card set forth in title II of the
2 REAL ID Act of 2005 (49 U.S.C. 30301 note);
3 or

4 (B)(i) statutorily bars issuance of a driver's license or identification card to an alien
5 who is unlawfully present in the United States;
6 and

7 (ii) requires independent verification with
8 the issuing agency of records provided by the
9 applicant in support of the application for a
10 driver's license or identification card; and
11 (3) valid, unexpired foreign passports, if such
12 passports include, or are accompanied by, proof of
13 lawful presence in the United States.

15 **SEC. 602. INDEPENDENT VERIFICATION OF BIRTH
16 RECORDS PROVIDED IN SUPPORT OF APPLI-
17 CATIONS FOR SOCIAL SECURITY ACCOUNT
18 NUMBERS.**

19 (a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT
20 NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Security
21 Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

22 (1) by inserting “(I)” after “(ii)”; and
23 (2) by adding at the end the following:

24 “(II) With respect to an application for a social security
25 account number for an individual, other than for pur-

1 poses of enumeration at birth, the Commissioner of Social
2 Security shall require independent verification of any birth
3 record provided by the applicant in support of the applica-
4 tion from the agency that issued such record.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect on the date that is 180
7 days after the date of the enactment of this Act.

8 **SEC. 603. ELECTRONIC BIRTH AND DEATH REGISTRATION**

9 **SYSTEMS.**

10 (a) ESTABLISHMENT.—The Secretary of Homeland
11 Security, in consultation with the Secretary of Health and
12 Human Services and the Commissioner of Social Security,
13 shall work cooperatively with the States—

14 (1) to establish a common data set and common
15 data exchange protocol among the States for elec-
16 tronic birth registration systems and death regis-
17 tration systems;

18 (2) to coordinate requirements for such systems
19 to align with a national model;

20 (3) to ensure that fraud prevention is built into
21 the design of such systems to prevent fraud related
22 to the collection of vital event data, the issuance of
23 birth certificates, and the exchange of data among
24 government agencies;

22 (B) whether the information for such indi-
23 vidual in the database of such jurisdiction indi-
24 cates that the individual is deceased;

11 (B) the sufficiency of the enforcement of
12 such violations;

13 (8) not later than 1 year after the date of the
14 enactment of this Act, establish—

21 (B) in consultation with the Secretary of
22 State, a process to improve registration, notifi-
23 cation, and the sharing of data with the States
24 and the Commissioner of Social Security re-

1 garding births and deaths of United States citi-
2 zens abroad; and

3 (9) not later than 3 years after the establish-
4 ment of the birth and death registration systems
5 under this section, to require States to record and
6 retain electronic records of pertinent identification
7 information collected from requesters who are not
8 the registrants.

9 (b) GRANTS TO STATES.—The Secretary of Home-
10 land Security may award grants to States to assist the
11 States in participating in the systems referred to in this
12 section.

13 (c) AUTHORITY.—All authority to issue regulations,
14 certify standards, and issue grants under this section shall
15 be carried out by the Secretary of Homeland Security,
16 with the concurrence of the Secretary of Health and
17 Human Services and in consultation with State vital sta-
18 tistics offices and appropriate Federal agencies.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary of
21 Homeland Security for each of the fiscal years 2008
22 through 2010 such sums as may be necessary to carry
23 out this section.

1 **Subtitle B—Reversing Unlawful**
2 **Immigration**

3 **SEC. 611. LIMITED DURATION SOCIAL SECURITY ACCOUNT**

4 **NUMBERS FOR NONIMMIGRANTS.**

5 (a) **TIMING OF ISSUANCE TO ALIENS.**—Section
6 205(c)(2)(B)(i)(I) of the Social Security Act (42 U.S.C.
7 405(c)(2)(B)(i)(I)) is amended to read as follows:

8 “(I) to aliens at the time of their lawful admis-
9 sion to the United States for, or adjustment of sta-
10 tus to—

11 “(aa) permanent residence; or

12 “(bb) temporary or other short-term resi-
13 dence in a category that permits them to en-
14 gage in employment in the United States, ex-
15 cept that such aliens shall be issued the social
16 security cards described in the second sentence
17 of subparagraph (G);”.

18 (b) **TEMPORARY SOCIAL SECURITY CARDS FOR NON-**
19 **IMMIGRANTS.**—Section 205(c)(2)(G) of the Social Secu-
20 rity Act (42 U.S.C. 405(c)(2)(G)) is amended—

21 (1) by inserting “(i)” after “(G)”; and

22 (2) by striking “The social security card” and
23 inserting the following:

24 “(ii) A social security card issued to an alien
25 who is not a lawful permanent resident, but who is

1 authorized to engage in employment in the United
2 States, shall bear on its face an expiration date that
3 coincides with the expiration of the alien's permis-
4 sion to be employed in the United States. The social
5 security account number on such card shall not be
6 valid to prove work authorization, either through the
7 Employment Authorization Status Instant Check or
8 otherwise, following the expiration of the card.

10 SEC. 612. MANDATORY NOTIFICATION OF SOCIAL SECURITY
11 ACCOUNT NUMBER MISMATCHES AND MUL-
12 TIPLE USES.

13 (a) NOTIFICATION OF MISMATCHED NAME AND SO-
14 CIAL SECURITY ACCOUNT NUMBER.—

9 (B) prohibit the employer from termin-
10 ating such employment prior to the conclusion
11 of such 10-day period, unless the employee ad-
12 mits that the employee fraudulently obtained a
13 social security account number.

14 (b) NOTIFICATION OF MULTIPLE USES OF INDIVIDUAL SOCIAL SECURITY ACCOUNT NUMBERS.—
15

16 (1) IN GENERAL.—The Commissioner of Social
17 Security may not credit any individual with concur-
18 rent earnings from more than 1 employer before no-
19 tifying the individual that earnings from 2 or more
20 employers are being reported under the individual's
21 social security account number.

22 (2) CONTENTS OF NOTICE.—Notice under para-
23 graph (1) shall—

24 (A) include the name and location of each
25 employer;

1 (B) direct the individual to—

2 (i) contact the Commissioner of Social

3 Security to present proof that the indi-

4 vidual is the person to whom the social se-

5 curity account number was issued; and

6 (ii) if applicable, present a pay stub or

7 other documentation showing that such in-

8 dividual is employed by all employers re-

9 porting earnings to that social security ac-

10 count number.

11 SEC. 613. NO SOCIAL SECURITY CREDIT FOR WORK PER-
12 FORMED WHILE UNLAWFULLY PRESENT.

13 Title II of the Social Security Act (42 U.S.C. 401
14 et seq.) is amended—

1 **SEC. 614. REDUCING INDIVIDUAL TAXPAYER IDENTIFICA-**
2 **TION NUMBER ABUSE.**

3 (a) MODIFIED FORMAT AND LAWFUL PRESENCE RE-
4 QUIREMENT.—

5 (1) IN GENERAL.—Section 6109(c) of the Inter-
6 nal Revenue Code of 1986 is amended to read as fol-
7 lows:

8 “(c) REQUIREMENT OF INFORMATION.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the Secretary is authorized to require from any
11 person such information as may be necessary to as-
12 sign an identifying number.

13 “(2) SEPARATE FROM SOCIAL SECURITY AC-
14 COUNT NUMBERS.—Any identifying number assigned
15 by the Secretary shall be comprised of a sequence of
16 numerals and dashes that is visually distinguishable
17 from, and will not be mistaken for, a social security
18 account number.

19 “(3) VERIFICATION OF STATUS FOR ALIENS.—
20 Prior to issuing any identifying number, the Sec-
21 retary shall verify with the Secretary of Homeland
22 Security that the applicant for such number is law-
23 fully present in the United States.”.

24 (2) EFFECTIVE DATE.—Section 6109(c)(2) of
25 the Internal Revenue Code of 1986, as added by

1 paragraph (1), shall take effect on the date that is
2 30 days after the date of the enactment of this Act.

3 (b) INFORMATION SHARING.—

4 (1) IN GENERAL.—Section 6103(i)(3) of the In-
5 ternal Revenue Code of 1986 is amended by adding
6 at the end the following:

7 “(D) POSSIBLE VIOLATIONS OF FEDERAL
8 IMMIGRATION LAW.—The Secretary shall dis-
9 close, in electronic format to the Secretary of
10 Homeland Security, the taxpayer identity of
11 each taxpayer who has been assigned an indi-
12 vidual taxpayer identification number. The Sec-
13 retary of Homeland Security may disclose such
14 information to officers and employees of the
15 Department to the extent necessary to enforce
16 Federal immigration laws.”.

17 (2) EFFECTIVE DATE.—The Secretary of the
18 Treasury shall disclose information under the
19 amendment made by paragraph (1) not later than
20 60 days after the date of the enactment of this Act.

21 **SEC. 615. LIMITED ELIGIBILITY FOR TAX CREDITS.**

22 Notwithstanding any other provision of law, an indi-
23 vidual who submits to the Internal Revenue Service an in-
24 come tax return that relies on an individual taxpayer iden-
25 tification number in lieu of a social security account num-

1 ber shall not be eligible for any tax credit, including the
2 earned income tax credit under section 32 of the Internal
3 Revenue Code of 1986.

4 **SEC. 616. PENALTIES FOR FAILURE TO FILE CORRECT IN-**
5 **FORMATION RETURNS.**

6 (a) **PENALTIES FOR EGREGIOUS NONCOMPLIANCE**
7 **OF EMPLOYERS.**—Section 6721 of the Internal Revenue
8 Code of 1986 is amended—

9 (1) by striking subsections (b), (c), and (d);
10 (2) by redesignating subsection (e) as sub-
11 section (b); and

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

13 “(c) **PENALTY FOR EGREGIOUS NONCOMPLIANCE OF**
14 **EMPLOYERS.**—The Secretary shall assess the maximum
15 allowable penalties from each employer—

16 “(1) designated in any taxable year by the So-
17 cial Security Administration as 1 of the most egre-
18 gious noncompliant employers; and

19 “(2) whose noncompliance was either willful or
20 resulted from gross negligence.”.

21 (b) **STANDARD COMPLIANCE PROGRAM.**—

22 (1) **IN GENERAL.**—Not later than 60 days after
23 the date of the enactment of this Act, the Secretary
24 of the Treasury, in consultation with the Commis-
25 sioner of Social Security and the Secretary of Home-

1 land Security, shall implement a regularly scheduled
2 program for proposing, assessing, and collecting pen-
3 alties from persons who include incorrect informa-
4 tion in tax returns filed under the Internal Revenue
5 Code of 1986, if such information was included ei-
6 ther willfully or through gross negligence.

7 (2) REPORT.—Not later than 180 days after
8 the date of the enactment of this Act, the Secretary
9 of the Treasury shall submit to Congress a report on
10 the results of the program required under paragraph
11 (1), including—

12 (A) the total number of filers who sub-
13 mitted incorrect information returns;

14 (B) the number of incorrect information
15 returns submitted by such filers;

16 (C) the total amount of penalties proposed,
17 assessed, and collected through the program;
18 and

19 (D) the number of waivers granted to filers
20 of incorrect information returns.

21 **SEC. 617. CLARIFICATION OF INHERENT AUTHORITY OF**
22 **STATE AND LOCAL LAW ENFORCEMENT.**

23 Notwithstanding any other provision of law and re-
24 affirming the existing inherent authority of States, law en-
25 forcement personnel of a State or a political subdivision

1 of a State have the inherent authority of a sovereign entity
2 to apprehend, arrest, detain, or transfer to Federal cus-
3 tody aliens in the United States, including the transpor-
4 tation of such aliens across State lines to detention cen-
5 ters, in the enforcement of the immigration laws of the
6 United States.

7 **SEC. 618. UNITED STATES IMMIGRATION AND CUSTOMS EN-**
8 **FORCEMENT RESPONSE TO REQUESTS FOR**
9 **ASSISTANCE FROM STATE AND LOCAL LAW**
10 **ENFORCEMENT.**

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

14 “CUSTODY OF ILLEGAL ALIENS
15 “SEC. 240D. (a) TRANSFER OF CUSTODY TO THE
16 FEDERAL GOVERNMENT.—If the chief executive officer of
17 a State or, if appropriate, a political subdivision of a State,
18 exercising authority with respect to the apprehension of
19 an illegal alien submits a request to the Secretary of
20 Homeland Security that the alien be taken into Federal
21 custody, the Secretary of Homeland Security—

22 “(1) shall—
23 “(A) not later than 48 hours after the con-
24 clusion of the State charging process or dis-
25 missal process, or if no State charging or dis-
26 missal process is required, not later than 48

1 hours after the illegal alien is apprehended,
2 take the illegal alien into the custody of the
3 Federal Government and incarcerate the alien;
4 or

5 “(B) request that the relevant State or
6 local law enforcement agency temporarily incor-
7 cerate or transport the illegal alien for transfer
8 to Federal custody; and

9 “(2) shall designate a Federal, State, or local
10 prison or jail or a private contracted prison or deten-
11 tion facility within each State as the central facility
12 for that State to transfer custody of criminal or ille-
13 gal aliens to the Department of Homeland Security.

14 “(b) REIMBURSEMENT OF STATES.—

15 “(1) IN GENERAL.—The Secretary of Homeland
16 Security shall reimburse States, units of local gov-
17 ernment, and any private contractors for all reason-
18 able expenses, as determined by the Secretary, in-
19 curred in the incarceration and transportation of an
20 illegal alien as described in subsection (a)(1).

21 “(2) AMOUNT OF REIMBURSEMENT.—Com-
22 pensation provided for costs incurred under sub-
23 section (a)(1) shall be equal to the sum of—

24 “(A) the average cost of incarceration of a
25 prisoner in the relevant State, as determined by

1 the chief executive officer of a State or, as appropriate,
2 a political subdivision of the State;
3 and

4 “(B) the cost of transporting the criminal
5 or illegal alien from the point of apprehension,
6 to the place of detention, and to the custody
7 transfer point if the place of detention and
8 place of custody are different.

9 “(c) DETENTION FACILITY SECURITY.—The Sec-
10 retary of Homeland Security shall ensure that illegal
11 aliens incarcerated in facilities pursuant to this section are
12 held in facilities that provide an appropriate level of secu-
13 rity.

14 “(d) MANAGEMENT OF TRANSFERS.—

15 “(1) IN GENERAL.—In carrying out this sec-
16 tion, the Secretary of Homeland Security may estab-
17 lish a regular circuit and schedule for the prompt
18 transfer of apprehended illegal aliens from the cus-
19 tody of States, political subdivisions of States, and
20 private contractors to Federal custody.

21 “(2) CONTRACTS WITH STATE AND LOCAL LAW
22 ENFORCEMENT.—The Secretary of Homeland Secu-
23 rity may enter into contracts with appropriate State
24 and local law enforcement and detention officials to
25 implement this section.

1 “(e) ILLEGAL ALIEN DEFINED.—For purposes of
2 this section, the term ‘illegal alien’ means an alien—

3 “(1) who entered the United States without in-
4 spection or at any time or place other than that des-
5 ignated by the Secretary of Homeland Security;

6 “(2) who was admitted as a nonimmigrant, or
7 whose status was adjusted to that of a non-
8 immigrant under section 248, and who, at the time
9 the alien was taken into custody by the State or a
10 political subdivision of the State, had failed to—

11 “(A) maintain such nonimmigrant status;
12 or

13 “(B) comply with the conditions of such
14 nonimmigrant status;

15 “(3) who was admitted as an immigrant and
16 has subsequently failed to comply with the require-
17 ments of such immigrant status; or

18 “(4) who failed to depart the United States
19 under a voluntary departure agreement or under a
20 final order of removal.”.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated \$500,000,000 for fiscal
23 year 2008 and each subsequent fiscal year for the deten-
24 tion and removal of aliens not lawfully present in the

1 United States under the Immigration and Nationality Act
2 (8 U.S.C. 1101 et seq.).

3 **Subtitle C—Technology**

4 **SEC. 621. CONSTRUCTION OF FENCING AND SECURITY IM-**
5 **PROVEMENTS IN BORDER AREA FROM PA-**
6 **CIFIC OCEAN TO GULF OF MEXICO.**

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

10 (1) by amending paragraph (1) to read as fol-
11 lows:

12 “(1) SECURITY FEATURES.—

13 “(A) REINFORCED FENCING.—

14 “(i) IN GENERAL.—In carrying out
15 subsection (a), the Secretary of Homeland
16 Security shall provide for—

17 “(I) the construction, along the
18 southern international land border of
19 the United States, starting at the Pa-
20 cific Ocean and extending eastward to
21 the Gulf of Mexico, of at least 2 lay-
22 ers of reinforced fencing; and

23 “(II) the installation of such ad-
24 ditional physical barriers, roads, light-
25 ing, and sensors along such border as

1 may be necessary to eliminate illegal
2 crossings along such border, includ-
3 ing—

4 “(aa) 2 coils of barbed wire;

5 “(bb) 2 tall, sturdy wire
6 fences, with sensors to warn of
7 any incursion;

8 “(cc) a patrol path for vehi-
9 cles between the fences described
10 in item (bb);

11 “(dd) a smoothed strip of
12 sand that runs parallel to the
13 fences to detect footprints;

14 “(ee) 2 ditches to prevent
15 vehicles from approaching either
16 fence;

17 “(ff) closed circuit television
18 cameras; and

19 “(gg) motion detectors.

20 “(ii) PRIORITY AREAS.—With respect
21 to the border described in clause (i), the
22 Secretary shall ensure that initial fence
23 construction occurs in high traffic and
24 smuggling areas along such border.

1 “(iii) CONSULTATION.—Before install-
2 ing any fencing or other physical barriers,
3 roads, lighting, or sensors under clause (i)
4 on land transferred by the Secretary of
5 Defense under subparagraph (B), the Sec-
6 retary shall consult with the Secretary of
7 Defense for purposes of mitigating or lim-
8 iting the impact of the fencing, barriers,
9 roads, lighting, and sensors on military
10 training and operations.

11 “(B) BORDER ZONE CREATION AND ACQUI-
12 SITION.—

13 “(i) IN GENERAL.—In carrying out
14 subsection (a), the Secretary of Homeland
15 Security shall create and control a border
16 zone, along the international land border
17 described in subparagraph (A)(i)(I), sub-
18 ject to the following conditions:

19 “(I) SIZE.—The border zone
20 shall consist of the United States land
21 area within 100 yards of the inter-
22 national land border described in sub-
23 paragraph (A)(i)(I), except that with
24 respect to areas of the border zone
25 that are contained within an orga-

1 the border zone as may be necessary
2 to deter illegal crossings into the
3 United States. In this subclause, the
4 terms 'Indian lands' and 'Indian tribe'
5 shall have the meaning given such
6 terms in section 2103 of the Revised
7 Statutes (25 U.S.C. 81).

1 “(bb) not later than 360
2 days after the date of the enact-
3 ment of the Southwest Border
4 Security Act in the case of other
5 land in the border zone.

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

22 “(iii) OTHER USES.—The Secretary
23 may authorize the use of land included in
24 the border zone for other purposes so long
25 as such use does not impede the operation

1 or effectiveness of the security features in-
2 stalled under subparagraph (A)(i) or the
3 ability of the Secretary to carry out sub-
4 section (a).”; and

5 (2) by striking “Attorney General” and inserting
6 “Secretary of Homeland Security” each place it
7 appears.

8 SEC. 622. STUDY AND REPORT ON THE USE OF TECH-
9 NOLOGY TO PREVENT UNLAWFUL IMMIGRA-
10 TION.

11 (a) STUDY.—The Secretary of Homeland Security
12 shall conduct a study of available technology, including
13 radar animal detection systems, that could be utilized to
14 increase the security of the international borders of the
15 United States and to permit law enforcement officials to
16 detect and prevent illegal immigration.

17 (b) REPORT.—Not later than 6 months after the date
18 of the enactment of this Act, the Secretary of Homeland
19 Security shall submit to Congress a report on the study
20 carried out under subsection (a). The report shall include
21 the recommendations of the Secretary related to the effi-
22 cacy of the technologies studied.

1 **TITLE VII—DAY LABORER**
2 **CENTERS**

3 **SEC. 701. USE OF DAY LABORER CENTERS TO SECURE EM-**
4 **PLOYMENT FOR ILLEGAL ALIENS.**

5 It shall be unlawful for any person to operate a day
6 laborer center if the person knows, or reasonably should
7 know, that the center is being used to secure employment
8 for aliens who are not authorized to work in the United
9 States.

10 **SEC. 702. INVESTIGATION OF ILLEGAL ALIENS.**

11 If any employee of the Department of Homeland Se-
12 curity is notified of the presence, at a specific location,
13 of more than one alien who may be in the United States
14 in violation of any provision of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101 et seq.)—

16 (1) the employee shall notify the appropriate in-
17 vestigative authority of the Department; and

18 (2) such authority shall investigate the violation
19 and enforce, to the fullest extent possible, all appli-
20 cable immigration, employment, tax, and other laws
21 against employers, illegal workers, and day labor
22 center operators and managers.

23 **SEC. 703. REFERRALS TO THE IRS.**

24 Any investigative authority of the Department of
25 Homeland Security conducting an investigation under sec-

1 tion 702(2) shall provide relevant information obtained
2 through such investigation to the appropriate investigative
3 authority of the Internal Revenue Service to further inves-
4 tigate all tax evasion violations by employers or illegal
5 workers using the day laborer center for a hiring arrange-
6 ment.

7 **SEC. 704. AMENDMENTS TO IMMIGRATION AND NATION-
8 ALITY ACT.**

9 Section 274A of the Immigration and Nationality Act
10 (8 U.S.C. 1324a) is amended—

11 (1) in subsection (a)(1)—

12 (A) by amending subparagraph (A) to read
13 as follows:

14 “(A)(i) to hire, recruit, or refer an alien
15 for employment in the United States, knowing
16 or having reason to know that the alien is an
17 unauthorized alien (as defined in subsection
18 (h)(3)) with respect to such employment; or

19 “(ii) to provide services intended to assist
20 an alien in obtaining employment in the United
21 States, knowing or having reason to know that
22 the alien is an unauthorized alien; or”;

23 (B) in subparagraph (B)—

1 (i) by striking “subsection (b) or” and
2 all that follows and inserting “subsection
3 (b); or”; and

4 (ii) by inserting at the end the fol-
5 lowing:

6 “(ii) if the person or entity is an agricultural
7 association, agricultural employer, farm
8 labor contractor (as defined in section 3 of the
9 Migrant and Seasonal Agricultural Worker Pro-
10 tection Act (29 U.S.C. 1802)), or an entity pro-
11 viding employment services, to hire, recruit, or
12 refer an individual for employment in the
13 United States in violation of the requirements
14 of subsection (b).”;

19 (4) in subsection (h)(2), by striking "or recruit
20 or refer for a fee" and inserting "recruit, or refer".

21 SEC. 705. AMENDMENT TO PERSONAL RESPONSIBILITY
22 AND WORK OPPORTUNITY RECONCILIATION
23 ACT OF 1996.

24 Section 411(c)(1)(B) of the Personal Responsibility
25 and Work Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1621(c)(1)(B)) is amended by inserting “employ-
2 ment services,” after “unemployment benefit.”.

3 **TITLE VIII—HIGHER EDUCATION**
4 **BENEFITS FOR ILLEGAL ALIENS**

5 **SEC. 801. LIMITATION ON ELIGIBILITY.**

6 Section 505 of the Illegal Immigration Reform and
7 Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is
8 amended—

9 (1) in subsection (a), by striking “on the basis
10 of residence” and all that follows and inserting “for
11 any postsecondary education benefit unless every cit-
12 izer or national of the United States is entitled to
13 such a benefit in an amount, duration, and scope
14 that is not less than the benefit available to the alien
15 without regard to whether the citizen or national is
16 a resident of the State or has attended or graduated
17 from a school in the State.”;

18 (2) by redesignating subsection (b) as sub-
19 section (c); and

20 (3) by inserting after subsection (a) the fol-
21 lowing:

22 **“(b) PRIVATE CAUSE OF ACTION.—**

23 **“(1) IN GENERAL.—**Any citizen or national of
24 the United States who is attending, or is enrolled in,
25 a postsecondary educational institution alleged to

1 have violated subsection (a) may commence a civil
2 action in a court of competent jurisdiction, to en-
3 force the terms of subsection (a), against—

4 “(A) any official of the State agency that
5 governs such postsecondary educational institu-
6 tions; or

7 “(B) the postsecondary educational institu-
8 tion.

9 “(2) FEES AND COSTS.—If an individual de-
10 scribed in paragraph (1) establishes a violation of
11 subsection (a) to the satisfaction of the court, the
12 court shall—

13 “(A) provide all appropriate relief to the
14 individual; and

15 “(B) award attorney’s fees and costs to the
16 individual.”.

17 **TITLE IX—IMMIGRATION 18 LITIGATION PROCEDURES**

19 **SEC. 901. SHORT TITLE.**

20 This title may be cited as the “Fairness in Immigra-
21 tion Litigation Act of 2007”.

22 **SEC. 902. APPROPRIATE REMEDIES FOR IMMIGRATION 23 LITIGATION.**

24 (a) LIMITATION ON CIVIL ACTIONS.—No court may
25 certify an action as a class action under Rule 23 of the

1 Federal Rules of Civil Procedure in any civil action filed
2 after the date of the enactment of this Act pertaining to
3 the administration or enforcement of the immigration laws
4 of the United States.

5 (b) REQUIREMENTS FOR RELIEF.—

6 (1) PROSPECTIVE RELIEF.—

7 (A) IN GENERAL.—In the case that a court
8 determines that prospective relief should be or-
9 dered against the Government in a civil action
10 with respect to the administration or enforce-
11 ment of the immigration laws of the United
12 States, the court may order such relief only if
13 the following requirements are met:

14 (i) The court limits the relief to the
15 minimum necessary to correct the viola-
16 tion.

17 (ii) The relief is the least intrusive
18 means necessary to correct the violation.

19 (iii) The court minimizes, to the
20 greatest practical extent, any adverse im-
21 pact on national security, border security,
22 immigration administration and enforce-
23 ment, and public safety caused by the re-
24 lief.

1 (iv) The court provides for the expira-
2 tion of the relief on a specific date which
3 allows for the minimum practical time
4 needed to remedy the violation.

5 (B) WRITTEN EXPLANATION REQUIRED
6 WITH COURT ORDER.—Each court order grant-
7 ing prospective relief shall include in writing an
8 explanation of how the relief meets each re-
9 quirement under subparagraph (A). Such expla-
10 nation must be sufficiently detailed to allow re-
11 view by another court.

12 (2) DURATION OF PRELIMINARY INJUNCTIVE
13 RELIEF.—In the case of prospective relief that is
14 preliminary injunctive relief, such preliminary in-
15 junctive relief shall automatically expire on the date
16 that is 90 days after its entry, unless the court de-
17 termines that the relief meets all legal requirements,
18 including those under paragraph (1)(A), for the
19 entry of prospective relief and makes the order for
20 the prospective relief involved final before expiration
21 of the 90-day period.

22 (c) PROCEDURE FOR MOTIONS AFFECTING PRO-
23 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

1 dissolve, or otherwise terminate an order granting
2 prospective relief in a civil action with respect to the
3 administration or enforcement of the immigration
4 laws of the United States.

5 (2) AUTOMATIC STAYS.—

6 (A) IN GENERAL.—A motion described in
7 paragraph (1), with respect to an order grant-
8 ing prospective relief in a civil action described
9 in such paragraph shall automatically, and
10 without further order of the court, stay the
11 order granting prospective relief during the pe-
12 riod beginning on the date that is 15 days after
13 the date on which such motion is filed and end-
14 ing on the date on which the court enters a
15 final order granting or denying the motion.

16 (B) RULE OF CONSTRUCTION.—A motion
17 described in paragraph (1) shall not operate as
18 a stay under subparagraph (A) if the court in-
19 volved enters a final order ruling on the motion
20 before the first day of the period described in
21 subparagraph (A).

22 (C) TREATMENT OF MOTIONS PENDING
23 FOR NOT MORE THAN 45 DAYS ON DATE OF EN-
24 ACTMENT.—For purposes of this subsection, a
25 motion described in paragraph (1) that was

1 filed during the 45-day period before the date
2 of the enactment of this Act and for which the
3 court has not, as of such date of enactment, en-
4 tered a final order ruling on the motion shall be
5 treated as if the motion had been filed on such
6 date of enactment.

7 (D) TREATMENT OF MOTIONS PENDING
8 FOR MORE THAN 45 DAYS ON DATE OF ENACT-
9 MENT.—For purposes of this subsection, a mo-
10 tion described in paragraph (1) that was filed
11 more than 45 days before the date of the enact-
12 ment of this Act and for which, as of the date
13 that is 10 days after such date of enactment,
14 the court involved has not entered a final order
15 granting or denying the motion, shall operate as
16 an automatic stay of the prospective relief,
17 without further order of the court. An auto-
18 matic stay under this subparagraph shall be ef-
19 fective beginning on such date that is 10 days
20 after the date of enactment and ending on the
21 date on which the court involved enters a final
22 order granting or denying the motion. The ef-
23 fective date of an automatic stay under this
24 subparagraph may not be postponed under
25 paragraph (3).

1 (3) POSTPONEMENT OF AUTOMATIC STAYS.—

2 The court may, for good cause, enter an order to
3 postpone the effective date of an automatic stay
4 under paragraph (2). No effective date of an auto-
5 matic stay under paragraph (2) may be postponed
6 for more than 15 days.

7 (d) RULES FOR PROSPECTIVE RELIEF AFFECTING
8 EXPEDITED REMOVAL.—

1 have jurisdiction and shall promptly vacate any
2 order or part of an order granting prospective relief
3 that is not within the jurisdiction of the court.

4 (3) SAFE HARBOR FOR CONTINUING PROSPEC-
5 TIVE RELIEF TO REMEDY VIOLATION OF CONSTITU-
6 TIONAL RIGHTS.—Paragraphs (1) and (2) shall not
7 apply to an order granting prospective relief in a
8 civil action described in subsection (b)(1)(A) to the
9 extent that the order was entered before the date of
10 the enactment of this Act and the prospective relief
11 is necessary to remedy the violation of a right guar-
12 anteed by the Constitution of the United States.

13 (e) SETTLEMENTS.—

14 (1) CONSENT DECREES.—In any civil action
15 with respect to the administration or enforcement of
16 the immigration laws of the United States, the court
17 involved shall not enter, approve, or continue a con-
18 sent decree unless the decree complies with the re-
19 quirements under clauses (i) through (iv) of sub-
20 paragraph (A) of subsection (b)(1) and includes the
21 written explanation required under subparagraph
22 (B) of such subsection.

23 (2) PRIVATE SETTLEMENT AGREEMENTS.—
24 Nothing in this subsection shall preclude parties
25 from entering into a private settlement agreement

1 that does not comply with the requirements under
2 clauses (i) through (iv) of subparagraph (A) of sub-
3 section (b)(1) or that does not include the written
4 explanation required under subparagraph (B) of
5 such subsection.

6 (f) EXPEDITED PROCEEDINGS.—Each court shall
7 take measures to advance on the docket and to expedite
8 the disposition of any civil action described in subsection
9 (b)(1)(A) or motion described in subsection (c) or (d).

10 (g) DEFINITIONS.—For purposes of this section:

11 (1) CONSENT DECREE.—The term “consent de-
12 cree” means any relief entered by a court that is
13 based in whole or in part on the consent or acquies-
14 cence of the parties involved but does not include
15 private settlements.

16 (2) GOOD CAUSE.—The term “good cause”
17 does not include any cause related to discovery or
18 congestion of the court’s calendar.

19 (3) GOVERNMENT.—The term “Government”
20 means the United States, any Federal department or
21 agency, or any Federal agent or official acting with-
22 in the scope of official duties.

23 (4) PERMANENT RELIEF.—The term “perma-
24 nent relief” means relief issued in connection with a
25 final decision of a court.

11 SEC. 903. SEVERABILITY.

12 If any provision of this title or the application of such
13 provision to any person or circumstance is found to be un-
14 constitutional, the remainder of this title and the applica-
15 tion of the provisions of such remainder of this title to
16 any person or circumstance shall not be affected by such
17 finding.

18 SEC. 904. EFFECTIVE DATE.

19 Except as otherwise provided under section 902(a),
20 the provisions of this title apply to all orders granting pro-
21 spective relief entered by a court before, on, or after the
22 date of the enactment of this Act.

