

## Calendar No. 376

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2454**

To amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. FRIST introduced the following bill; which was read twice and ordered to be placed on the calendar

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**A BILL**

To amend the Immigration and Nationality Act to provide for comprehensive reform 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 “Securing America’s Borders Act”.

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. Reference to the Immigration and Nationality Act.
- Sec. 3. Definitions.

## TITLE I—BORDER ENFORCEMENT

## Subtitle A—Assets for Controlling United States Borders

- Sec. 101. Enforcement personnel.
- Sec. 102. Technological assets.
- Sec. 103. Infrastructure.
- Sec. 104. Border patrol checkpoints.
- Sec. 105. Ports of entry.
- Sec. 106. Construction of strategic border fencing and vehicle barriers.

## Subtitle B—Border Security Plans, Strategies, and Reports

- Sec. 111. Surveillance plan.
- Sec. 112. National Strategy for Border Security.
- Sec. 113. Reports on improving the exchange of information on North American security.
- Sec. 114. Improving the security of Mexico's southern border.

## Subtitle C—Other Border Security Initiatives

- Sec. 121. Biometric data enhancements.
- Sec. 122. Secure communication.
- Sec. 123. Border patrol training capacity review.
- Sec. 124. US-VISIT System.
- Sec. 125. Document fraud detection.
- Sec. 126. Improved document integrity.
- Sec. 127. Cancellation of visas.
- Sec. 128. Biometric entry-exit system.
- Sec. 129. Border study.
- Sec. 130. Secure Border Initiative financial accountability.

## TITLE II—INTERIOR ENFORCEMENT

- Sec. 201. Removal and denial of benefits to terrorist aliens.
- Sec. 202. Detention and removal of aliens ordered removed.
- Sec. 203. Aggravated felony.
- Sec. 204. Terrorist bars.
- Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
- Sec. 206. Illegal entry or unlawful presence of an alien.
- Sec. 207. Illegal reentry.
- Sec. 208. Reform of passport, visa, and immigration fraud offenses.
- Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
- Sec. 210. Incarceration of criminal aliens.
- Sec. 211. Encouraging aliens to depart voluntarily.
- Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
- Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
- Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 215. Diplomatic security service.
- Sec. 216. Field agent allocation and background checks.
- Sec. 217. Denial of benefits to terrorists and criminals.
- Sec. 218. State criminal alien assistance program.

- Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
- Sec. 220. State and local law enforcement of Federal immigration laws.
- Sec. 221. Reducing illegal immigration and alien smuggling on tribal lands.
- Sec. 222. Alternatives to detention.
- Sec. 223. Conforming amendment.
- Sec. 224. Reporting requirements.
- Sec. 225. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 226. Removal of drunk drivers.
- Sec. 227. Expedited removal.
- Sec. 228. Protecting immigrants from convicted sex offenders
- Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
- Sec. 230. Listing of immigration violators in the National Crime Information Center database.
- Sec. 231. Laundering of monetary instruments.
- Sec. 232. Severability.

#### TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

- Sec. 301. Unlawful employment of aliens.
- Sec. 302. Employer Compliance Fund.
- Sec. 303. Additional worksite enforcement and fraud detection agents.
- Sec. 304. Clarification of ineligibility for misrepresentation.

#### TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS AND ALIENS WITH ADVANCED DEGREES

- Sec. 401. Elimination of existing backlogs.
- Sec. 402. Country limits.
- Sec. 403. Allocation of immigrant visas.
- Sec. 404. Relief for minor children.
- Sec. 405. Student visas.
- Sec. 406. Visas for individuals with advanced degrees.
- Sec. 407. Medical services in underserved areas.

#### TITLE V—IMMIGRATION LITIGATION REDUCTION

- Sec. 501. Consolidation of immigration appeals.
- Sec. 502. Additional immigration personnel.
- Sec. 503. Board of immigration appeals removal order authority.
- Sec. 504. Judicial review of visa revocation.
- Sec. 505. Reinstatement of removal orders.
- Sec. 506. Withholding of removal.
- Sec. 507. Certificate of reviewability.
- Sec. 508. Discretionary decisions on motions to reopen or reconsider.
- Sec. 509. Prohibition of attorney fee awards for review of final orders of removal.
- Sec. 510. Board of Immigration Appeals.

#### TITLE VI—MISCELLANEOUS

- Sec. 601. Technical and conforming amendments.

1 **SEC. 2. REFERENCE TO THE IMMIGRATION AND NATION-**  
2 **ALITY ACT.**

3 Except as otherwise expressly provided, whenever in  
4 this Act an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1101 et seq.).

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) DEPARTMENT.—Except as otherwise pro-  
12 vided, the term “Department” means the Depart-  
13 ment of Homeland Security.

14 (2) SECRETARY.—Except as otherwise provided,  
15 the term “Secretary” means the Secretary of Home-  
16 land Security.

17 **TITLE I—BORDER**  
18 **ENFORCEMENT**  
19 **Subtitle A—Assets for Controlling**  
20 **United States Borders**

21 **SEC. 101. ENFORCEMENT PERSONNEL.**

22 (a) ADDITIONAL PERSONNEL.—

23 (1) CUSTOMS AND BORDER PROTECTION OFFI-  
24 CERS.—In each of the fiscal years 2007 through  
25 2011, the Secretary shall, subject to the availability  
26 of appropriations, increase by not less than 250 the

1 number of positions for full-time active duty Cus-  
2 toms and Border Protection officers.

3 (2) PORT OF ENTRY INSPECTORS.—In each of  
4 the fiscal years 2007 through 2011, the Secretary  
5 shall, subject to the availability of appropriations, in-  
6 crease by not less than 250 the number of positions  
7 for full-time active duty port of entry inspectors and  
8 provide appropriate training, equipment, and sup-  
9 port to such additional inspectors.

10 (3) BORDER PATROL AGENT.—Section 5202 of  
11 the Intelligence Reform and Terrorism Prevention  
12 Act of 2004 (Public Law 108–458; 118 Stat. 3734)  
13 is amended—

14 (A) by striking “2010” both places it ap-  
15 pears and inserting “2011”; and

16 (B) by striking “2,000” and inserting  
17 “2,400”.

18 (4) INVESTIGATIVE PERSONNEL.—

19 (A) IMMIGRATION AND CUSTOMS EN-  
20 FORCEMENT INSPECTORS.—Section 5203 of the  
21 Intelligence Reform and Terrorism Prevention  
22 Act of 2004 (Public Law 108–458; 118 Stat.  
23 3734) is amended by striking “800” and insert-  
24 ing “1000”.

1           (B) ADDITIONAL PERSONNEL.—In addi-  
2           tion to the positions authorized under section  
3           5203 of the Intelligence Reform and Terrorism  
4           Prevention Act of 2004, as amended by sub-  
5           paragraph (A), during each of the fiscal years  
6           2007 through 2011, the Secretary shall, subject  
7           to the availability of appropriations, increase by  
8           not less than 200 the number of positions for  
9           personnel within the Department assigned to  
10          investigate alien smuggling.

11       (b) AUTHORIZATION OF APPROPRIATIONS.—

12           (1) CUSTOMS AND BORDER PROTECTION OFFI-  
13           CERS.—There are authorized to be appropriated to  
14           the Secretary such sums as may be necessary for  
15           each of the fiscal years 2007 through 2011 to carry  
16           out paragraph (1) of subsection (a).

17           (2) PORT OF ENTRY INSPECTORS.—There are  
18           authorized to be appropriated to the Secretary such  
19           sums as may be necessary for each of the fiscal  
20           years 2007 through 2011 to carry out paragraph (2)  
21           of subsection (a).

22           (3) BORDER PATROL AGENTS.—There are au-  
23           thorized to be appropriated to the Secretary such  
24           sums as may be necessary for each of fiscal years  
25           2007 through 2011 to carry out section 5202 of the

1 Intelligence Reform and Terrorism Prevention Act  
2 of 2004 (Public Law 108–458; 118 Stat. 3734), as  
3 amended by subsection (a)(3).

4 **SEC. 102. TECHNOLOGICAL ASSETS.**

5 (a) ACQUISITION.—Subject to the availability of ap-  
6 propriations, the Secretary shall procure additional un-  
7 manned aerial vehicles, cameras, poles, sensors, and other  
8 technologies necessary to achieve operational control of the  
9 international borders of the United States and to establish  
10 a security perimeter known as a “virtual fence” along such  
11 international borders to provide a barrier to illegal immi-  
12 gration.

13 (b) INCREASED AVAILABILITY OF EQUIPMENT.—The  
14 Secretary and the Secretary of Defense shall develop and  
15 implement a plan to use authorities provided to the Sec-  
16 retary of Defense under chapter 18 of title 10, United  
17 States Code, to increase the availability and use of Depart-  
18 ment of Defense equipment, including unmanned aerial  
19 vehicles, tethered aerostat radars, and other surveillance  
20 equipment, to assist the Secretary in carrying out surveil-  
21 lance activities conducted at or near the international land  
22 borders of the United States to prevent illegal immigra-  
23 tion.

24 (c) REPORT.—Not later than 6 months after the date  
25 of enactment of this Act, the Secretary and the Secretary

1 of Defense shall submit to Congress a report that con-  
2 tains—

3           (1) a description of the current use of Depart-  
4           ment of Defense equipment to assist the Secretary  
5           in carrying out surveillance of the international land  
6           borders of the United States and assessment of the  
7           risks to citizens of the United States and foreign  
8           policy interests associated with the use of such  
9           equipment;

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

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

17           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
18           are authorized to be appropriated to the Secretary such  
19           sums as may be necessary for each of the fiscal years 2007  
20           through 2011 to carry out subsection (a).

21           (e) CONSTRUCTION.—Nothing in this section may be  
22           construed as altering or amending the prohibition on the  
23           use of any part of the Army or the Air Force as a posse  
24           comitatus under section 1385 of title 18, United States  
25           Code.



1 **SEC. 103. INFRASTRUCTURE.**

2 (a) CONSTRUCTION OF BORDER CONTROL FACILI-  
3 TIES.—Subject to the availability of appropriations, the  
4 Secretary shall construct all-weather roads and acquire  
5 additional vehicle barriers and facilities necessary to  
6 achieve operational control of the international borders of  
7 the United States.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to the Secretary such  
10 sums as may be necessary for each of the fiscal years 2007  
11 through 2011 to carry out subsection (a).

12 **SEC. 104. BORDER PATROL CHECKPOINTS.**

13 The Secretary may maintain temporary or permanent  
14 checkpoints on roadways in border patrol sectors that are  
15 located in proximity to the international border between  
16 the United States and Mexico.

17 **SEC. 105. PORTS OF ENTRY.**

18 The Secretary is authorized to—

19 (1) construct additional ports of entry along the  
20 international land borders of the United States, at  
21 locations to be determined by the Secretary; and

22 (2) make necessary improvements to the ports  
23 of entry in existence on the date of the enactment  
24 of this Act.

1 **SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENC-**  
2 **ING AND VEHICLE BARRIERS.**

3 (a) TUCSON SECTOR.—The Secretary shall—

4 (1) replace all aged, deteriorating, or damaged  
5 primary fencing in the Tucson Sector located proximi-  
6 mate to population centers in Douglas, Nogales,  
7 Naco, and Lukeville, Arizona with double- or triple-  
8 layered fencing running parallel to the international  
9 border between the United States and Mexico;

10 (2) extend the double- or triple-layered fencing  
11 for a distance of not less than 2 miles beyond urban  
12 areas, except that the double- or triple-layered fence  
13 shall extend west of Naco, Arizona, for a distance of  
14 25 miles; and

15 (3) construct not less than 150 miles of vehicle  
16 barriers and all-weather roads in the Tucson Sector  
17 running parallel to the international border between  
18 the United States and Mexico in areas that are  
19 known transit points for illegal cross-border traffic.

20 (b) YUMA SECTOR.—The Secretary shall—

21 (1) replace all aged, deteriorating, or damaged  
22 primary fencing in the Yuma Sector located proximi-  
23 mate to population centers in Yuma, Somerton, and  
24 San Luis, Arizona with double- or triple-layered  
25 fencing running parallel to the international border  
26 between the United States and Mexico;

1           (2) extend the double- or triple-layered fencing  
2           for a distance of not less than 2 miles beyond urban  
3           areas in the Yuma Sector.

4           (3) construct not less than 50 miles of vehicle  
5           barriers and all-weather roads in the Yuma Sector  
6           running parallel to the international border between  
7           the United States and Mexico in areas that are  
8           known transit points for illegal cross-border traffic.

9           (c) CONSTRUCTION DEADLINE.—The Secretary shall  
10          immediately commence construction of the fencing, bar-  
11          riers, and roads described in subsections (a) and (b), and  
12          shall complete such construction not later than 2 years  
13          after the date of the enactment of this Act.

14          (d) REPORT.—Not later than 1 year after the date  
15          of the enactment of this Act, the Secretary shall submit  
16          a report to the Committee on the Judiciary of the Senate  
17          and the Committee on the Judiciary of the House of Rep-  
18          resentatives that describes the progress that has been  
19          made in constructing the fencing, barriers, and roads de-  
20          scribed in subsections (a) and (b).

21          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
22          are authorized to be appropriated such sums as may be  
23          necessary to carry out this section.

1 **Subtitle B—Border Security Plans,**  
2 **Strategies, and Reports**

3 **SEC. 111. SURVEILLANCE PLAN.**

4 (a) **REQUIREMENT FOR PLAN.**—The Secretary shall  
5 develop a comprehensive plan for the systematic surveil-  
6 lance of the international land and maritime borders of  
7 the United States.

8 (b) **CONTENT.**—The plan required by subsection (a)  
9 shall include the following:

10 (1) An assessment of existing technologies em-  
11 ployed on the international land and maritime bor-  
12 ders of the United States.

13 (2) A description of the compatibility of new  
14 surveillance technologies with surveillance tech-  
15 nologies in use by the Secretary on the date of the  
16 enactment of this Act.

17 (3) A description of how the Commissioner of  
18 the United States Customs and Border Protection of  
19 the Department is working, or is expected to work,  
20 with the Under Secretary for Science and Tech-  
21 nology of the Department to identify and test sur-  
22 veillance technology.

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

1           (5) Identification of any obstacles that may im-  
2       pede such deployment.

3           (6) A detailed estimate of all costs associated  
4       with such deployment and with continued mainte-  
5       nance of such technologies.

6           (7) A description of how the Secretary is work-  
7       ing with the Administrator of the Federal Aviation  
8       Administration on safety and airspace control issues  
9       associated with the use of unmanned aerial vehicles.

10       (c) SUBMISSION TO CONGRESS.—Not later than 6  
11       months after the date of the enactment of this Act, the  
12       Secretary shall submit to Congress the plan required by  
13       this section.

14       **SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.**

15       (a) REQUIREMENT FOR STRATEGY.—The Secretary,  
16       in consultation with the heads of other appropriate Fed-  
17       eral agencies, shall develop a National Strategy for Border  
18       Security that describes actions to be carried out to achieve  
19       operational control over all ports of entry into the United  
20       States and the international land and maritime borders  
21       of the United States.

22       (b) CONTENT.—The National Strategy for Border  
23       Security shall include the following:

1           (1) The implementation schedule for the com-  
2           prehensive plan for systematic surveillance described  
3           in section 111.

4           (2) An assessment of the threat posed by ter-  
5           rorists and terrorist groups that may try to infiltrate  
6           the United States at locations along the inter-  
7           national land and maritime borders of the United  
8           States.

9           (3) A risk assessment for all United States  
10          ports of entry and all portions of the international  
11          land and maritime borders of the United States that  
12          includes a description of activities being under-  
13          taken—

14                 (A) to prevent the entry of terrorists, other  
15                 unlawful aliens, instruments of terrorism, nar-  
16                 cotics, and other contraband into the United  
17                 States; and

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

20          (4) An assessment of the legal requirements  
21          that prevent achieving and maintaining operational  
22          control over the entire international land and mari-  
23          time borders of the United States.

24          (5) An assessment of the most appropriate,  
25          practical, and cost-effective means of defending the

1 international land and maritime borders of the  
2 United States against threats to security and illegal  
3 transit, including intelligence capacities, technology,  
4 equipment, personnel, and training needed to ad-  
5 dress security vulnerabilities.

6 (6) An assessment of staffing needs for all bor-  
7 der security functions, taking into account threat  
8 and vulnerability information pertaining to the bor-  
9 ders and the impact of new security programs, poli-  
10 cies, and technologies.

11 (7) A description of the border security roles  
12 and missions of Federal, State, regional, local, and  
13 tribal authorities, and recommendations regarding  
14 actions the Secretary can carry out to improve co-  
15 ordination with such authorities to enable border se-  
16 curity and enforcement activities to be carried out in  
17 a more efficient and effective manner.

18 (8) An assessment of existing efforts and tech-  
19 nologies used for border security and the effect of  
20 the use of such efforts and technologies on civil  
21 rights, personal property rights, and civil liberties,  
22 including an assessment of efforts to take into ac-  
23 count asylum seekers, trafficking victims, unaccom-  
24 panied minor aliens, and other vulnerable popu-  
25 lations.

1           (9) A prioritized list of research and develop-  
2           ment objectives to enhance the security of the inter-  
3           national land and maritime borders of the United  
4           States.

5           (10) A description of ways to ensure that the  
6           free flow of travel and commerce is not diminished  
7           by efforts, activities, and programs aimed at secur-  
8           ing the international land and maritime borders of  
9           the United States.

10          (11) An assessment of additional detention fa-  
11          cilities and beds that are needed to detain unlawful  
12          aliens apprehended at United States ports of entry  
13          or along the international land borders of the United  
14          States.

15          (12) A description of the performance metrics  
16          to be used to ensure accountability by the bureaus  
17          of the Department in implementing such Strategy.

18          (13) A schedule for the implementation of the  
19          security measures described in such Strategy, includ-  
20          ing a prioritization of security measures, realistic  
21          deadlines for addressing the security and enforce-  
22          ment needs, an estimate of the resources needed to  
23          carry out such measures, and a description of how  
24          such resources should be allocated.



1 (c) CONSULTATION.—In developing the National  
2 Strategy for Border Security, the Secretary shall consult  
3 with representatives of—

4 (1) State, local, and tribal authorities with re-  
5 sponsibility for locations along the international land  
6 and maritime borders of the United States; and

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

11 (d) COORDINATION.—The National Strategy for Bor-  
12 der Security shall be consistent with the National Strategy  
13 for Maritime Security developed pursuant to Homeland  
14 Security Presidential Directive 13, dated December 21,  
15 2004.

16 (e) SUBMISSION TO CONGRESS.—

17 (1) STRATEGY.—Not later than 1 year after the  
18 date of the enactment of this Act, the Secretary  
19 shall submit to Congress the National Strategy for  
20 Border Security.

21 (2) UPDATES.—The Secretary shall submit to  
22 Congress any update of such Strategy that the Sec-  
23 retary determines is necessary, not later than 30  
24 days after such update is developed.

1 (f) IMMEDIATE ACTION.—Nothing in this section or  
2 section 111 may be construed to relieve the Secretary of  
3 the responsibility to take all actions necessary and appro-  
4 priate to achieve and maintain operational control over the  
5 entire international land and maritime borders of the  
6 United States.

7 **SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF IN-**  
8 **FORMATION ON NORTH AMERICAN SECU-**  
9 **RITY.**

10 (a) REQUIREMENT FOR REPORTS.—Not later than 1  
11 year after the date of the enactment of this Act, and annu-  
12 ally thereafter, the Secretary of State, in coordination with  
13 the Secretary and the heads of other appropriate Federal  
14 agencies, shall submit to Congress a report on improving  
15 the exchange of information related to the security of  
16 North America.

17 (b) CONTENTS.—Each report submitted under sub-  
18 section (a) shall contain a description of the following:

19 (1) SECURITY CLEARANCES AND DOCUMENT IN-  
20 TEGRITY.—The progress made toward the develop-  
21 ment of common enrollment, security, technical, and  
22 biometric standards for the issuance, authentication,  
23 validation, and repudiation of secure documents, in-  
24 cluding—

1           (A) technical and biometric standards  
2 based on best practices and consistent with  
3 international standards for the issuance, au-  
4 thentication, validation, and repudiation of trav-  
5 el documents, including—

6                   (i) passports;

7                   (ii) visas; and

8                   (iii) permanent resident cards;

9           (B) working with Canada and Mexico to  
10 encourage foreign governments to enact laws to  
11 combat alien smuggling and trafficking, and  
12 laws to forbid the use and manufacture of  
13 fraudulent travel documents and to promote in-  
14 formation sharing;

15           (C) applying the necessary pressures and  
16 support to ensure that other countries meet  
17 proper travel document standards and are com-  
18 mitted to travel document verification before  
19 the citizens of such countries travel internation-  
20 ally, including travel by such citizens to the  
21 United States; and

22           (D) providing technical assistance for the  
23 development and maintenance of a national  
24 database built upon identified best practices for

1           biometrics associated with visa and travel docu-  
2           ments.

3           (2) IMMIGRATION AND VISA MANAGEMENT.—

4           The progress of efforts to share information regard-  
5           ing high-risk individuals who may attempt to enter  
6           Canada, Mexico, or the United States, including the  
7           progress made—

8                   (A) in implementing the Statement of Mu-  
9                   tual Understanding on Information Sharing,  
10                  signed by Canada and the United States in  
11                  February 2003; and

12                   (B) in identifying trends related to immi-  
13                  gration fraud, including asylum and document  
14                  fraud, and to analyze such trends.

15           (3) VISA POLICY COORDINATION AND IMMIGRA-  
16           TION SECURITY.—The progress made by Canada,  
17           Mexico, and the United States to enhance the secu-  
18           rity of North America by cooperating on visa policy  
19           and identifying best practices regarding immigration  
20           security, including the progress made—

21                   (A) in enhancing consultation among offi-  
22                   cials who issue visas at the consulates or em-  
23                   bassies of Canada, Mexico, or the United States  
24                   throughout the world to share information,  
25                   trends, and best practices on visa flows;

1 (B) in comparing the procedures and poli-  
2 cies of Canada and the United States related to  
3 visitor visa processing, including—

- 4 (i) application process;
- 5 (ii) interview policy;
- 6 (iii) general screening procedures;
- 7 (iv) visa validity;
- 8 (v) quality control measures; and
- 9 (vi) access to appeal or review;

10 (C) in exploring methods for Canada, Mex-  
11 ico, and the United States to waive visa re-  
12 quirements for nationals and citizens of the  
13 same foreign countries;

14 (D) in providing technical assistance for  
15 the development and maintenance of a national  
16 database built upon identified best practices for  
17 biometrics associated with immigration viola-  
18 tors;

19 (E) in developing and implementing an im-  
20 migration security strategy for North America  
21 that works toward the development of a com-  
22 mon security perimeter by enhancing technical  
23 assistance for programs and systems to support  
24 advance automated reporting and risk targeting  
25 of international passengers;

1 (F) in sharing information on lost and sto-  
2 len passports on a real-time basis among immi-  
3 gration or law enforcement officials of Canada,  
4 Mexico, and the United States; and

5 (G) in collecting 10 fingerprints from each  
6 individual who applies for a visa.

7 (4) NORTH AMERICAN VISITOR OVERSTAY PRO-  
8 GRAM.—The progress made by Canada and the  
9 United States in implementing parallel entry-exit  
10 tracking systems that, while respecting the privacy  
11 laws of both countries, share information regarding  
12 third country nationals who have overstayed their  
13 period of authorized admission in either Canada or  
14 the United States.

15 (5) TERRORIST WATCH LISTS.—The progress  
16 made in enhancing the capacity of the United States  
17 to combat terrorism through the coordination of  
18 counterterrorism efforts, including the progress  
19 made—

20 (A) in developing and implementing bilat-  
21 eral agreements between Canada and the  
22 United States and between Mexico and the  
23 United States to govern the sharing of terrorist  
24 watch list data and to comprehensively enu-

1 merate the uses of such data by the govern-  
2 ments of each country;

3 (B) in establishing appropriate linkages  
4 among Canada, Mexico, and the United States  
5 Terrorist Screening Center; and

6 (C) in exploring with foreign governments  
7 the establishment of a multilateral watch list  
8 mechanism that would facilitate direct coordina-  
9 tion between the country that identifies an indi-  
10 vidual as an individual included on a watch list,  
11 and the country that owns such list, including  
12 procedures that satisfy the security concerns  
13 and are consistent with the privacy and other  
14 laws of each participating country.

15 (6) MONEY LAUNDERING, CURRENCY SMUG-  
16 GLING, AND ALIEN SMUGGLING.—The progress made  
17 in improving information sharing and law enforce-  
18 ment cooperation in combating organized crime, in-  
19 cluding the progress made—

20 (A) in combating currency smuggling,  
21 money laundering, alien smuggling, and traf-  
22 ficking in alcohol, firearms, and explosives;

23 (B) in implementing the agreement be-  
24 tween Canada and the United States known as  
25 the Firearms Trafficking Action Plan;

1 (C) in determining the feasibility of formu-  
2 lating a firearms trafficking action plan be-  
3 tween Mexico and the United States;

4 (D) in developing a joint threat assessment  
5 on organized crime between Canada and the  
6 United States;

7 (E) in determining the feasibility of formu-  
8 lating a joint threat assessment on organized  
9 crime between Mexico and the United States;

10 (F) in developing mechanisms to exchange  
11 information on findings, seizures, and capture  
12 of individuals transporting undeclared currency;  
13 and

14 (G) in developing and implementing a plan  
15 to combat the transnational threat of illegal  
16 drug trafficking.

17 (7) LAW ENFORCEMENT COOPERATION.—The  
18 progress made in enhancing law enforcement co-  
19 operation among Canada, Mexico, and the United  
20 States through enhanced technical assistance for the  
21 development and maintenance of a national database  
22 built upon identified best practices for biometrics as-  
23 sociated with known and suspected criminals or ter-  
24 rorists, including exploring the formation of law en-  
25 forcement teams that include personnel from the



1 United States and Mexico, and appropriate proce-  
2 dures for such teams.

3 **SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTH-**  
4 **ERN BORDER.**

5 (a) TECHNICAL ASSISTANCE.—The Secretary of  
6 State, in coordination with the Secretary, shall work to  
7 cooperate with the head of Foreign Affairs Canada and  
8 the appropriate officials of the Government of Mexico to  
9 establish a program—

10 (1) to assess the specific needs of Guatemala  
11 and Belize in maintaining the security of the inter-  
12 national borders of such countries;

13 (2) to use the assessment made under para-  
14 graph (1) to determine the financial and technical  
15 support needed by Guatemala and Belize from Can-  
16 ada, Mexico, and the United States to meet such  
17 needs;

18 (3) to provide technical assistance to Guatemala  
19 and Belize to promote issuance of secure passports  
20 and travel documents by such countries; and

21 (4) to encourage Guatemala and Belize—

22 (A) to control alien smuggling and traf-  
23 ficking;

24 (B) to prevent the use and manufacture of  
25 fraudulent travel documents; and

1 (C) to share relevant information with  
2 Mexico, Canada, and the United States.

3 (b) BORDER SECURITY FOR BELIZE, GUATEMALA,  
4 AND MEXICO.—The Secretary, in consultation with the  
5 Secretary of State, shall work to cooperate—

6 (1) with the appropriate officials of the Govern-  
7 ment of Guatemala and the Government of Belize to  
8 provide law enforcement assistance to Guatemala  
9 and Belize that specifically addresses immigration  
10 issues to increase the ability of the Government of  
11 Guatemala to dismantle human smuggling organiza-  
12 tions and gain additional control over the inter-  
13 national border between Guatemala and Belize; and

14 (2) with the appropriate officials of the Govern-  
15 ment of Belize, the Government of Guatemala, the  
16 Government of Mexico, and the governments of  
17 neighboring contiguous countries to establish a pro-  
18 gram to provide needed equipment, technical assist-  
19 ance, and vehicles to manage, regulate, and patrol  
20 the international borders between Mexico and Guate-  
21 mala and between Mexico and Belize.

22 (c) TRACKING CENTRAL AMERICAN GANGS.—The  
23 Secretary of State, in coordination with the Secretary and  
24 the Director of the Federal Bureau of Investigation, shall  
25 work to cooperate with the appropriate officials of the

1 Government of Mexico, the Government of Guatemala, the  
2 Government of Belize, and the governments of other Cen-  
3 tral American countries—

4 (1) to assess the direct and indirect impact on  
5 the United States and Central America of deporting  
6 violent criminal aliens;

7 (2) to establish a program and database to  
8 track individuals involved in Central American gang  
9 activities;

10 (3) to develop a mechanism that is acceptable  
11 to the governments of Belize, Guatemala, Mexico,  
12 the United States, and other appropriate countries  
13 to notify such a government if an individual sus-  
14 pected of gang activity will be deported to that coun-  
15 try prior to the deportation and to provide support  
16 for the reintegration of such deportees into that  
17 country; and

18 (4) to develop an agreement to share all rel-  
19 evant information related to individuals connected  
20 with Central American gangs.

## 21 **Subtitle C—Other Border Security** 22 **Initiatives**

### 23 **SEC. 121. BIOMETRIC DATA ENHANCEMENTS.**

24 Not later than October 1, 2007, the Secretary shall—

1           (1) in consultation with the Attorney General,  
2           enhance connectivity between the Automated Bio-  
3           metric Fingerprint Identification System (IDENT)  
4           of the Department and the Integrated Automated  
5           Fingerprint Identification System (IAFIS) of the  
6           Federal Bureau of Investigation to ensure more ex-  
7           peditious data searches; and

8           (2) in consultation with the Secretary of State,  
9           collect all fingerprints from each alien required to  
10          provide fingerprints during the alien's initial enroll-  
11          ment in the integrated entry and exit data system  
12          described in section 110 of the Illegal Immigration  
13          Reform and Immigrant Responsibility Act of 1996  
14          (8 U.S.C. 1365a).

15 **SEC. 122. SECURE COMMUNICATION.**

16          The Secretary shall, as expeditiously as practicable,  
17          develop and implement a plan to improve the use of sat-  
18          ellite communications and other technologies to ensure  
19          clear and secure 2-way communication capabilities—

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

22                (2) between Border Patrol agents and their re-  
23                spective Border Patrol stations;

1           (3) between Border Patrol agents and residents  
2           in remote areas along the international land borders  
3           of the United States; and

4           (4) between all appropriate border security  
5           agencies of the Department and State, local, and  
6           tribal law enforcement agencies.

7 **SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.**

8           (a) IN GENERAL.—The Comptroller General of the  
9           United States shall conduct a review of the basic training  
10          provided to Border Patrol agents by the Secretary to en-  
11          sure that such training is provided as efficiently and cost-  
12          effectively as possible.

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

15               (1) An evaluation of the length and content of  
16               the basic training curriculum provided to new Bor-  
17               der Patrol agents by the Federal Law Enforcement  
18               Training Center, including a description of how such  
19               curriculum has changed since September 11, 2001,  
20               and an evaluation of language and cultural diversity  
21               training programs provided within such curriculum.

22               (2) A review and a detailed breakdown of the  
23               costs incurred by the Bureau of Customs and Bor-  
24               der Protection and the Federal Law Enforcement  
25               Training Center to train 1 new Border Patrol agent.

1           (3) A comparison, based on the review and  
2           breakdown under paragraph (2), of the costs, effec-  
3           tiveness, scope, and quality, including geographic  
4           characteristics, with other similar training programs  
5           provided by State and local agencies, nonprofit orga-  
6           nizations, universities, and the private sector.

7           (4) An evaluation of whether utilizing com-  
8           parable non-Federal training programs, proficiency  
9           testing, and long-distance learning programs may af-  
10          fect—

11                   (A) the cost-effectiveness of increasing the  
12                   number of Border Patrol agents trained per  
13                   year;

14                   (B) the per agent costs of basic training;  
15                   and

16                   (C) the scope and quality of basic training  
17                   needed to fulfill the mission and duties of a  
18                   Border Patrol agent.

19 **SEC. 124. US-VISIT SYSTEM.**

20           Not later than 6 months after the date of the enact-  
21           ment of this Act, the Secretary, in consultation with the  
22           heads of other appropriate Federal agencies, shall submit  
23           to Congress a schedule for—

24                   (1) equipping all land border ports of entry of  
25                   the United States with the U.S.-Visitor and Immi-

1 grant Status Indicator Technology (US–VISIT) sys-  
2 tem implemented under section 110 of the Illegal  
3 Immigration Reform and Immigrant Responsibility  
4 Act of 1996 (8 U.S.C. 1365a);

5 (2) developing and deploying at such ports of  
6 entry the exit component of the US–VISIT system;  
7 and

8 (3) making interoperable all immigration  
9 screening systems operated by the Secretary.

10 **SEC. 125. DOCUMENT FRAUD DETECTION.**

11 (a) TRAINING.—Subject to the availability of appro-  
12 priations, the Secretary shall provide all Customs and  
13 Border Protection officers with training in identifying and  
14 detecting fraudulent travel documents. Such training shall  
15 be developed in consultation with the head of the Forensic  
16 Document Laboratory of the Bureau of Immigration and  
17 Customs Enforcement.

18 (b) FORENSIC DOCUMENT LABORATORY.—The Sec-  
19 retary shall provide all Customs and Border Protection of-  
20 ficers with access to the Forensic Document Laboratory.

21 (c) ASSESSMENT.—

22 (1) REQUIREMENT FOR ASSESSMENT.—The In-  
23 spector General of the Department shall conduct an  
24 independent assessment of the accuracy and reli-  
25 ability of the Forensic Document Laboratory.

1           (2) REPORT TO CONGRESS.—Not later than 6  
2           months after the date of the enactment of this Act,  
3           the Inspector General shall submit to Congress the  
4           findings of the assessment required by paragraph  
5           (1).

6           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
7           are authorized to be appropriated to the Secretary such  
8           sums as may be necessary for each of fiscal years 2007  
9           through 2011 to carry out this section.

10 **SEC. 126. IMPROVED DOCUMENT INTEGRITY.**

11           (a) IN GENERAL.—Section 303 of the Enhanced Bor-  
12           der Security and Visa Entry Reform Act of 2002 (8  
13           U.S.C. 1732) is amended—

14                   (1) by striking “Attorney General” each place  
15                   it appears and inserting “Secretary of Homeland Se-  
16                   curity”;

17                   (2) in the heading, by striking “**ENTRY AND**  
18                   **EXIT DOCUMENTS**” and inserting “**TRAVEL AND**  
19                   **ENTRY DOCUMENTS AND EVIDENCE OF STA-**  
20                   **TUS**”;

21                   (3) in subsection (b)(1)—

22                           (A) by striking “Not later than October  
23                           26, 2004, the” and inserting “The”; and



1 (B) by striking “visas and” both places it  
2 appears and inserting “visas, evidence of status,  
3 and”;

4 (4) by redesignating subsection (d) as sub-  
5 section (e); and

6 (5) by inserting after subsection (c) the fol-  
7 lowing:

8 “(d) OTHER DOCUMENTS.—Not later than October  
9 26, 2007, every document, other than an interim docu-  
10 ment, issued by the Secretary of Homeland Security,  
11 which may be used as evidence of an alien’s status as an  
12 immigrant, nonimmigrant, parolee, asylee, or refugee,  
13 shall be machine-readable and tamper-resistant, and shall  
14 incorporate a biometric identifier to allow the Secretary  
15 of Homeland Security to verify electronically the identity  
16 and status of the alien.”.

17 **SEC. 127. CANCELLATION OF VISAS.**

18 Section 222(g) (8 U.S.C. 1202(g)) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “Attorney General” and in-  
21 serting “Secretary of Homeland Security”; and

22 (B) by inserting “and any other non-  
23 immigrant visa issued by the United States that  
24 is in the possession of the alien” after “such  
25 visa”; and

1           (2) in paragraph (2)(A), by striking “(other  
2           than the visa described in paragraph (1)) issued in  
3           a consular office located in the country of the alien’s  
4           nationality” and inserting “(other than a visa de-  
5           scribed in paragraph (1)) issued in a consular office  
6           located in the country of the alien’s nationality or  
7           foreign residence”.

8   **SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.**

9           (a) COLLECTION OF BIOMETRIC DATA FROM ALIENS  
10          DEPARTING THE UNITED STATES.—Section 215 (8  
11          U.S.C. 1185) is amended—

12                 (1) by redesignating subsection (c) as sub-  
13                 section (g);

14                 (2) by moving subsection (g), as redesignated  
15                 by paragraph (1), to the end; and

16                 (3) by inserting after subsection (b) the fol-  
17                 lowing:

18                 “(c) The Secretary of Homeland Security is author-  
19                 ized to require aliens departing the United States to pro-  
20                 vide biometric data and other information relating to their  
21                 immigration status.”.

22           (b) INSPECTION OF APPLICANTS FOR ADMISSION.—  
23          Section 235(d) (8 U.S.C. 1225(d)) is amended by adding  
24          at the end the following:

1           “(5) AUTHORITY TO COLLECT BIOMETRIC  
2 DATA.—In conducting inspections under subsection  
3 (b), immigration officers are authorized to collect bi-  
4 ometric data from—

5           “(A) any applicant for admission or alien  
6 seeking to transit through the United States; or

7           “(B) any lawful permanent resident who is  
8 entering the United States and who is not re-  
9 garded as seeking admission pursuant to sec-  
10 tion 101(a)(13)(C).”.

11       (c) COLLECTION OF BIOMETRIC DATA FROM ALIEN  
12 CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by  
13 adding at the end the following:

14       “(d) An immigration officer is authorized to collect  
15 biometric data from an alien crewman seeking permission  
16 to land temporarily in the United States.”.

17       (d) GROUNDS OF INADMISSIBILITY.—Section 212 (8  
18 U.S.C. 1182) is amended—

19           (1) in subsection (a)(7), by adding at the end  
20 the following:

21           “(C) WITHHOLDERS OF BIOMETRIC  
22 DATA.—Any alien who knowingly fails to com-  
23 ply with a lawful request for biometric data  
24 under section 215(c) or 235(d) is inadmis-  
25 sible.”; and

1           (2) in subsection (d), by inserting after para-  
2 graph (1) the following:

3           “(2) The Secretary of Homeland Security shall  
4 determine whether a ground for inadmissibility ex-  
5 ists with respect to an alien described in subpara-  
6 graph (C) of subsection (a)(7) and may waive the  
7 application of such subparagraph for an individual  
8 alien or a class of aliens, at the discretion of the  
9 Secretary.”.

10       (e) IMPLEMENTATION.—Section 7208 of the 9/11  
11 Commission Implementation Act of 2004 (8 U.S.C.  
12 1365b) is amended—

13           (1) in subsection (c), by adding at the end the  
14 following:

15           “(3) IMPLEMENTATION.—In fully implementing  
16 the automated biometric entry and exit data system  
17 under this section, the Secretary is not required to  
18 comply with the requirements of chapter 5 of title 5,  
19 United States Code (commonly referred to as the  
20 Administrative Procedure Act) or any other law re-  
21 lating to rulemaking, information collection, or pub-  
22 lication in the Federal Register.”; and

23           (2) in subsection (l)—

24           (A) by striking “There are authorized”  
25 and inserting the following:

1 “(1) IN GENERAL.—There are authorized”; and

2 (B) by adding at the end the following:

3 “(2) IMPLEMENTATION AT ALL LAND BORDER  
4 PORTS OF ENTRY.—There are authorized to be ap-  
5 propriated such sums as may be necessary for each  
6 of fiscal years 2007 and 2008 to implement the  
7 automated biometric entry and exit data system at  
8 all land border ports of entry.”.

9 **SEC. 129. BORDER STUDY.**

10 (a) SOUTHERN BORDER STUDY.—The Secretary, in  
11 consultation with the Attorney General, the Secretary of  
12 the Interior, the Secretary of Agriculture, the Secretary  
13 of Defense, the Secretary of Commerce, and the Adminis-  
14 trator of the Environmental Protection Agency, shall con-  
15 duct a study on the construction of a system of physical  
16 barriers along the southern international land and mari-  
17 time border of the United States. The study shall in-  
18 clude—

19 (1) an assessment of the necessity of con-  
20 structing such a system, including the identification  
21 of areas of high priority for the construction of such  
22 a system determined after consideration of factors  
23 including the amount of narcotics trafficking and  
24 the number of illegal immigrants apprehended in  
25 such areas;

1           (2) an assessment of the feasibility of con-  
2           structing such a system;

3           (3) an assessment of the international, national,  
4           and regional environmental impact of such a system,  
5           including the impact on zoning, global climate  
6           change, ozone depletion, biodiversity loss, and  
7           transboundary pollution;

8           (4) an assessment of the necessity for ports of  
9           entry along such a system;

10          (5) an assessment of the impact such a system  
11          would have on international trade, commerce, and  
12          tourism;

13          (6) an assessment of the effect of such a system  
14          on private property rights including issues of emi-  
15          nent domain and riparian rights;

16          (7) an estimate of the costs associated with  
17          building a barrier system, including costs associated  
18          with excavation, construction, and maintenance; and

19          (8) an assessment of the effect of such a system  
20          on Indian reservations and units of the National  
21          Park System.

22          (b) REPORT.—Not later than 9 months after the date  
23          of the enactment of this Act, the Secretary shall submit  
24          to Congress a report on the study described in subsection  
25          (a).

1 **SEC. 130. SECURE BORDER INITIATIVE FINANCIAL AC-**  
2 **COUNTABILITY.**

3 (a) IN GENERAL.—The Inspector General of the De-  
4 partment shall review each contract action relating to the  
5 Secure Border Initiative having a value of more than  
6 \$20,000,000, to determine whether each such action fully  
7 complies with applicable cost requirements, performance  
8 objectives, program milestones, inclusion of small, minor-  
9 ity, and women-owned business, and time lines. The In-  
10 spector General shall complete a review under this sub-  
11 section with respect to each contract action—

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

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

16 (b) INSPECTOR GENERAL.—

17 (1) ACTION.—If the Inspector General becomes  
18 aware of any improper conduct or wrongdoing in the  
19 course of conducting a contract review under sub-  
20 section (a), the Inspector General shall, as expedi-  
21 tiously as practicable, refer information relating to  
22 such improper conduct or wrongdoing to the Sec-  
23 retary, or to another appropriate official of the De-  
24 partment, who shall determine whether to tempo-  
25 rarily suspend the contractor from further participa-  
26 tion in the Secure Border Initiative.

1           (2) REPORT.—Upon the completion of each re-  
2 view described in subsection (a), the Inspector Gen-  
3 eral shall submit to the Secretary of Homeland Se-  
4 curity a report containing the findings of the review,  
5 including findings regarding—

6           (A) cost overruns;

7           (B) significant delays in contract execu-  
8 tion;

9           (C) lack of rigorous departmental contract  
10 management;

11           (D) insufficient departmental financial  
12 oversight;

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

15           (F) other high risk business practices.

16 (c) REPORTS BY THE SECRETARY.—

17           (1) IN GENERAL.—Not later than 30 days after  
18 the receipt of each report required under subsection  
19 (b)(2), the Secretary shall submit a report, to the  
20 Committee on the Judiciary of the Senate and the  
21 Committee on the Judiciary of the House of Rep-  
22 resentatives, that describes—

23           (A) the findings of the report received  
24 from the Inspector General; and



1 (B) the steps the Secretary has taken, or  
2 plans to take, to address the problems identified  
3 in such report.

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

12 (d) REPORTS ON UNITED STATES PORTS.—Not later  
13 that 30 days after receiving information regarding a pro-  
14 posed purchase of a contract to manage the operations of  
15 a United States port by a foreign entity, the Committee  
16 on Foreign Investment in the United States shall submit  
17 a report to Congress that describes—

18 (1) the proposed purchase;

19 (2) any security concerns related to the pro-  
20 posed purchase; and

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

23 (e) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
24 tion to amounts that are otherwise authorized to be appro-  
25 priated to the Office of the Inspector General of the De-

1 partment, there are authorized to be appropriated to the  
2 Office, to enable the Office to carry out this section—

3 (1) for fiscal year 2007, not less than 5 percent  
4 of the overall budget of the Office for such fiscal  
5 year;

6 (2) for fiscal year 2008, not less than 6 percent  
7 of the overall budget of the Office for such fiscal  
8 year; and

9 (3) for fiscal year 2009, not less than 7 percent  
10 of the overall budget of the Office for such fiscal  
11 year.

## 12 **TITLE II—INTERIOR**

### 13 **ENFORCEMENT**

#### 14 **SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TER-**

#### 15 **RORIST ALIENS.**

16 (a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C.  
17 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and  
18 inserting “(V), (VI), (VII), or (VIII)”.

19 (b) CANCELLATION OF REMOVAL.—Section  
20 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

21 (1) by striking “inadmissible under” and insert-  
22 ing “described in”; and

23 (2) by striking “deportable under” and insert-  
24 ing “described in”.

1           (c)           VOLUNTARY           DEPARTURE.—Section  
2 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by  
3 striking “deportable under section 237(a)(2)(A)(iii) or  
4 section 237(a)(4)” and inserting “described in paragraph  
5 (2)(A)(iii) or (4) of section 237(a)”.

6           (d)           RESTRICTION           ON           REMOVAL.—Section  
7 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

8                   (1) in clause (iii), by striking “or” at the end;

9                   (2) in clause (iv) by striking the period at the  
10 end and inserting “; or”;

11                  (3) by inserting after clause (iv) the following:

12                               “(v) the alien is described in section  
13 237(a)(4)(B) (other than an alien de-  
14 scribed in section 212(a)(3)(B)(i)(IV) if  
15 the Secretary of Homeland Security deter-  
16 mines that there are not reasonable  
17 grounds for regarding the alien as a dan-  
18 ger to the security of the United States).”;

19                               and

20                  (4) in the undesignated paragraph, by striking  
21 “For purposes of clause (iv), an alien who is de-  
22 scribed in section 237(a)(4)(B) shall be considered  
23 to be an alien with respect to whom there are rea-  
24 sonable grounds for regarding as a danger to the se-  
25 curity of the United States.”.

1 (e) RECORD OF ADMISSION.—Section 249 (8 U.S.C.  
2 1259) is amended to read as follows:

3 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESI-**  
4 **DENCE IN THE CASE OF CERTAIN ALIENS**  
5 **WHO ENTERED THE UNITED STATES PRIOR**  
6 **TO JANUARY 1, 1972.**

7 “A record of lawful admission for permanent resi-  
8 dence may be made, in the discretion of the Secretary of  
9 Homeland Security and under such regulations as the Sec-  
10 retary may prescribe, for any alien, as of the date of the  
11 approval of the alien’s application or, if entry occurred be-  
12 fore July 1, 1924, as of the date of such entry if no such  
13 record is otherwise available, if the alien establishes that  
14 the alien—

15 “(1) is not described in section 212(a)(3)(E) or  
16 in section 212(a) (insofar as it relates to criminals,  
17 procurers, other immoral persons, subversives, viola-  
18 tors of the narcotics laws, or smugglers of aliens);

19 “(2) entered the United States before January  
20 1, 1972;

21 “(3) has resided in the United States continu-  
22 ously since such entry;

23 “(4) is a person of good moral character;

24 “(5) is not ineligible for citizenship; and

25 “(6) is not described in section 237(a)(4)(B).”.

1 (f) EFFECTIVE DATE AND APPLICATION.—The  
2 amendments made by this section shall—

3 (1) take effect on the date of the enactment of  
4 this Act; and

5 (2) apply to—

6 (A) any aliens in a removal, deportation,  
7 or exclusion proceeding pending on or after the  
8 date of the enactment of this Act; and

9 (B) any act or condition constituting a  
10 ground for inadmissibility, excludability, or re-  
11 moval occurring or existing before, on, or after  
12 the date of the enactment of this Act.

13 **SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED**  
14 **REMOVED.**

15 (a) IN GENERAL.—

16 (1) AMENDMENTS.—Section 241(a) (8 U.S.C.  
17 1231(a)) is amended—

18 (A) by striking “Attorney General” the  
19 first place it appears and inserting “Secretary  
20 of Homeland Security”;

21 (B) by striking “Attorney General” any  
22 other place it appears and inserting “Sec-  
23 retary”;

24 (C) in paragraph (1)—

1 (i) in subparagraph (B), by amending  
2 clause (ii) to read as follows:

3 “(ii) If a court, the Board of Immi-  
4 gration Appeals, or an immigration judge  
5 orders a stay of the removal of the alien,  
6 the expiration date of the stay of re-  
7 moval.”.

8 (ii) by amending subparagraph (C) to  
9 read as follows:

10 “(C) EXTENSION OF PERIOD.—The re-  
11 moval period shall be extended beyond a period  
12 of 90 days and the alien may remain in deten-  
13 tion during such extended period if the alien  
14 fails or refuses to—

15 “(i) make all reasonable efforts to  
16 comply with the removal order; or

17 “(ii) fully cooperate with the Sec-  
18 retary’s efforts to establish the alien’s  
19 identity and carry out the removal order,  
20 including failing to make timely application  
21 in good faith for travel or other documents  
22 necessary to the alien’s departure, or con-  
23 spiring or acting to prevent the alien’s re-  
24 moval.”; and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(D) TOLLING OF PERIOD.—If, at the  
4 time described in subparagraph (B), the alien is  
5 not in the custody of the Secretary under the  
6 authority of this Act, the removal period shall  
7 not begin until the alien is taken into such cus-  
8 tody. If the Secretary lawfully transfers custody  
9 of the alien during the removal period to an-  
10 other Federal agency or to a State or local gov-  
11 ernment agency in connection with the official  
12 duties of such agency, the removal period shall  
13 be tolled, and shall recommence on the date on  
14 which the alien is returned to the custody of the  
15 Secretary.”;

16 (D) in paragraph (2), by adding at the end  
17 the following: “If a court, the Board of Immi-  
18 gration Appeals, or an immigration judge or-  
19 ders a stay of removal of an alien who is sub-  
20 ject to an administrative final order of removal,  
21 the Secretary, in the exercise of discretion, may  
22 detain the alien during the pendency of such  
23 stay of removal.”;

24 (E) in paragraph (3), by amending sub-  
25 paragraph (D) to read as follows:

1           “(D) to obey reasonable restrictions on the  
2           alien’s conduct or activities, or to perform af-  
3           firmative acts, that the Secretary prescribes for  
4           the alien—

5                   “(i) to prevent the alien from ab-  
6                   sconding;

7                   “(ii) for the protection of the commu-  
8                   nity; or

9                   “(iii) for other purposes related to the  
10                  enforcement of the immigration laws.”;

11                 (F) in paragraph (6), by striking “removal  
12                 period and, if released,” and inserting “removal  
13                 period, in the discretion of the Secretary, with-  
14                 out any limitations other than those specified in  
15                 this section, until the alien is removed. If an  
16                 alien is released, the alien”;

17                 (G) by redesignating paragraph (7) as  
18                 paragraph (10); and

19                 (H) by inserting after paragraph (6) the  
20                 following:

21                   “(7) PAROLE.—If an alien detained pursuant to  
22                   paragraph (6) is an applicant for admission, the  
23                   Secretary of Homeland Security, in the Secretary’s  
24                   discretion, may parole the alien under section  
25                   212(d)(5) and may provide, notwithstanding section



1 212(d)(5), that the alien shall not be returned to  
2 custody unless either the alien violates the conditions  
3 of the alien’s parole or the alien’s removal becomes  
4 reasonably foreseeable, provided that in no cir-  
5 cumstance shall such alien be considered admitted.

6 “(8) ADDITIONAL RULES FOR DETENTION OR  
7 RELEASE OF ALIENS.—The following procedures  
8 shall apply to an alien detained under this section:

9 “(A) DETENTION REVIEW PROCESS FOR  
10 ALIENS WHO HAVE EFFECTED AN ENTRY AND  
11 FULLY COOPERATE WITH REMOVAL.—The Sec-  
12 retary of Homeland Security shall establish an  
13 administrative review process to determine  
14 whether an alien described in subparagraph (B)  
15 should be detained or released after the removal  
16 period in accordance with subparagraphs (C)  
17 and (E).

18 “(B) ALIEN DESCRIBED.—An alien is de-  
19 scribed in this subparagraph if the alien—

20 “(i) has effected an entry into the  
21 United States;

22 “(ii) has made all reasonable efforts  
23 to comply with the alien’s removal order;

24 “(iii) has cooperated fully with the  
25 Secretary’s efforts to establish the alien’s

1 identity and to carry out the removal  
2 order, including making timely application  
3 in good faith for travel or other documents  
4 necessary for the alien's departure; and

5 “(iv) has not conspired or acted to  
6 prevent removal.

7 “(C) EVIDENCE.—In making a determina-  
8 tion under subparagraph (A), the Secretary—

9 “(i) shall consider any evidence sub-  
10 mitted by the alien;

11 “(ii) may consider any other evidence,  
12 including—

13 “(I) any information or assist-  
14 ance provided by the Department of  
15 State or other Federal agency; and

16 “(II) any other information avail-  
17 able to the Secretary pertaining to the  
18 ability to remove the alien.

19 “(D) AUTHORITY TO DETAIN FOR 90 DAYS  
20 BEYOND REMOVAL PERIOD.—The Secretary, in  
21 the exercise of the Secretary's discretion and  
22 without any limitations other than those speci-  
23 fied in this section, may detain an alien for 90  
24 days beyond the removal period (including any

1 extension of the removal period under para-  
2 graph (1)(C)).

3 “(E) AUTHORITY TO DETAIN FOR ADDI-  
4 TIONAL PERIOD.—The Secretary, in the exer-  
5 cise of the Secretary’s discretion and without  
6 any limitations other than those specified in  
7 this section, may detain an alien beyond the 90-  
8 day period authorized under subparagraph (D)  
9 until the alien is removed, if the Secretary—

10 “(i) determines that there is a signifi-  
11 cant likelihood that the alien will be re-  
12 moved in the reasonably foreseeable future;  
13 or

14 “(ii) certifies in writing—

15 “(I) in consultation with the Sec-  
16 retary of Health and Human Services,  
17 that the alien has a highly contagious  
18 disease that poses a threat to public  
19 safety;

20 “(II) after receipt of a written  
21 recommendation from the Secretary of  
22 State, that the release of the alien  
23 would likely have serious adverse for-  
24 eign policy consequences for the  
25 United States;

1           “(III) based on information avail-  
2           able to the Secretary (including classi-  
3           fied, sensitive, or national security in-  
4           formation, and regardless of the  
5           grounds upon which the alien was or-  
6           dered removed), that there is reason  
7           to believe that the release of the alien  
8           would threaten the national security  
9           of the United States;

10           “(IV) that—

11           “(aa) the release of the alien  
12           would threaten the safety of the  
13           community or any person, and  
14           conditions of release cannot rea-  
15           sonably be expected to ensure the  
16           safety of the community or any  
17           person; and

18           “(bb) the alien—

19           “(AA) has been con-  
20           victed of 1 or more aggra-  
21           vated felonies (as defined in  
22           section 101(a)(43)(A)), or of  
23           1 or more attempts or con-  
24           spiracies to commit any such  
25           aggravated felonies or such

1 crimes, for an aggregate  
2 term of imprisonment of at  
3 least 5 years; or

4 “(BB) has committed a  
5 crime of violence (as defined  
6 in section 16 of title 18,  
7 United States Code, but not  
8 including a purely political  
9 offense) and, because of a  
10 mental condition or person-  
11 ality disorder and behavior  
12 associated with that condi-  
13 tion or disorder, is likely to  
14 engage in acts of violence in  
15 the future; or

16 “(V) that—

17 “(aa) the release of the alien  
18 would threaten the safety of the  
19 community or any person, not-  
20 withstanding conditions of release  
21 designed to ensure the safety of  
22 the community or any person;  
23 and

24 “(bb) the alien has been  
25 convicted of 1 or more aggra-

1 vated felonies (as defined in sec-  
2 tion 101(a)(43)) for which the  
3 alien was sentenced to an aggre-  
4 gate term of imprisonment of not  
5 less than 1 year.

6 “(F) ADMINISTRATIVE REVIEW PROC-  
7 ESS.—The Secretary, without any limitations  
8 other than those specified in this section, may  
9 detain an alien pending a determination under  
10 subparagraph (E)(ii), if the Secretary has initi-  
11 ated the administrative review process identified  
12 in subparagraph (A) not later than 30 days  
13 after the expiration of the removal period (in-  
14 cluding any extension of the removal period  
15 under paragraph (1)(C)).

16 “(G) RENEWAL AND DELEGATION OF CER-  
17 TIFICATION.—

18 “(i) RENEWAL.—The Secretary may  
19 renew a certification under subparagraph  
20 (E)(ii) every 6 months, without limitation,  
21 after providing the alien with an oppor-  
22 tunity to request reconsideration of the  
23 certification and to submit documents or  
24 other evidence in support of that request.  
25 If the Secretary does not renew such cer-

1                   tification, the Secretary shall release the  
2                   alien, pursuant to subparagraph (H).

3                   “(ii) DELEGATION.—Notwithstanding  
4                   any other provision of law, the Secretary  
5                   may not delegate the authority to make or  
6                   renew a certification described in subclause  
7                   (II), (III), or (V) of subparagraph (E)(ii)  
8                   to any employee reporting to the Assistant  
9                   Secretary for Immigration and Customs  
10                  Enforcement.

11                  “(iii) HEARING.—The Secretary may  
12                  request that the Attorney General, or a  
13                  designee of the Attorney General, provide  
14                  for a hearing to make the determination  
15                  described            in            subparagraph  
16                  (E)(ii)(IV)(bb)(BB).

17                  “(H) RELEASE ON CONDITIONS.—If it is  
18                  determined that an alien should be released  
19                  from detention, the Secretary may, in the Sec-  
20                  retary’s discretion, impose conditions on release  
21                  in accordance with the regulations prescribed  
22                  pursuant to paragraph (3).

23                  “(I) REDETENTION.—The Secretary, with-  
24                  out any limitations other than those specified in  
25                  this section, may detain any alien subject to a

1 final removal order who has previously been re-  
2 leased from custody if—

3 “(i) the alien fails to comply with the  
4 conditions of release;

5 “(ii) the alien fails to continue to sat-  
6 isfy the conditions described in subpara-  
7 graph (B); or

8 “(iii) upon reconsideration, the Sec-  
9 retary determines that the alien can be de-  
10 tained under subparagraph (E).

11 “(J) APPLICABILITY.—This paragraph and  
12 paragraphs (6) and (7) shall apply to any alien  
13 returned to custody under subparagraph (I) as  
14 if the removal period terminated on the day of  
15 the redetention.

16 “(K) DETENTION REVIEW PROCESS FOR  
17 ALIENS WHO HAVE EFFECTED AN ENTRY AND  
18 FAIL TO COOPERATE WITH REMOVAL.—The  
19 Secretary shall detain an alien until the alien  
20 makes all reasonable efforts to comply with a  
21 removal order and to cooperate fully with the  
22 Secretary’s efforts, if the alien—

23 “(i) has effected an entry into the  
24 United States; and



1           “(ii)(I) and the alien faces a signifi-  
2           cant likelihood that the alien will be re-  
3           moved in the reasonably foreseeable future,  
4           or would have been removed if the alien  
5           had not—

6                   “(aa) failed or refused to make  
7                   all reasonable efforts to comply with a  
8                   removal order;

9                   “(bb) failed or refused to fully  
10                  cooperate with the Secretary’s efforts  
11                  to establish the alien’s identity and  
12                  carry out the removal order, including  
13                  the failure to make timely application  
14                  in good faith for travel or other docu-  
15                  ments necessary to the alien’s depart-  
16                  ture; or

17                  “(cc) conspired or acted to pre-  
18                  vent removal; or

19                  “(II) the Secretary makes a certifi-  
20                  cation as specified in subparagraph (E), or  
21                  the renewal of a certification specified in  
22                  subparagraph (G).

23                  “(L) DETENTION REVIEW PROCESS FOR  
24                  ALIENS WHO HAVE NOT EFFECTED AN  
25                  ENTRY.—Except as otherwise provided in this

1           subparagraph, the Secretary shall follow the  
2           guidelines established in section 241.4 of title 8,  
3           Code of Federal Regulations, when detaining  
4           aliens who have not effected an entry. The Sec-  
5           retary may decide to apply the review process  
6           outlined in this paragraph.

7           “(9) JUDICIAL REVIEW.—Without regard to the  
8           place of confinement, judicial review of any action or  
9           decision made pursuant to paragraph (6), (7), or (8)  
10          shall be available exclusively in a habeas corpus pro-  
11          ceeding instituted in the United States District  
12          Court for the District of Columbia and only if the  
13          alien has exhausted all administrative remedies  
14          (statutory and nonstatutory) available to the alien as  
15          of right.”.

16          (2) EFFECTIVE DATE.—The amendments made  
17          by paragraph (1)—

18                 (A) shall take effect on the date of the en-  
19                 actment of this Act; and

20                 (B) shall apply to—

21                         (i) any alien subject to a final admin-  
22                         istrative removal, deportation, or exclusion  
23                         order that was issued before, on, or after  
24                         the date of the enactment of this Act; and

1                   (ii) any act or condition occurring or  
2                   existing before, on, or after the date of the  
3                   enactment of this Act.

4           (b) CRIMINAL DETENTION OF ALIENS.—Section  
5 3142 of title 18, United States Code, is amended—

6           (1) in subsection (e)—

7                   (A) by redesignating paragraphs (1), (2),  
8                   and (3) as subparagraphs (A), (B), and (C), re-  
9                   spectively;

10                   (B) by inserting “(1)” before “If, after a  
11                   hearing”;

12                   (C) in subparagraphs (B) and (C), as re-  
13                   designated, by striking “paragraph (1)” and in-  
14                   serting “subparagraph (A)”; and

15                   (D) by adding after subparagraph (C), as  
16                   redesignated, the following:

17           “(2) Subject to rebuttal by the person, it shall be pre-  
18           sumed that no condition or combination of conditions will  
19           reasonably assure the appearance of the person as re-  
20           quired if the judicial officer finds that there is probable  
21           cause to believe that the person—

22                   “(A) is an alien; and

23                   “(B)(i) has no lawful immigration status in the  
24           United States;

1           “(ii) is the subject of a final order of removal;  
2           or

3           “(iii) has committed a felony offense under sec-  
4           tion 911, 922(g)(5), 1015, 1028, 1425, or 1426 of  
5           this title, chapter 75 or 77 of this title, or section  
6           243, 274, 275, 276, 277, or 278 of the Immigration  
7           and Nationality Act (8 U.S.C. 1253, 1324, 1325,  
8           1326, 2327, and 1328).”; and

9           (2) in subsection (g)(3)—

10           (A) in subparagraph (A), by striking  
11           “and” at the end; and

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

13           “(C) the person’s immigration status;  
14           and”.

15 **SEC. 203. AGGRAVATED FELONY.**

16           Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amend-  
17 ed—

18           (1) by striking “The term ‘aggravated felony’  
19           means—” and inserting “Notwithstanding any other  
20           provision of law (including any provision providing  
21           an effective date), the term ‘aggravated felony’ ap-  
22           plies to an offense described in this paragraph,  
23           whether in violation of Federal or State law and to  
24           such an offense in violation of the law of a foreign  
25           country, for which the term of imprisonment was

1 completed within the previous 15 years, even if the  
2 length of the term of imprisonment is based on re-  
3 cidivist or other enhancements and regardless of  
4 whether the conviction was entered before, on, or  
5 after September 30, 1996, and means—”;

6 (2) in subparagraph (N), by striking “para-  
7 graph (1)(A) or (2) of”;

8 (3) in subparagraph (O), by striking “section  
9 275(a) or 276 committed by an alien who was pre-  
10 viously deported on the basis of a conviction for an  
11 offense described in another subparagraph of this  
12 paragraph” and inserting “section 275 or 276 for  
13 which the term of imprisonment is at least 1 year”;

14 (4) in subparagraph (U), by striking “an at-  
15 tempt or conspiracy to commit an offense described  
16 in this paragraph” and inserting “aiding or abetting  
17 an offense described in this paragraph, or soliciting,  
18 counseling, procuring, commanding, or inducing an-  
19 other, attempting, or conspiring to commit such an  
20 offense”; and

21 (5) by striking the undesignated matter fol-  
22 lowing subparagraph (U).

23 **SEC. 204. TERRORIST BARS.**

24 (a) DEFINITION OF GOOD MORAL CHARACTER.—  
25 Section 101(f) (8 U.S.C. 1101(f)) is amended—

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

3           “(2) an alien described in section 212(a)(3) or  
4           237(a)(4), as determined by the Secretary of Home-  
5           land Security or Attorney General based upon any  
6           relevant information or evidence, including classified,  
7           sensitive, or national security information;”;

8           (2) in paragraph (8), by striking “(as defined  
9           in subsection (a)(43))” and inserting the following:  
10          “, regardless of whether the crime was defined as an  
11          aggravated felony under subsection (a)(43) at the  
12          time of the conviction, unless—

13                 “(A) the person completed the term of im-  
14                 prisonment and sentence not later than 10  
15                 years before the date of application; and

16                 “(B) the Secretary of Homeland Security  
17                 or the Attorney General waives the application  
18                 of this paragraph; or”;

19          (3) in the undesignated matter following para-  
20          graph (9), by striking “a finding that for other rea-  
21          sons such person is or was not of good moral char-  
22          acter” and inserting the following: “a discretionary  
23          finding for other reasons that such a person is or  
24          was not of good moral character. In determining an  
25          applicant’s moral character, the Secretary of Home-

1 land Security and the Attorney General may take  
2 into consideration the applicant's conduct and acts  
3 at any time and are not limited to the period during  
4 which good moral character is required.”.

5 (b) PENDING PROCEEDINGS.—Section 204(b) (8  
6 U.S.C. 1154(b)) is amended by adding at the end the fol-  
7 lowing: “A petition may not be approved under this section  
8 if there is any administrative or judicial proceeding  
9 (whether civil or criminal) pending against the petitioner  
10 that could directly or indirectly result in the petitioner's  
11 denaturalization or the loss of the petitioner's lawful per-  
12 manent resident status.”.

13 (c) CONDITIONAL PERMANENT RESIDENT STATUS.—

14 (1) IN GENERAL.—Section 216(e) (8 U.S.C.  
15 1186a(e)) is amended by inserting “if the alien has  
16 had the conditional basis removed pursuant to this  
17 section” before the period at the end.

18 (2) CERTAIN ALIEN ENTREPRENEURS.—Section  
19 216A(e) (8 U.S.C. 1186b(e)) is amended by insert-  
20 ing “if the alien has had the conditional basis re-  
21 moved pursuant to this section” before the period at  
22 the end.

23 (d) JUDICIAL REVIEW OF NATURALIZATION APPLI-  
24 CATIONS.—Section 310(e) (8 U.S.C. 1421(e)) is amend-  
25 ed—

1           (1) by inserting “, not later than 120 days after  
2           the Secretary of Homeland Security’s final deter-  
3           mination,” after “may”; and

4           (2) by adding at the end the following: “The  
5           petitioner shall have the burden of showing that the  
6           Secretary’s denial of the application was contrary to  
7           law. Except in a proceeding under section 340, and  
8           notwithstanding any other provision of law, no court  
9           shall have jurisdiction to determine, or to review a  
10          determination of the Secretary regarding, whether,  
11          for purposes of an application for naturalization, an  
12          alien—

13               “(1) is a person of good moral character;

14               “(2) understands and is attached to the prin-  
15               ciples of the Constitution of the United States; or

16               “(3) is well disposed to the good order and hap-  
17               piness of the United States.”.

18          (e) PERSONS ENDANGERING NATIONAL SECURITY.—

19          Section 316 (8 U.S.C. 1427) is amended by adding at the  
20          end the following:

21               “(g) PERSONS ENDANGERING THE NATIONAL SECU-  
22          RITY.—A person may not be naturalized if the Secretary  
23          of Homeland Security determines, based upon any rel-  
24          evant information or evidence, including classified, sen-  
25          sitive, or national security information, that the person



1 was once an alien described in section 212(a)(3) or  
2 237(a)(4).”.

3 (f) CONCURRENT NATURALIZATION AND REMOVAL  
4 PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended  
5 by striking “the Attorney General if” and all that follows  
6 and inserting: “the Secretary of Homeland Security or any  
7 court if there is pending against the applicant any removal  
8 proceeding or other proceeding to determine the appli-  
9 cant’s inadmissibility or deportability, or to determine  
10 whether the applicant’s lawful permanent resident status  
11 should be rescinded, regardless of when such proceeding  
12 was commenced. The findings of the Attorney General in  
13 terminating removal proceedings or canceling the removal  
14 of an alien under this Act shall not be deemed binding  
15 in any way upon the Secretary of Homeland Security with  
16 respect to the question of whether such person has estab-  
17 lished eligibility for naturalization in accordance with this  
18 title.”.

19 (g) DISTRICT COURT JURISDICTION.—Section  
20 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

21 “(b) REQUEST FOR HEARING BEFORE DISTRICT  
22 COURT.—If there is a failure to render a final administra-  
23 tive decision under section 335 before the end of the 180-  
24 day period beginning on the date on which the Secretary  
25 of Homeland Security completes all examinations and

1 interviews required under such section, the applicant may  
2 apply to the district court for the district in which the  
3 applicant resides for a hearing on the matter. Such district  
4 court shall only have jurisdiction to review the basis for  
5 delay and remand the matter to the Secretary of Home-  
6 land Security for the Secretary's determination on the ap-  
7 plication.".

8 (h) EFFECTIVE DATE.—The amendments made by  
9 this section—

10 (1) shall take effect on the date of the enact-  
11 ment of this Act;

12 (2) shall apply to any act that occurred before,  
13 on, or after such date of enactment; and

14 (3) shall apply to any application for natu-  
15 ralization or any other case or matter under the im-  
16 migration laws pending on, or filed after, such date  
17 of enactment.

18 **SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO**  
19 **GANG VIOLENCE, REMOVAL, AND ALIEN**  
20 **SMUGGLING.**

21 (a) CRIMINAL STREET GANGS.—

22 (1) INADMISSIBILITY.—Section 212(a)(2) (8  
23 U.S.C. 1182(a)(2)) is amended—

24 (A) by redesignating subparagraph (F) as  
25 subparagraph (J); and

1 (B) by inserting after subparagraph (E)  
2 the following:

3 “(F) MEMBERS OF CRIMINAL STREET  
4 GANGS.—Unless the Secretary of Homeland Se-  
5 curity or the Attorney General waives the appli-  
6 cation of this subparagraph, any alien who a  
7 consular officer, the Attorney General, or the  
8 Secretary of Homeland Security knows or has  
9 reason to believe—

10 “(i) is, or has been, a member of a  
11 criminal street gang (as defined in section  
12 521(a) of title 18, United States Code); or

13 “(ii) has participated in the activities  
14 of a criminal street gang, knowing or hav-  
15 ing reason to know that such activities pro-  
16 moted, furthered, aided, or supported the  
17 illegal activity of the criminal gang,  
18 is inadmissible.”.

19 (2) DEPORTABILITY.—Section 237(a)(2) (8  
20 U.S.C. 1227(a)(2)) is amended by adding at the end  
21 the following:

22 “(F) MEMBERS OF CRIMINAL STREET  
23 GANGS.—Unless the Secretary of Homeland Se-  
24 curity or the Attorney General waives the appli-  
25 cation of this subparagraph, any alien who the

1 Secretary of Homeland Security or the Attorney  
2 General knows or has reason to believe—

3 “(i) is, or at any time after admission  
4 has been, a member of a criminal street  
5 gang (as defined in section 521(a) of title  
6 18, United States Code); or

7 “(ii) has participated in the activities  
8 of a criminal street gang, knowing or hav-  
9 ing reason to know that such activities pro-  
10 moted, furthered, aided, or supported the  
11 illegal activity of the criminal gang,

12 is deportable.”.

13 (3) TEMPORARY PROTECTED STATUS.—Section  
14 244 (8 U.S.C. 1254a) is amended—

15 (A) by striking “Attorney General” each  
16 place it appears and inserting “Secretary of  
17 Homeland Security”;

18 (B) in subsection (b)(3)—

19 (i) in subparagraph (B), by striking  
20 the last sentence and inserting the fol-  
21 lowing: “Notwithstanding any other provi-  
22 sion of this section, the Secretary of  
23 Homeland Security may, for any reason  
24 (including national security), terminate or  
25 modify any designation under this section.

1 Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.”;

2  
3  
4  
5 (ii) in subparagraph (C), by striking  
6 “a period of 12 or 18 months” and inserting  
7 “any other period not to exceed 18  
8 months”;

9 (C) in subsection (c)—

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

13 (ii) in paragraph (2)(B)—

14 (I) in clause (i), by striking “,  
15 or” at the end;

16 (II) in clause (ii), by striking the  
17 period at the end and inserting “; or”;  
18 and

19 (III) by adding at the end the  
20 following:

21 “(iii) the alien is, or at any time after  
22 admission has been, a member of a criminal  
23 street gang (as defined in section  
24 521(a) of title 18, United States Code).”;  
25 and

1 (D) in subsection (d)—

2 (i) by striking paragraph (3); and

3 (ii) in paragraph (4), by adding at the  
4 end the following: “The Secretary of  
5 Homeland Security may detain an alien  
6 provided temporary protected status under  
7 this section whenever appropriate under  
8 any other provision of law.”.

9 (b) PENALTIES RELATED TO REMOVAL.—Section  
10 243 (8 U.S.C. 1253) is amended—

11 (1) in subsection (a)(1)—

12 (A) in the matter preceding subparagraph  
13 (A), by inserting “212(a) or” after “section”;  
14 and

15 (B) in the matter following subparagraph  
16 (D)—

17 (i) by striking “or imprisoned not  
18 more than four years” and inserting “and  
19 imprisoned for not less than 6 months or  
20 more than 5 years”; and

21 (ii) by striking “, or both”;

22 (2) in subsection (b), by striking “not more  
23 than \$1000 or imprisoned for not more than one  
24 year, or both” and inserting “under title 18, United  
25 States Code, and imprisoned for not less than 6

1 months or more than 5 years (or for not more than  
2 10 years if the alien is a member of any of the class-  
3 es described in paragraphs (1)(E), (2), (3), and (4)  
4 of section 237(a)”; and

5 (3) by amending subsection (d) to read as fol-  
6 lows:

7 “(d) DENYING VISAS TO NATIONALS OF COUNTRY  
8 DENYING OR DELAYING ACCEPTING ALIEN.—The Sec-  
9 retary of Homeland Security, after making a determina-  
10 tion that the government of a foreign country has denied  
11 or unreasonably delayed accepting an alien who is a cit-  
12 izen, subject, national, or resident of that country after  
13 the alien has been ordered removed, and after consultation  
14 with the Secretary of State, may instruct the Secretary  
15 of State to deny a visa to any citizen, subject, national,  
16 or resident of that country until the country accepts the  
17 alien that was ordered removed.”.

18 (e) ALIEN SMUGGLING AND RELATED OFFENSES.—

19 (1) IN GENERAL.—Section 274 (8 U.S.C.  
20 1324), is amended to read as follows:

21 **“SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

22 **“(a) CRIMINAL OFFENSES AND PENALTIES.—**

23 **“(1) PROHIBITED ACTIVITIES.—**Except as pro-  
24 vided in paragraph (3), a person shall be punished  
25 as provided under paragraph (2), if the person—

1           “(A) facilitates, encourages, directs, or in-  
2           duces a person to come to or enter the United  
3           States, or to cross the border to the United  
4           States, knowing or in reckless disregard of the  
5           fact that such person is an alien who lacks law-  
6           ful authority to come to, enter, or cross the bor-  
7           der to the United States;

8           “(B) facilitates, encourages, directs, or in-  
9           duces a person to come to or enter the United  
10          States, or to cross the border to the United  
11          States, at a place other than a designated port  
12          of entry or place other than as designated by  
13          the Secretary of Homeland Security, knowing  
14          or in reckless disregard of the fact that such  
15          person is an alien and regardless of whether  
16          such alien has official permission or lawful au-  
17          thority to be in the United States;

18          “(C) transports, moves, harbors, conceals,  
19          or shields from detection a person outside of  
20          the United States knowing or in reckless dis-  
21          regard of the fact that such person is an alien  
22          in unlawful transit from 1 country to another  
23          or on the high seas, under circumstances in  
24          which the alien is seeking to enter the United



1 States without official permission or legal au-  
2 thority;

3 “(D) encourages or induces a person to re-  
4 side or remain in the United States, knowing or  
5 in reckless disregard of the fact that such per-  
6 son is an alien who lacks lawful authority to re-  
7 side in or remain in the United States;

8 “(E) transports or moves a person in the  
9 United States, knowing or in reckless disregard  
10 of the fact that such person is an alien who  
11 lacks lawful authority to enter or be in the  
12 United States, if the transportation or move-  
13 ment will further the alien’s illegal entry into or  
14 illegal presence in the United States;

15 “(F) harbors, conceals, or shields from de-  
16 tection a person in the United States, knowing  
17 or in reckless disregard of the fact that such  
18 person is an alien who lacks lawful authority to  
19 be in the United States; or

20 “(G) conspires or attempts to commit any  
21 of the acts described in subparagraphs (A)  
22 through (F).

23 “(2) CRIMINAL PENALTIES.—A person who vio-  
24 lates any provision under paragraph (1)—

1           “(A) except as provided in subparagraphs  
2 (C) through (G), if the offense was not com-  
3 mitted for commercial advantage, profit, or pri-  
4 vate financial gain, shall be fined under title 18,  
5 United States Code, imprisoned for not more  
6 than 5 years, or both;

7           “(B) except as provided in subparagraphs  
8 (C) through (G), if the offense was committed  
9 for commercial advantage, profit, or private fi-  
10 nancial gain—

11           “(i) if the violation is the offender’s  
12 first violation under this subparagraph,  
13 shall be fined under such title, imprisoned  
14 for not more than 20 years, or both; or

15           “(ii) if the violation is the offender’s  
16 second or subsequent violation of this sub-  
17 paragraph, shall be fined under such title,  
18 imprisoned for not less than 3 years or  
19 more than 20 years, or both;

20           “(C) if the offense furthered or aided the  
21 commission of any other offense against the  
22 United States or any State that is punishable  
23 by imprisonment for more than 1 year, shall be  
24 fined under such title, imprisoned for not less  
25 than 5 years or more than 20 years, or both;

1           “(D) shall be fined under such title, im-  
2           prisoned not less than 5 years or more than 20  
3           years, or both, if the offense created a substan-  
4           tial and foreseeable risk of death, a substantial  
5           and foreseeable risk of serious bodily injury (as  
6           defined in section 2119(2) of title 18, United  
7           States Code), or inhumane conditions to an-  
8           other person, including—

9                   “(i) transporting the person in an en-  
10                   gine compartment, storage compartment,  
11                   or other confined space;

12                   “(ii) transporting the person at an ex-  
13                   cessive speed or in excess of the rated ca-  
14                   pacity of the means of transportation; or

15                   “(iii) transporting the person in, har-  
16                   boring the person in, or otherwise sub-  
17                   jecting the person to crowded or dangerous  
18                   conditions;

19           “(E) if the offense caused serious bodily  
20           injury (as defined in section 2119(2) of title 18,  
21           United States Code) to any person, shall be  
22           fined under such title, imprisoned for not less  
23           than 7 years or more than 30 years, or both;

24           “(F) shall be fined under such title and  
25           imprisoned for not less than 10 years or more

1 than 30 years if the offense involved an alien  
2 who the offender knew or had reason to believe  
3 was—

4 “(i) engaged in terrorist activity (as  
5 defined in section 212(a)(3)(B)); or

6 “(ii) intending to engage in terrorist  
7 activity;

8 “(G) if the offense caused or resulted in  
9 the death of any person, shall be punished by  
10 death or imprisoned for a term of years not less  
11 than 10 years and up to life, and fined under  
12 title 18, United States Code.

13 “(3) LIMITATION.—It is not a violation of sub-  
14 paragraph (D), (E), or (F) of paragraph (1)—

15 “(A) for a religious denomination having a  
16 bona fide nonprofit, religious organization in  
17 the United States, or the agents or officers of  
18 such denomination or organization, to encour-  
19 age, invite, call, allow, or enable an alien who  
20 is present in the United States to perform the  
21 vocation of a minister or missionary for the de-  
22 nomination or organization in the United States  
23 as a volunteer who is not compensated as an  
24 employee, notwithstanding the provision of  
25 room, board, travel, medical assistance, and

1 other basic living expenses, provided the min-  
2 ister or missionary has been a member of the  
3 denomination for at least 1 year; or

4 “(B) for an individual to provide an alien  
5 with emergency humanitarian assistance, in-  
6 cluding emergency medical care and food, or to  
7 transport the alien to a location where such as-  
8 sistance can be rendered, provided that such as-  
9 sistance is rendered without compensation or  
10 the expectation of compensation.

11 “(4) EXTRATERRITORIAL JURISDICTION.—  
12 There is extraterritorial Federal jurisdiction over the  
13 offenses described in this subsection.

14 “(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

15 “(1) CRIMINAL OFFENSE AND PENALTIES.—  
16 Any person who, during any 12-month period, know-  
17 ingly employs 10 or more individuals with actual  
18 knowledge or in reckless disregard of the fact that  
19 the individuals are aliens described in paragraph (2),  
20 shall be fined under title 18, United States Code,  
21 imprisoned for not more than 10 years, or both.

22 “(2) DEFINITION.—An alien described in this  
23 paragraph is an alien who—

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

1           “(B) is present in the United States with-  
2           out lawful authority; and

3           “(C) has been brought into the United  
4           States in violation of this subsection.

5           “(c) SEIZURE AND FORFEITURE.—

6           “(1) IN GENERAL.—Any real or personal prop-  
7           erty used to commit or facilitate the commission of  
8           a violation of this section, the gross proceeds of such  
9           violation, and any property traceable to such prop-  
10          erty or proceeds, shall be subject to forfeiture.

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

20          “(3) PRIMA FACIE EVIDENCE IN DETERMINA-  
21          TIONS OF VIOLATIONS.—In determining whether a  
22          violation of subsection (a) has occurred, prima facie  
23          evidence that an alien involved in the alleged viola-  
24          tion lacks lawful authority to come to, enter, reside  
25          in, remain in, or be in the United States or that

1 such alien had come to, entered, resided in, re-  
2 mained in, or been present in the United States in  
3 violation of law shall include—

4 “(A) any order, finding, or determination  
5 concerning the alien’s status or lack of status  
6 made by a Federal judge or administrative ad-  
7 judicator (including an immigration judge or  
8 immigration officer) during any judicial or ad-  
9 ministrative proceeding authorized under Fed-  
10 eral immigration law;

11 “(B) official records of the Department of  
12 Homeland Security, the Department of Justice,  
13 or the Department of State concerning the  
14 alien’s status or lack of status; and

15 “(C) testimony by an immigration officer  
16 having personal knowledge of the facts con-  
17 cerning the alien’s status or lack of status.

18 “(d) **AUTHORITY TO ARREST.**—No officer or person  
19 shall have authority to make any arrests for a violation  
20 of any provision of this section except—

21 “(1) officers and employees designated by the  
22 Secretary of Homeland Security, either individually  
23 or as a member of a class; and

24 “(2) other officers responsible for the enforce-  
25 ment of Federal criminal laws.

1           “(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TES-  
2 TIMONY.—Notwithstanding any provision of the Federal  
3 Rules of Evidence, the videotaped or otherwise audio-  
4 visually preserved deposition of a witness to a violation  
5 of subsection (a) who has been deported or otherwise ex-  
6 pelled from the United States, or is otherwise unavailable  
7 to testify, may be admitted into evidence in an action  
8 brought for that violation if—

9           “(1) the witness was available for cross exam-  
10 ination at the deposition by the party, if any, oppos-  
11 ing admission of the testimony; and

12           “(2) the deposition otherwise complies with the  
13 Federal Rules of Evidence.

14           “(f) OUTREACH PROGRAM.—

15           “(1) IN GENERAL.—The Secretary of Homeland  
16 Security, in consultation with the Attorney General  
17 and the Secretary of State, as appropriate, shall—

18           “(A) develop and implement an outreach  
19 program to educate people in and out of the  
20 United States about the penalties for bringing  
21 in and harboring aliens in violation of this sec-  
22 tion; and

23           “(B) establish the American Local and In-  
24 terior Enforcement Needs (ALIEN) Task Force  
25 to identify and respond to the use of Federal,



1 State, and local transportation infrastructure to  
2 further the trafficking of unlawful aliens within  
3 the United States.

4 “(2) FIELD OFFICES.—The Secretary of Home-  
5 land Security, after consulting with State and local  
6 government officials, shall establish such field offices  
7 as may be necessary to carry out this subsection.

8 “(3) AUTHORIZATION OF APPROPRIATIONS.—  
9 There are authorized to be appropriated such sums  
10 are necessary for the fiscal years 2007 through 2011  
11 to carry out this subsection.

12 “(g) DEFINITIONS.—In this section:

13 “(1) CROSSED THE BORDER INTO THE UNITED  
14 STATES.—An alien is deemed to have crossed the  
15 border into the United States regardless of whether  
16 the alien is free from official restraint.

17 “(2) LAWFUL AUTHORITY.—The term ‘lawful  
18 authority’ means permission, authorization, or li-  
19 cense that is expressly provided for in the immigra-  
20 tion laws of the United States or accompanying reg-  
21 ulations. The term does not include any such au-  
22 thority secured by fraud or otherwise obtained in  
23 violation of law or authority sought, but not ap-  
24 proved. No alien shall be deemed to have lawful au-  
25 thority to come to, enter, reside in, remain in, or be

1 in the United States if such coming to, entry, resi-  
2 dence, remaining, or presence was, is, or would be  
3 in violation of law.

4 “(3) PROCEEDS.—The term ‘proceeds’ includes  
5 any property or interest in property obtained or re-  
6 tained as a consequence of an act or omission in vio-  
7 lation of this section.

8 “(4) UNLAWFUL TRANSIT.—The term ‘unlawful  
9 transit’ means travel, movement, or temporary pres-  
10 ence that violates the laws of any country in which  
11 the alien is present or any country from which the  
12 alien is traveling or moving.”.

13 (2) CLERICAL AMENDMENT.—The table of con-  
14 tents is amended by striking the item relating to sec-  
15 tion 274 and inserting the following:

“Sec. 274. Alien smuggling and related offenses.”.

16 (d) PROHIBITING CARRYING OR USING A FIREARM  
17 DURING AND IN RELATION TO AN ALIEN SMUGGLING  
18 CRIME.—Section 924(c) of title 18, United States Code,  
19 is amended—

20 (1) in paragraph (1)—

21 (A) in subparagraph (A), by inserting “,  
22 alien smuggling crime,” after “any crime of vio-  
23 lence”;

1 (B) in subparagraph (A), by inserting “,  
2 alien smuggling crime,” after “such crime of vi-  
3 olence”;

4 (C) in subparagraph (D)(ii), by inserting  
5 “, alien smuggling crime,” after “crime of vio-  
6 lence”; and

7 (2) by adding at the end the following:

8 “(6) For purposes of this subsection, the term ‘alien  
9 smuggling crime’ means any felony punishable under sec-  
10 tion 274(a), 277, or 278 of the Immigration and Nation-  
11 ality Act (8 U.S.C. 1324(a), 1327, and 1328).”.

12 **SEC. 206. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF AN**  
13 **ALIEN.**

14 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is  
15 amended to read as follows:

16 **“SEC. 275. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF**  
17 **AN ALIEN.**

18 “(a) IN GENERAL.—

19 “(1) CRIMINAL OFFENSES.—An alien shall be  
20 subject to the penalties set forth in paragraph (2) if  
21 the alien—

22 “(A) knowingly enters or crosses the bor-  
23 der into the United States at any time or place  
24 other than as designated by the Secretary of  
25 Homeland Security;

1           “(B) knowingly eludes examination or in-  
2           spection by an immigration officer;

3           “(C) knowingly enters or crosses the bor-  
4           der to the United States by means of a know-  
5           ingly false or misleading representation or the  
6           knowing concealment of a material fact; or

7           “(D) is otherwise present in the United  
8           States, knowing that such presence violates the  
9           terms and conditions of any admission, parole,  
10          immigration status, or authorized stay granted  
11          the alien under this Act.

12          “(2) CRIMINAL PENALTIES.—Any alien who  
13          violates any provision under paragraph (1)—

14               “(A) shall, for the first violation, be fined  
15               under title 18, United States Code, imprisoned  
16               not more than 6 months, or both;

17               “(B) shall, for a second or subsequent vio-  
18               lation, or following an order of voluntary depar-  
19               ture, be fined under such title, imprisoned not  
20               more than 2 years, or both;

21               “(C) if the violation occurred after the  
22               alien had been convicted of 3 or more mis-  
23               demeanors or for a felony, shall be fined under  
24               such title, imprisoned not more than 10 years,  
25               or both;

1           “(D) if the violation occurred after the  
2           alien had been convicted of a felony for which  
3           the alien received a term of imprisonment of  
4           not less than 30 months, shall be fined under  
5           such title, imprisoned not more than 15 years,  
6           or both; and

7           “(E) if the violation occurred after the  
8           alien had been convicted of a felony for which  
9           the alien received a term of imprisonment of  
10          not less than 60 months, such alien shall be  
11          fined under such title, imprisoned not more  
12          than 20 years, or both.

13          “(3) PRIOR CONVICTIONS.—The prior convic-  
14          tions described in subparagraphs (C) through (E) of  
15          paragraph (2) are elements of the offenses described  
16          in that paragraph and the penalties in such subpara-  
17          graphs shall apply only in cases in which the convic-  
18          tion or convictions that form the basis for the addi-  
19          tional penalty are—

20                 “(A) alleged in the indictment or informa-  
21                 tion; and

22                 “(B) proven beyond a reasonable doubt at  
23                 trial or admitted by the defendant.

24          “(4) DURATION OF OFFENSE.—An offense  
25          under this subsection continues until the alien is dis-

1 covered within the United States by an immigration  
2 officer.

3 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
4 ALTIES.—

5 “(1) IN GENERAL.—Any alien who is appre-  
6 hended while entering, attempting to enter, or know-  
7 ingly crossing or attempting to cross the border to  
8 the United States at a time or place other than as  
9 designated by immigration officers shall be subject  
10 to a civil penalty, in addition to any criminal or  
11 other civil penalties that may be imposed under any  
12 other provision of law, in an amount equal to—

13 “(A) not less than \$50 or more than \$250  
14 for each such entry, crossing, attempted entry,  
15 or attempted crossing; or

16 “(B) twice the amount specified in para-  
17 graph (1) if the alien had previously been sub-  
18 ject to a civil penalty under this subsection.

19 “(2) CROSSED THE BORDER DEFINED.—In this  
20 section, an alien is deemed to have crossed the bor-  
21 der if the act was voluntary, regardless of whether  
22 the alien was under observation at the time of the  
23 crossing.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 is amended by striking the item relating to section 275  
3 and inserting the following:

“Sec. 275. Illegal entry or unlawful presence of an alien.”.

4 **SEC. 207. ILLEGAL REENTRY.**

5 Section 276 (8 U.S.C. 1326) is amended to read as  
6 follows:

7 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

8 “(a) REENTRY AFTER REMOVAL.—Any alien who  
9 has been denied admission, excluded, deported, or re-  
10 moved, or who has departed the United States while an  
11 order of exclusion, deportation, or removal is outstanding,  
12 and subsequently enters, attempts to enter, crosses the  
13 border to, attempts to cross the border to, or is at any  
14 time found in the United States, shall be fined under title  
15 18, United States Code, imprisoned not more than 2  
16 years, or both.

17 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-  
18 withstanding the penalty provided in subsection (a), if an  
19 alien described in that subsection—

20 “(1) was convicted for 3 or more misdemeanors  
21 or a felony before such removal or departure, the  
22 alien shall be fined under title 18, United States  
23 Code, imprisoned not more than 10 years, or both;

24 “(2) was convicted for a felony before such re-  
25 moval or departure for which the alien was sen-

1       tenced to a term of imprisonment of not less than  
2       30 months, the alien shall be fined under such title,  
3       imprisoned not more than 15 years, or both;

4           “(3) was convicted for a felony before such re-  
5       moval or departure for which the alien was sen-  
6       tenced to a term of imprisonment of not less than  
7       60 months, the alien shall be fined under such title,  
8       imprisoned not more than 20 years, or both;

9           “(4) was convicted for 3 felonies before such re-  
10      moval or departure, the alien shall be fined under  
11      such title, imprisoned not more than 20 years, or  
12      both; or

13          “(5) was convicted, before such removal or de-  
14      parture, for murder, rape, kidnaping, or a felony of-  
15      fense described in chapter 77 (relating to peonage  
16      and slavery) or 113B (relating to terrorism) of such  
17      title, the alien shall be fined under such title, impris-  
18      oned not more than 20 years, or both.

19          “(c) REENTRY AFTER REPEATED REMOVAL.—Any  
20      alien who has been denied admission, excluded, deported,  
21      or removed 3 or more times and thereafter enters, at-  
22      tempts to enter, crosses the border to, attempts to cross  
23      the border to, or is at any time found in the United States,  
24      shall be fined under title 18, United States Code, impris-  
25      oned not more than 10 years, or both.



1       “(d) PROOF OF PRIOR CONVICTIONS.—The prior  
2 convictions described in subsection (b) are elements of the  
3 crimes described in that subsection, and the penalties in  
4 that subsection shall apply only in cases in which the con-  
5 viction or convictions that form the basis for the additional  
6 penalty are—

7           “(1) alleged in the indictment or information;

8       and

9           “(2) proven beyond a reasonable doubt at trial  
10 or admitted by the defendant.

11       “(e) AFFIRMATIVE DEFENSES.—It shall be an af-  
12 firmative defense to a violation of this section that—

13           “(1) prior to the alleged violation, the alien had  
14 sought and received the express consent of the Sec-  
15 retary of Homeland Security to reapply for admis-  
16 sion into the United States; or

17           “(2) with respect to an alien previously denied  
18 admission and removed, the alien—

19           “(A) was not required to obtain such ad-  
20 vance consent under the Immigration and Na-  
21 tionality Act or any prior Act; and

22           “(B) had complied with all other laws and  
23 regulations governing the alien’s admission into  
24 the United States.

1       “(f) LIMITATION ON COLLATERAL ATTACK ON UN-  
2 DERLYING REMOVAL ORDER.—In a criminal proceeding  
3 under this section, an alien may not challenge the validity  
4 of any prior removal order concerning the alien unless the  
5 alien demonstrates by clear and convincing evidence  
6 that—

7               “(1) the alien exhausted all administrative rem-  
8 edies that may have been available to seek relief  
9 against the order;

10              “(2) the removal proceedings at which the order  
11 was issued improperly deprived the alien of the op-  
12 portunity for judicial review; and

13              “(3) the entry of the order was fundamentally  
14 unfair.

15       “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-  
16 PLETION OF TERM OF IMPRISONMENT.—Any alien re-  
17 moved pursuant to section 241(a)(4) who enters, attempts  
18 to enter, crosses the border to, attempts to cross the bor-  
19 der to, or is at any time found in, the United States shall  
20 be incarcerated for the remainder of the sentence of im-  
21 prisonment which was pending at the time of deportation  
22 without any reduction for parole or supervised release un-  
23 less the alien affirmatively demonstrates that the Sec-  
24 retary of Homeland Security has expressly consented to  
25 the alien’s reentry. Such alien shall be subject to such

1 other penalties relating to the reentry of removed aliens  
2 as may be available under this section or any other provi-  
3 sion of law.

4 “(h) LIMITATION.—It is not aiding and abetting a  
5 violation of this section for an individual to provide an  
6 alien with emergency humanitarian assistance, including  
7 emergency medical care and food, or to transport the alien  
8 to a location where such assistance can be rendered, pro-  
9 vided that such assistance is rendered without compensa-  
10 tion or the expectation of compensation.

11 “(i) DEFINITIONS.—In this section:

12 “(1) CROSSES THE BORDER.—The term  
13 ‘crosses the border’ applies if an alien acts volun-  
14 tarily, regardless of whether the alien was under ob-  
15 servation at the time of the crossing.

16 “(2) FELONY.—Term ‘felony’ means any crimi-  
17 nal offense punishable by a term of imprisonment of  
18 more than 1 year under the laws of the United  
19 States, any State, or a foreign government.

20 “(3) MISDEMEANOR.—The term ‘misdemeanor’  
21 means any criminal offense punishable by a term of  
22 imprisonment of not more than 1 year under the ap-  
23 plicable laws of the United States, any State, or a  
24 foreign government.

1           “(4) REMOVAL.—The term ‘removal’ includes  
2           any denial of admission, exclusion, deportation, or  
3           removal, or any agreement by which an alien stipu-  
4           lates or agrees to exclusion, deportation, or removal.

5           “(5) STATE.—The term ‘State’ means a State  
6           of the United States, the District of Columbia, and  
7           any commonwealth, territory, or possession of the  
8           United States.”.

9   **SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION**

10                           **FRAUD OFFENSES.**

11           (a) IN GENERAL.—Chapter 75 of title 18, United  
12 States Code, is amended to read as follows:

13                   **“CHAPTER 75—PASSPORT, VISA, AND**  
14                           **IMMIGRATION FRAUD**

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

15   **“§ 1541. Trafficking in passports**

16           “(a) MULTIPLE PASSPORTS.—Any person who, dur-  
17 ing any 3-year period, knowingly—

1           “(1) and without lawful authority produces,  
2 issues, or transfers 10 or more passports;

3           “(2) forges, counterfeits, alters, or falsely  
4 makes 10 or more passports;

5           “(3) secures, possesses, uses, receives, buys,  
6 sells, or distributes 10 or more passports, knowing  
7 the passports to be forged, counterfeited, altered,  
8 falsely made, stolen, procured by fraud, or produced  
9 or issued without lawful authority; or

10           “(4) completes, mails, prepares, presents, signs,  
11 or submits 10 or more applications for a United  
12 States passport (including any supporting docu-  
13 mentation), knowing the applications to contain any  
14 false statement or representation,

15 shall be fined under this title, imprisoned not more than  
16 20 years, or both.

17           “(b) PASSPORT MATERIALS.—Any person who know-  
18 ingly and without lawful authority produces, counterfeits,  
19 secures, possesses, or uses any official paper, seal,  
20 hologram, image, text, symbol, stamp, engraving, plate, or  
21 other material used to make a passport shall be fined  
22 under this title, imprisoned not more than 20 years, or  
23 both.

1 **“§ 1542. False statement in an application for a pass-**  
2 **port**

3 “Any person who knowingly—

4 “(1) makes any false statement or representa-  
5 tion in an application for a United States passport  
6 (including any supporting documentation);

7 “(2) completes, mails, prepares, presents, signs,  
8 or submits an application for a United States pass-  
9 port (including any supporting documentation)  
10 knowing the application to contain any false state-  
11 ment or representation; or

12 “(3) causes or attempts to cause the production  
13 of a passport by means of any fraud or false applica-  
14 tion for a United States passport (including any  
15 supporting documentation), if such production oc-  
16 curs or would occur at a facility authorized by the  
17 Secretary of State for the production of passports,  
18 shall be fined under this title, imprisoned not more than  
19 15 years, or both.

20 **“§ 1543. Forgery and unlawful production of a pass-**  
21 **port**

22 “(a) FORGERY.—Any person who—

23 “(1) knowingly forges, counterfeits, alters, or  
24 falsely makes any passport; or

25 “(2) knowingly transfers any passport knowing  
26 it to be forged, counterfeited, altered, falsely made,

1       stolen, or to have been produced or issued without  
2       lawful authority,  
3 shall be fined under this title, imprisoned not more than  
4 15 years, or both.

5       “(b) UNLAWFUL PRODUCTION.—Any person who  
6 knowingly and without lawful authority—

7           “(1) produces, issues, authorizes, or verifies a  
8 passport in violation of the laws, regulations, or  
9 rules governing the issuance of the passport;

10          “(2) produces, issues, authorizes, or verifies a  
11 United States passport for or to any person not  
12 owing allegiance to the United States; or

13          “(3) transfers or furnishes a passport to a per-  
14 son for use when such person is not the person for  
15 whom the passport was issued or designed,

16 shall be fined under this title, imprisoned not more than  
17 15 years, or both.

18 **“§ 1544. Misuse of a passport**

19       “(a) IN GENERAL.—Any person who—

20           “(1) knowingly uses any passport issued or de-  
21 signed for the use of another;

22           “(2) knowingly uses any passport in violation of  
23 the conditions or restrictions therein contained, or in  
24 violation of the laws, regulations, or rules governing  
25 the issuance and use of the passport;

1           “(3) knowingly secures, possesses, uses, re-  
2           ceives, buys, sells, or distributes any passport know-  
3           ing it to be forged, counterfeited, altered, falsely  
4           made, procured by fraud, or produced or issued  
5           without lawful authority; or

6           “(4) knowingly violates the terms and condi-  
7           tions of any safe conduct duly obtained and issued  
8           under the authority of the United States,  
9 shall be fined under this title, imprisoned not more than  
10 15 years, or both.

11          “(b) ENTRY; FRAUD.—Any person who knowingly  
12 uses any passport, knowing the passport to be forged,  
13 counterfeited, altered, falsely made, procured by fraud,  
14 produced or issued without lawful authority, or issued or  
15 designed for the use of another—

16           “(1) to enter or to attempt to enter the United  
17           States; or

18           “(2) to defraud the United States, a State, or  
19           a political subdivision of a State,

20 shall be fined under this title, imprisoned not more than  
21 15 years, or both.

22 **“§ 1545. Schemes to defraud aliens**

23          “(a) IN GENERAL.—Any person who knowingly exe-  
24 cutes a scheme or artifice, in connection with any matter  
25 that is authorized by or arises under Federal immigration



1 laws, or any matter the offender claims or represents is  
2 authorized by or arises under Federal immigration laws—

3 “(1) to defraud any person, or

4 “(2) to obtain or receive from any person, by  
5 means of false or fraudulent pretenses, representa-  
6 tions, promises, money or anything else of value,

7 shall be fined under this title, imprisoned not more than  
8 15 years, or both.

9 “(b) MISREPRESENTATION.—Any person who know-  
10 ingly and falsely represents himself to be an attorney in  
11 any matter arising under Federal immigration laws shall  
12 be fined under this title, imprisoned not more than 15  
13 years, or both.

14 **“§ 1546. Immigration and visa fraud**

15 “(a) IN GENERAL.—Any person who knowingly—

16 “(1) uses any immigration document issued or  
17 designed for the use of another;

18 “(2) forges, counterfeits, alters, or falsely  
19 makes any immigration document;

20 “(3) completes, mails, prepares, presents, signs,  
21 or submits any immigration document knowing it to  
22 contain any materially false statement or representa-  
23 tion;

24 “(4) secures, possesses, uses, transfers, re-  
25 ceives, buys, sells, or distributes any immigration

1 document knowing it to be forged, counterfeited, al-  
2 tered, falsely made, stolen, procured by fraud, or  
3 produced or issued without lawful authority;

4 “(5) adopts or uses a false or fictitious name to  
5 evade or to attempt to evade the immigration laws;  
6 or

7 “(6) transfers or furnishes an immigration docu-  
8 ment to a person without lawful authority for use  
9 if such person is not the person for whom the immi-  
10 gration document was issued or designed,

11 shall be fined under this title, imprisoned not more than  
12 15 years, or both.

13 “(b) MULTIPLE VIOLATIONS.—Any person who, dur-  
14 ing any 3-year period, knowingly—

15 “(1) and without lawful authority produces,  
16 issues, or transfers 10 or more immigration docu-  
17 ments;

18 “(2) forges, counterfeits, alters, or falsely  
19 makes 10 or more immigration documents;

20 “(3) secures, possesses, uses, buys, sells, or dis-  
21 tributes 10 or more immigration documents, know-  
22 ing the immigration documents to be forged, coun-  
23 terfeited, altered, stolen, falsely made, procured by  
24 fraud, or produced or issued without lawful author-  
25 ity; or

1           “(4) completes, mails, prepares, presents, signs,  
2           or submits 10 or more immigration documents  
3           knowing the documents to contain any materially  
4           false statement or representation,  
5 shall be fined under this title, imprisoned not more than  
6 20 years, or both.

7           “(c) IMMIGRATION DOCUMENT MATERIALS.—Any  
8 person who knowingly and without lawful authority pro-  
9 duces, counterfeits, secures, possesses, or uses any official  
10 paper, seal, hologram, image, text, symbol, stamp, engrav-  
11 ing, plate, or other material, used to make an immigration  
12 document shall be fined under this title, imprisoned not  
13 more than 20 years, or both.

14 **“§ 1547. Marriage fraud**

15           “(a) EVASION OR MISREPRESENTATION.—Any per-  
16 son who—

17           “(1) knowingly enters into a marriage for the  
18 purpose of evading any provision of the immigration  
19 laws; or

20           “(2) knowingly misrepresents the existence or  
21 circumstances of a marriage—

22           “(A) in an application or document author-  
23 ized by the immigration laws; or

24           “(B) during any immigration proceeding  
25 conducted by an administrative adjudicator (in-

1 including an immigration officer or examiner, a  
2 consular officer, an immigration judge, or a  
3 member of the Board of Immigration Appeals),  
4 shall be fined under this title, imprisoned not more than  
5 10 years, or both.

6 “(b) MULTIPLE MARRIAGES.—Any person who—

7 “(1) knowingly enters into 2 or more marriages  
8 for the purpose of evading any immigration law; or

9 “(2) knowingly arranges, supports, or facilitates  
10 2 or more marriages designed or intended to evade  
11 any immigration law,

12 shall be fined under this title, imprisoned not more than  
13 20 years, or both.

14 “(c) COMMERCIAL ENTERPRISE.—Any person who  
15 knowingly establishes a commercial enterprise for the pur-  
16 pose of evading any provision of the immigration laws  
17 shall be fined under this title, imprisoned for not more  
18 than 10 years, or both.

19 “(d) DURATION OF OFFENSE.—

20 “(1) IN GENERAL.—An offense under sub-  
21 section (a) or (b) continues until the fraudulent na-  
22 ture of the marriage or marriages is discovered by  
23 an immigration officer.

24 “(2) COMMERCIAL ENTERPRISE.—An offense  
25 under subsection (c) continues until the fraudulent

1 nature of commercial enterprise is discovered by an  
2 immigration officer or other law enforcement officer.

3 **“§ 1548. Attempts and conspiracies**

4 “Any person who attempts or conspires to violate any  
5 section of this chapter shall be punished in the same man-  
6 ner as a person who completed a violation of that section.

7 **“§ 1549. Alternative penalties for certain offenses**

8 “(a) **TERRORISM.**—Any person who violates any sec-  
9 tion of this chapter—

10 “(1) knowing that such violation will facilitate  
11 an act of international terrorism or domestic ter-  
12 rorism (as those terms are defined in section 2331);  
13 or

14 “(2) with the intent to facilitate an act of inter-  
15 national terrorism or domestic terrorism,  
16 shall be fined under this title, imprisoned not more than  
17 25 years, or both.

18 “(b) **OFFENSE AGAINST GOVERNMENT.**—Any person  
19 who violates any section of this chapter—

20 “(1) knowing that such violation will facilitate  
21 the commission of any offense against the United  
22 States (other than an offense in this chapter) or  
23 against any State, which offense is punishable by  
24 imprisonment for more than 1 year; or

1           “(2) with the intent to facilitate the commission  
2           of any offense against the United States (other than  
3           an offense in this chapter) or against any State,  
4           which offense is punishable by imprisonment for  
5           more than 1 year,  
6 shall be fined under this title, imprisoned not more than  
7 20 years, or both.

8 **“§ 1550. Seizure and forfeiture**

9           “(a) FORFEITURE.—Any property, real or personal,  
10 used to commit or facilitate the commission of a violation  
11 of any section of this chapter, the gross proceeds of such  
12 violation, and any property traceable to such property or  
13 proceeds, shall be subject to forfeiture.

14           “(b) APPLICABLE LAW.—Seizures and forfeitures  
15 under this section shall be governed by the provisions of  
16 chapter 46 relating to civil forfeitures, except that such  
17 duties as are imposed upon the Secretary of the Treasury  
18 under the customs laws described in section 981(d) shall  
19 be performed by such officers, agents, and other persons  
20 as may be designated for that purpose by the Secretary  
21 of Homeland Security, the Secretary of State, or the At-  
22 torney General.

23 **“§ 1551. Additional jurisdiction**

24           “(a) IN GENERAL.—Any person who commits an of-  
25 fense under this chapter within the special maritime and

1 territorial jurisdiction of the United States shall be pun-  
2 ished as provided under this chapter.

3 “(b) EXTRATERRITORIAL JURISDICTION.—Any per-  
4 son who commits an offense under this chapter outside  
5 the United States shall be punished as provided under this  
6 chapter if—

7 “(1) the offense involves a United States immi-  
8 gration document (or any document purporting to be  
9 such a document) or any matter, right, or benefit  
10 arising under or authorized by Federal immigration  
11 laws;

12 “(2) the offense is in or affects foreign com-  
13 merce;

14 “(3) the offense affects, jeopardizes, or poses a  
15 significant risk to the lawful administration of Fed-  
16 eral immigration laws, or the national security of the  
17 United States;

18 “(4) the offense is committed to facilitate an  
19 act of international terrorism (as defined in section  
20 2331) or a drug trafficking crime (as defined in sec-  
21 tion 929(a)(2)) that affects or would affect the na-  
22 tional security of the United States;

23 “(5) the offender is a national of the United  
24 States (as defined in section 101(a)(22) of the Im-  
25 migration and Nationality Act (8 U.S.C.

1 1101(a)(22))) or an alien lawfully admitted for per-  
2 manent residence in the United States (as defined in  
3 section 101(a)(20) of such Act); or

4 “(6) the offender is a stateless person whose  
5 habitual residence is in the United States.

6 **“§ 1552. Additional venue**

7 “(a) IN GENERAL.—An offense under section 1542  
8 may be prosecuted in—

9 “(1) any district in which the false statement or  
10 representation was made;

11 “(2) any district in which the passport applica-  
12 tion was prepared, submitted, mailed, received, proc-  
13 essed, or adjudicated; or

14 “(3) in the case of an application prepared and  
15 adjudicated outside the United States, in the district  
16 in which the resultant passport was produced.

17 “(b) SAVINGS CLAUSE.—Nothing in this section lim-  
18 its the venue otherwise available under sections 3237 and  
19 3238.

20 **“§ 1553. Definitions**

21 “As used in this chapter:

22 “(1) The term ‘falsely make’ means to prepare  
23 or complete an immigration document with knowl-  
24 edge or in reckless disregard of the fact that the  
25 document—



1           “(A) contains a statement or representa-  
2           tion that is false, fictitious, or fraudulent;

3           “(B) has no basis in fact or law; or

4           “(C) otherwise fails to state a fact which  
5           is material to the purpose for which the docu-  
6           ment was created, designed, or submitted.

7           “(2) The term a ‘false statement or representa-  
8           tion’ includes a personation or an omission.

9           “(3) The term ‘felony’ means any criminal of-  
10          fense punishable by a term of imprisonment of more  
11          than 1 year under the laws of the United States, any  
12          State, or a foreign government.

13          “(4) The term ‘immigration document’—

14           “(A) means—

15           “(i) any passport or visa; or

16           “(ii) any application, petition, affi-  
17           davit, declaration, attestation, form, identi-  
18           fication card, alien registration document,  
19           employment authorization document, bor-  
20           der crossing card, certificate, permit,  
21           order, license, stamp, authorization, grant  
22           of authority, or other evidentiary docu-  
23           ment, arising under or authorized by the  
24           immigration laws of the United States; and

1           “(B) includes any document, photograph,  
2           or other piece of evidence attached to or sub-  
3           mitted in support of an immigration document.

4           “(5) The term ‘immigration laws’ includes—

5           “(A) the laws described in section  
6           101(a)(17) of the Immigration and Nationality  
7           Act (8 U.S.C. 1101(a)(17));

8           “(B) the laws relating to the issuance and  
9           use of passports; and

10           “(C) the regulations prescribed under the  
11           authority of any law described in paragraphs  
12           (1) and (2).

13           “(6) The term ‘immigration proceeding’ in-  
14           cludes an adjudication, interview, hearing, or review.

15           “(7) A person does not exercise ‘lawful author-  
16           ity’ if the person abuses or improperly exercises law-  
17           ful authority the person otherwise holds.

18           “(8) The term ‘passport’ means a travel docu-  
19           ment attesting to the identity and nationality of the  
20           bearer that is issued under the authority of the Sec-  
21           retary of State, a foreign government, or an inter-  
22           national organization; or any instrument purporting  
23           to be the same.

24           “(9) The term ‘produce’ means to make, pre-  
25           pare, assemble, issue, print, authenticate, or alter.

1           “(10) The term ‘State’ means a State of the  
2           United States, the District of Columbia, or any com-  
3           monwealth, territory, or possession of the United  
4           States.

5   **“§ 1554. Authorized law enforcement activities**

6           “Nothing in this chapter shall prohibit any lawfully  
7           authorized investigative, protective, or intelligence activity  
8           of a law enforcement agency of the United States, a State,  
9           or a political subdivision of a State, or an intelligence  
10          agency of the United States, or any activity authorized  
11          under title V of the Organized Crime Control Act of 1970  
12          (84 Stat. 933).”.

13          (b) CLERICAL AMENDMENT.—The table of chapters  
14          in title 18, United States Code, is amended by striking  
15          the item relating to chapter 75 and inserting the following:

**“75. Passport, visa, and immigration fraud ..... 1541”.**

16   **SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT**  
17   **AND IMMIGRATION FRAUD OFFENSES.**

18          (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8  
19          U.S.C. 1182(a)(2)(A)(i)) is amended—

20                  (1) in subclause (I), by striking “, or” at the  
21                  end and inserting a semicolon;

22                  (2) in subclause (II), by striking the comma at  
23                  the end and inserting “; or”; and

24                  (3) by inserting after subclause (II) the fol-  
25                  lowing:

1                   “(III) a violation of (or a con-  
2                   spiracy or attempt to violate) any pro-  
3                   vision of chapter 75 of title 18,  
4                   United States Code,”.

5           (b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C.  
6 1227(a)(3)(B)(iii)) is amended to read as follows:

7                   “(iii) of a violation of any provision of  
8                   chapter 75 of title 18, United States  
9                   Code,”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11 subsections (a) and (b) shall apply to proceedings pending  
12 on or after the date of the enactment of this Act.

13 **SEC. 210. INCARCERATION OF CRIMINAL ALIENS.**

14          (a) INSTITUTIONAL REMOVAL PROGRAM.—

15               (1) CONTINUATION.—The Secretary shall con-  
16               tinue to operate the Institutional Removal Program  
17               (referred to in this section as the “Program”) or  
18               shall develop and implement another program to—

19                   (A) identify removable criminal aliens in  
20                   Federal and State correctional facilities;

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

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

1           (2) EXPANSION.—The Secretary may extend  
2           the scope of the Program to all States.

3           (b) AUTHORIZATION FOR DETENTION AFTER COM-  
4           PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
5           enforcement officers of a State or political subdivision of  
6           a State may—

7           (1) hold an illegal alien for a period not to ex-  
8           ceed 14 days after the completion of the alien’s  
9           State prison sentence to effectuate the transfer of  
10          the alien to Federal custody if the alien is removable  
11          or not lawfully present in the United States; or

12          (2) issue a detainer that would allow aliens who  
13          have served a State prison sentence to be detained  
14          by the State prison until authorized employees of the  
15          Bureau of Immigration and Customs Enforcement  
16          can take the alien into custody.

17          (c) TECHNOLOGY USAGE.—Technology, such as  
18          videoconferencing, shall be used to the maximum extent  
19          practicable to make the Program available in remote loca-  
20          tions. Mobile access to Federal databases of aliens, such  
21          as IDENT, and live scan technology shall be used to the  
22          maximum extent practicable to make these resources  
23          available to State and local law enforcement agencies in  
24          remote locations.

1 (d) REPORT TO CONGRESS.—Not later than 6  
2 months after the date of the enactment of this Act, and  
3 annually thereafter, the Secretary shall submit a report  
4 to Congress on the participation of States in the Program  
5 and in any other program authorized under subsection (a).

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated such sums as may be  
8 necessary in each of the fiscal years 2007 through 2011  
9 to carry out the Program.

10 **SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUN-**  
11 **TARILY.**

12 (a) IN GENERAL.—Section 240B (8 U.S.C. 1229c)  
13 is amended—

14 (1) in subsection (a)—

15 (A) by amending paragraph (1) to read as  
16 follows:

17 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If  
18 an alien is not described in paragraph (2)(A)(iii) or  
19 (4) of section 237(a), the Secretary of Homeland Se-  
20 curity may permit the alien to voluntarily depart the  
21 United States at the alien’s own expense under this  
22 subsection instead of being subject to proceedings  
23 under section 240.”;

24 (B) by striking paragraph (3);

1 (C) by redesignating paragraph (2) as  
2 paragraph (3);

3 (D) by adding after paragraph (1) the fol-  
4 lowing:

5 “(2) BEFORE THE CONCLUSION OF REMOVAL  
6 PROCEEDINGS.—If an alien is not described in para-  
7 graph (2)(A)(iii) or (4) of section 237(a), the Attor-  
8 ney General may permit the alien to voluntarily de-  
9 part the United States at the alien’s own expense  
10 under this subsection after the initiation of removal  
11 proceedings under section 240 and before the con-  
12 clusion of such proceedings before an immigration  
13 judge.”;

14 (E) in paragraph (3), as redesignated—

15 (i) by amending subparagraph (A) to  
16 read as follows:

17 “(A) INSTEAD OF REMOVAL.—Subject to  
18 subparagraph (C), permission to voluntarily de-  
19 part under paragraph (1) shall not be valid for  
20 any period in excess of 120 days. The Secretary  
21 may require an alien permitted to voluntarily  
22 depart under paragraph (1) to post a voluntary  
23 departure bond, to be surrendered upon proof  
24 that the alien has departed the United States  
25 within the time specified.”;

1           (ii) by redesignating subparagraphs  
2           (B), (C), and (D) as paragraphs (C), (D),  
3           and (E), respectively;

4           (iii) by adding after subparagraph (A)  
5           the following:

6           “(B) BEFORE THE CONCLUSION OF RE-  
7           MOVAL PROCEEDINGS.—Permission to volun-  
8           tarily depart under paragraph (2) shall not be  
9           valid for any period in excess of 60 days, and  
10          may be granted only after a finding that the  
11          alien has the means to depart the United States  
12          and intends to do so. An alien permitted to vol-  
13          untarily depart under paragraph (2) shall post  
14          a voluntary departure bond, in an amount nec-  
15          essary to ensure that the alien will depart, to be  
16          surrendered upon proof that the alien has de-  
17          parted the United States within the time speci-  
18          fied. An immigration judge may waive the re-  
19          quirement to post a voluntary departure bond  
20          in individual cases upon a finding that the alien  
21          has presented compelling evidence that the  
22          posting of a bond will pose a serious financial  
23          hardship and the alien has presented credible  
24          evidence that such a bond is unnecessary to  
25          guarantee timely departure.”;



1 (iv) in subparagraph (C), as redesignated,  
2 nated, by striking “subparagraphs (C)  
3 and(D)(ii)” and inserting “subparagraphs  
4 (D) and (E)(ii)”;

5 (v) in subparagraph (D), as redesignated,  
6 nated, by striking “subparagraph (B)”  
7 each place that term appears and inserting  
8 “subparagraph (C)”;

9 (vi) in subparagraph (E), as redesignated,  
10 nated, by striking “subparagraph (B)”  
11 each place that term appears and inserting  
12 “subparagraph (C)”;

13 (F) in paragraph (4), by striking “para-  
14 graph (1)” and inserting “paragraphs (1) and  
15 (2)”;

16 (2) in subsection (b)(2), by striking “a period  
17 exceeding 60 days” and inserting “any period in ex-  
18 cess of 45 days”;

19 (3) by amending subsection (c) to read as fol-  
20 lows:

21 “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

22 “(1) VOLUNTARY DEPARTURE AGREEMENT.—

23 Voluntary departure may only be granted as part of  
24 an affirmative agreement by the alien. A voluntary  
25 departure agreement under subsection (b) shall in-

1       clude a waiver of the right to any further motion,  
2       appeal, application, petition, or petition for review  
3       relating to removal or relief or protection from re-  
4       moval.

5           “(2) CONCESSIONS BY THE SECRETARY.—In  
6       connection with the alien’s agreement to depart vol-  
7       untarily under paragraph (1), the Secretary of  
8       Homeland Security may agree to a reduction in the  
9       period of inadmissibility under subparagraph (A) or  
10      (B)(i) of section 212(a)(9).

11          “(3) ADVISALS.—Agreements relating to vol-  
12      untary departure granted during removal pro-  
13      ceedings under section 240, or at the conclusion of  
14      such proceedings, shall be presented on the record  
15      before the immigration judge. The immigration  
16      judge shall advise the alien of the consequences of  
17      a voluntary departure agreement before accepting  
18      such agreement.

19          “(4) FAILURE TO COMPLY WITH AGREE-  
20      MENT.—

21           “(A) IN GENERAL.—If an alien agrees to  
22      voluntary departure under this section and fails  
23      to depart the United States within the time al-  
24      lowed for voluntary departure or fails to comply  
25      with any other terms of the agreement (includ-

1 ing failure to timely post any required bond),  
2 the alien is—

3 “(i) ineligible for the benefits of the  
4 agreement;

5 “(ii) subject to the penalties described  
6 in subsection (d); and

7 “(iii) subject to an alternate order of  
8 removal if voluntary departure was granted  
9 under subsection (a)(2) or (b).

10 “(B) EFFECT OF FILING TIMELY AP-  
11 PEAL.—If, after agreeing to voluntary depart-  
12 ure, the alien files a timely appeal of the immi-  
13 gration judge’s decision granting voluntary de-  
14 parture, the alien may pursue the appeal in-  
15 stead of the voluntary departure agreement.  
16 Such appeal operates to void the alien’s vol-  
17 untary departure agreement and the con-  
18 sequences of such agreement, but precludes the  
19 alien from another grant of voluntary departure  
20 while the alien remains in the United States.

21 “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-  
22 FECTED.—Except as expressly agreed to by the Sec-  
23 retary in writing in the exercise of the Secretary’s  
24 discretion before the expiration of the period allowed  
25 for voluntary departure, no motion, appeal, applica-

1       tion, petition, or petition for review shall affect, rein-  
2       state, enjoin, delay, stay, or toll the alien’s obligation  
3       to depart from the United States during the period  
4       agreed to by the alien and the Secretary.”;

5               (4) by amending subsection (d) to read as fol-  
6       lows:

7       “(d) PENALTIES FOR FAILURE TO DEPART.—If an  
8       alien is permitted to voluntarily depart under this section  
9       and fails to voluntarily depart from the United States  
10       within the time period specified or otherwise violates the  
11       terms of a voluntary departure agreement, the alien will  
12       be subject to the following penalties:

13               “(1) CIVIL PENALTY.—The alien shall be liable  
14       for a civil penalty of \$3,000. The order allowing vol-  
15       untary departure shall specify the amount of the  
16       penalty, which shall be acknowledged by the alien on  
17       the record. If the Secretary thereafter establishes  
18       that the alien failed to depart voluntarily within the  
19       time allowed, no further procedure will be necessary  
20       to establish the amount of the penalty, and the Sec-  
21       retary may collect the civil penalty at any time  
22       thereafter and by whatever means provided by law.  
23       An alien will be ineligible for any benefits under this  
24       chapter until this civil penalty is paid.

1           “(2) INELIGIBILITY FOR RELIEF.—The alien  
2 shall be ineligible during the time the alien remains  
3 in the United States and for a period of 10 years  
4 after the alien’s departure for any further relief  
5 under this section and sections 240A, 245, 248, and  
6 249. The order permitting the alien to depart volun-  
7 tarily shall inform the alien of the penalties under  
8 this subsection.

9           “(3) REOPENING.—The alien shall be ineligible  
10 to reopen the final order of removal that took effect  
11 upon the alien’s failure to depart, or upon the alien’s  
12 other violations of the conditions for voluntary de-  
13 parture, during the period described in paragraph  
14 (2). This paragraph does not preclude a motion to  
15 reopen to seek withholding of removal under section  
16 241(b)(3) or protection against torture, if the mo-  
17 tion—

18           “(A) presents material evidence of changed  
19 country conditions arising after the date of the  
20 order granting voluntary departure in the coun-  
21 try to which the alien would be removed; and

22           “(B) makes a sufficient showing to the sat-  
23 isfaction of the Attorney General that the alien  
24 is otherwise eligible for such protection.”; and

1           (5) by amending subsection (e) to read as fol-  
2           lows:

3           “(e) ELIGIBILITY.—

4           “(1) PRIOR GRANT OF VOLUNTARY DEPART-  
5           TURE.—An alien shall not be permitted to volun-  
6           tarily depart under this section if the Secretary of  
7           Homeland Security or the Attorney General pre-  
8           viously permitted the alien to depart voluntarily.

9           “(2) RULEMAKING.—The Secretary may pro-  
10          mulgate regulations to limit eligibility or impose ad-  
11          ditional conditions for voluntary departure under  
12          subsection (a)(1) for any class of aliens. The Sec-  
13          retary or Attorney General may by regulation limit  
14          eligibility or impose additional conditions for vol-  
15          untary departure under subsections (a)(2) or (b) of  
16          this section for any class or classes of aliens.”; and

17          (6) in subsection (f), by adding at the end the  
18          following: “Notwithstanding section 242(a)(2)(D) of  
19          this Act, sections 1361, 1651, and 2241 of title 28,  
20          United States Code, any other habeas corpus provi-  
21          sion, and any other provision of law (statutory or  
22          nonstatutory), no court shall have jurisdiction to af-  
23          fect, reinstate, enjoin, delay, stay, or toll the period  
24          allowed for voluntary departure under this section.”.

1 (b) RULEMAKING.—The Secretary shall promulgate  
2 regulations to provide for the imposition and collection of  
3 penalties for failure to depart under section 240B(d) of  
4 the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), the amendments made by this section  
8 shall apply with respect to all orders granting vol-  
9 untary departure under section 240B of the Immi-  
10 gration and Nationality Act (8 U.S.C. 1229c) made  
11 on or after the date that is 180 days after the enact-  
12 ment of this Act.

13 (2) EXCEPTION.—The amendment made by  
14 subsection (a)(6) shall take effect on the date of the  
15 enactment of this Act and shall apply with respect  
16 to any petition for review which is filed on or after  
17 such date.

18 **SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM**  
19 **REMAINING IN THE UNITED STATES UNLAW-**  
20 **FULLY.**

21 (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8  
22 U.S.C. 1182(a)(9)(A)) is amended—

23 (1) in clause (i), by striking “seeks admission  
24 within 5 years of the date of such removal (or within  
25 20 years” and inserting “seeks admission not later

1 than 5 years after the date of the alien’s removal (or  
2 not later than 20 years after the alien’s removal”;  
3 and

4 (2) in clause (ii), by striking “seeks admission  
5 within 10 years of the date of such alien’s departure  
6 or removal (or within 20 years of” and inserting  
7 “seeks admission not later than 10 years after the  
8 date of the alien’s departure or removal (or not later  
9 than 20 years after”.

10 (b) BAR ON DISCRETIONARY RELIEF.—Section 274D  
11 (9 U.S.C. 324d) is amended—

12 (1) in subsection (a), by striking “Commis-  
13 sioner” and inserting “Secretary of Homeland Secu-  
14 rity”; and

15 (2) by adding at the end the following:

16 “(c) INELIGIBILITY FOR RELIEF.—

17 “(1) IN GENERAL.—Unless a timely motion to  
18 reopen is granted under section 240(c)(6), an alien  
19 described in subsection (a) shall be ineligible for any  
20 discretionary relief from removal (including cancella-  
21 tion of removal and adjustment of status) during the  
22 time the alien remains in the United States and for  
23 a period of 10 years after the alien’s departure from  
24 the United States.



1           “(2) SAVINGS PROVISION.—Nothing in para-  
2           graph (1) shall preclude a motion to reopen to seek  
3           withholding of removal under section 241(b)(3) or  
4           protection against torture, if the motion—

5                   “(A) presents material evidence of changed  
6                   country conditions arising after the date of the  
7                   final order of removal in the country to which  
8                   the alien would be removed; and

9                   “(B) makes a sufficient showing to the sat-  
10                  isfaction of the Attorney General that the alien  
11                  is otherwise eligible for such protection.”.

12          (c) EFFECTIVE DATES.—The amendments made by  
13 this section shall take effect on the date of the enactment  
14 of this Act with respect to aliens who are subject to a final  
15 order of removal, whether the removal order was entered  
16 before, on, or after such date.

17 **SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR**  
18 **THE POSSESSION OF FIREARMS BY CERTAIN**  
19 **ALIENS.**

20          Section 922 of title 18, United States Code, is  
21 amended—

22                   (1) in subsection (d)(5)—

23                           (A) in subparagraph (A), by striking “or”  
24                           at the end;

1 (B) in subparagraph (B), by striking  
2 “(y)(2)” and all that follows and inserting “(y),  
3 is in a nonimmigrant classification; or”; and

4 (C) by adding at the end the following:

5 “(C) has been paroled into the United  
6 States under section 212(d)(5) of the Immigra-  
7 tion and Nationality Act (8 U.S.C.  
8 1182(d)(5));”; and  
9 (2) in subsection (g)(5)—

10 (A) in subparagraph (A), by striking “or”  
11 at the end;

12 (B) in subparagraph (B), by striking  
13 “(y)(2)” and all that follows and inserting “(y),  
14 is in a nonimmigrant classification; or”; and

15 (C) by adding at the end the following:

16 “(C) has been paroled into the United  
17 States under section 212(d)(5) of the Immigra-  
18 tion and Nationality Act (8 U.S.C.  
19 1182(d)(5));”.

20 (3) in subsection (y)—

21 (A) in the header, by striking “ADMITTED  
22 UNDER NONIMMIGRANT VISAS” and inserting  
23 “IN A NONIMMIGRANT CLASSIFICATION”;

24 (B) in paragraph (1), by amending sub-  
25 paragraph (B) to read as follows:

1 “(B) the term ‘nonimmigrant classifica-  
2 tion’ includes all classes of nonimmigrant aliens  
3 described in section 101(a)(15) of the Immigra-  
4 tion and Nationality Act (8 U.S.C.  
5 1101(a)(15)), or otherwise described in the im-  
6 migration laws (as defined in section  
7 101(a)(17) of such Act).”;

8 (C) in paragraph (2), by striking “has  
9 been lawfully admitted to the United States  
10 under a nonimmigrant visa” and inserting “is  
11 in a nonimmigrant classification”; and

12 (D) in paragraph (3)(A), by striking “Any  
13 individual who has been admitted to the United  
14 States under a nonimmigrant visa may receive  
15 a waiver from the requirements of subsection  
16 (g)(5)” and inserting “Any alien in a non-  
17 immigrant classification may receive a waiver  
18 from the requirements of subsection (g)(5)(B)”.

19 **SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CER-**  
20 **TAIN IMMIGRATION, NATURALIZATION, AND**  
21 **PEONAGE OFFENSES.**

22 (a) IN GENERAL.—Section 3291 of title 18, United  
23 States Code, is amended to read as follows:

1 **“§ 3291. Immigration, naturalization, and peonage of-**  
 2 **fenses**

3 “No person shall be prosecuted, tried, or punished  
 4 for a violation of any section of chapters 69 (relating to  
 5 nationality and citizenship offenses), 75 (relating to pass-  
 6 port, visa, and immigration offenses), or 77 (relating to  
 7 peonage, slavery, and trafficking in persons), for an at-  
 8 tempt or conspiracy to violate any such section, for a viola-  
 9 tion of any criminal provision under section 243, 266, 274,  
 10 275, 276, 277, or 278 of the Immigration and Nationality  
 11 Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and  
 12 1328), or for an attempt or conspiracy to violate any such  
 13 section, unless the indictment is returned or the informa-  
 14 tion filed not later than 10 years after the commission  
 15 of the offense.”.

16 (b) CLERICAL AMENDMENT.—The table of sections  
 17 for chapter 213 of title 18, United States Code, is amend-  
 18 ed by striking the item relating to section 3291 and insert-  
 19 ing the following:

“3291. Immigration, naturalization, and peonage offenses.”.

20 **SEC. 215. DIPLOMATIC SECURITY SERVICE.**

21 Section 2709(a)(1) of title 22, United States Code,  
 22 is amended to read as follows:

23 “(1) conduct investigations concerning—

24 “(A) illegal passport or visa issuance or  
 25 use;

1           “(B) identity theft or document fraud af-  
2           fecting or relating to the programs, functions,  
3           and authorities of the Department of State;

4           “(C) violations of chapter 77 of title 18,  
5           United States Code; and

6           “(D) Federal offenses committed within  
7           the special maritime and territorial jurisdiction  
8           of the United States (as defined in section 7(9)  
9           of title 18, United States Code);”.

10 **SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND**

11                           **CHECKS.**

12           (a) **IN GENERAL.**—Section 103 (8 U.S.C. 1103) is  
13 amended—

14                   (1) by amending subsection (f) to read as fol-  
15           lows:

16           “(f) **MINIMUM NUMBER OF AGENTS IN STATES.**—

17                   “(1) **IN GENERAL.**—The Secretary of Homeland  
18           Security shall allocate to each State—

19                           “(A) not fewer than 40 full-time active  
20           duty agents of the Bureau of Immigration and  
21           Customs Enforcement to—

22                                   “(i) investigate immigration viola-  
23           tions; and

24                                   “(ii) ensure the departure of all re-  
25           movable aliens; and

1           “(B) not fewer than 15 full-time active  
2           duty agents of the Bureau of Citizenship and  
3           Immigration Services to carry out immigration  
4           and naturalization adjudication functions.

5           “(2) WAIVER.—The Secretary may waive the  
6           application of paragraph (1) for any State with a  
7           population of less than 2,000,000, as most recently  
8           reported by the Bureau of the Census”; and

9           (2) by adding at the end the following:

10          “(i) Notwithstanding any other provision of law, ap-  
11          propriate background and security checks, as determined  
12          by the Secretary of Homeland Security, shall be completed  
13          and assessed and any suspected or alleged fraud relating  
14          to the granting of any status (including the granting of  
15          adjustment of status), relief, protection from removal, or  
16          other benefit under this Act shall be investigated and re-  
17          solved before the Secretary or the Attorney General may—

18               “(1) grant or order the grant of adjustment of  
19               status of an alien to that of an alien lawfully admit-  
20               ted for permanent residence;

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

1           “(3) issue any documentation evidencing or re-  
2           lated to such grant by the Secretary, the Attorney  
3           General, or any court.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5           subsection (a)(1) shall take effect on the date that is 90  
6           days after the date of the enactment of this Act.

7           **SEC. 217. DENIAL OF BENEFITS TO TERRORISTS AND**  
8                               **CRIMINALS.**

9           (a) IN GENERAL.—Chapter 4 of title III (8 U.S.C.  
10           1501 et seq.) is amended by adding at the end the fol-  
11           lowing:

12           **“SEC. 362. CONSTRUCTION.**

13           “(a) IN GENERAL.—Nothing in this Act or in any  
14           other provision of law shall be construed to require the  
15           Secretary of Homeland Security, the Attorney General,  
16           the Secretary of State, the Secretary of Labor, or any  
17           other authorized head of any Federal agency to grant any  
18           application, approve any petition, or grant or continue any  
19           status or benefit under the immigration laws by, to, or  
20           on behalf of—

21                       “(1) any alien described in subparagraph (A)(i),  
22                       (A)(iii), (B), or (F) of section 212(a)(3) or subpara-  
23                       graph (A)(i), (A)(iii), or (B) of section 237(a)(4);

24                       “(2) any alien with respect to whom a criminal  
25                       or other investigation or case is pending that is ma-

1       terial to the alien’s inadmissibility, deportability, or  
2       eligibility for the status or benefit sought; or

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

6       “(b) DENIAL; WITHHOLDING.—An official described  
7       in subsection (a) may deny or withhold (with respect to  
8       an alien described in subsection (a)(1)) or withhold pend-  
9       ing resolution of the investigation, case, or law enforce-  
10      ment checks (with respect to an alien described in para-  
11      graph (2) or (3) of subsection (a)) any such application,  
12      petition, status, or benefit on such basis.”.

13       (b) CLERICAL AMENDMENT.—The table of contents  
14      is amended by inserting after the item relating to section  
15      361 the following:

      “Sec. 362. Construction.”.

16      **SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

17       (a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH  
18      PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary  
19      of Homeland Security shall reimburse States and units of  
20      local government for costs associated with processing un-  
21      documented criminal aliens through the criminal justice  
22      system, including—

23             (1) indigent defense;

24             (2) criminal prosecution;

25             (3) autopsies;



1 (4) translators and interpreters; and

2 (5) courts costs.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) PROCESSING CRIMINAL ILLEGAL ALIENS.—

5 There are authorized to be appropriated  
6 \$400,000,000 for each of the fiscal years 2007  
7 through 2012 to carry out subsection (a).

8 (2) COMPENSATION UPON REQUEST.—Section  
9 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as  
10 follows:

11 “(5) There are authorized to be appropriated to  
12 carry this subsection—

13 “(A) such sums as may be necessary for  
14 fiscal year 2007;

15 “(B) \$750,000,000 for fiscal year 2008;

16 “(C) \$850,000,000 for fiscal year 2009;

17 and

18 “(D) \$950,000,000 for each of the fiscal  
19 years 2010 through 2012.”.

20 (c) TECHNICAL AMENDMENT.—Section 501 of the  
21 Immigration Reform and Control Act of 1986 (8 U.S.C.  
22 1365) is amended by striking “Attorney General” each  
23 place it appears and inserting “Secretary of Homeland Se-  
24 curity”.

1 **SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL**  
2 **ALIENS APPREHENDED BY STATE AND LOCAL**  
3 **LAW ENFORCEMENT OFFICERS.**

4 (a) IN GENERAL.—The Secretary of Homeland Secu-  
5 rity shall provide sufficient transportation and officers to  
6 take illegal aliens apprehended by State and local law en-  
7 forcement officers into custody for processing at a Depart-  
8 ment of Homeland Security detention facility.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated such sums as necessary  
11 to carry out this section.

12 **SEC. 220. STATE AND LOCAL ENFORCEMENT OF FEDERAL**  
13 **IMMIGRATION LAWS.**

14 (a) IN GENERAL.—Section 287(g) (8 U.S.C.  
15 1357(g)) is amended—

16 (1) in paragraph (2), by adding at the end the  
17 following: “If such training is provided by a State or  
18 political subdivision of a State to an officer or em-  
19 ployee of such State or political subdivision of a  
20 State, the cost of such training (including applicable  
21 overtime costs) shall be reimbursed by the Secretary  
22 of Homeland Security.”; and

23 (2) in paragraph (4), by adding at the end the  
24 following: “The cost of any equipment required to be  
25 purchased under such written agreement and nec-  
26 essary to perform the functions under this sub-

1 section shall be reimbursed by the Secretary of  
2 Homeland Security.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary such  
5 sums as may be necessary to carry out this section and  
6 the amendments made by this section.

7 **SEC. 221. REDUCING ILLEGAL IMMIGRATION AND ALIEN**  
8 **SMUGGLING ON TRIBAL LANDS.**

9 (a) GRANTS AUTHORIZED.—The Secretary may  
10 award grants to Indian tribes with lands adjacent to an  
11 international border of the United States that have been  
12 adversely affected by illegal immigration.

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

- 15 (1) law enforcement activities;
- 16 (2) health care services;
- 17 (3) environmental restoration; and
- 18 (4) the preservation of cultural resources.

19 (c) REPORT.—Not later than 180 days after the date  
20 of the enactment of this Act, the Secretary shall submit  
21 a report to the Committee on the Judiciary of the Senate  
22 and the Committee on the Judiciary of the House of Rep-  
23 resentatives that—

- 24 (1) describes the level of access of Border Pa-  
25 trol agents on tribal lands;

1           (2) describes the extent to which enforcement of  
2 immigration laws may be improved by enhanced ac-  
3 cess to tribal lands;

4           (3) contains a strategy for improving such ac-  
5 cess through cooperation with tribal authorities; and

6           (4) identifies grants provided by the Depart-  
7 ment for Indian tribes, either directly or through  
8 State or local grants, relating to border security ex-  
9 penses.

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

14 **SEC. 222. ALTERNATIVES TO DETENTION.**

15       The Secretary shall conduct a study of—

16           (1) the effectiveness of alternatives to detention,  
17 including electronic monitoring devices and intensive  
18 supervision programs, in ensuring alien appearance  
19 at court and compliance with removal orders;

20           (2) the effectiveness of the Intensive Super-  
21 vision Appearance Program and the costs and bene-  
22 fits of expanding that program to all States; and

23           (3) other alternatives to detention, including—

24                   (A) release on an order of recognizance;

25                   (B) appearance bonds; and

1 (C) electronic monitoring devices.

2 **SEC. 223. CONFORMING AMENDMENT.**

3 Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is  
4 amended—

5 (1) by striking “(i) which either is falsely mak-  
6 ing, forging, counterfeiting, mutilating, or altering a  
7 passport or instrument in violation of section 1543  
8 of title 18, United States Code, or is described in  
9 section 1546(a) of such title (relating to document  
10 fraud) and (ii)” and inserting “which is described in  
11 chapter 75 of title 18, United States Code, and”;  
12 and

13 (2) by inserting the following: “that is not de-  
14 scribed in section 1548 of such title (relating to in-  
15 creased penalties), and” after “first offense”.

16 **SEC. 224. REPORTING REQUIREMENTS.**

17 (a) CLARIFYING ADDRESS REPORTING REQUIRE-  
18 MENTS.—Section 265 (8 U.S.C. 1305) is amended—

19 (1) in subsection (a)—

20 (A) by striking “notify the Attorney Gen-  
21 eral in writing” and inserting “submit written  
22 or electronic notification to the Secretary of  
23 Homeland Security, in a manner approved by  
24 the Secretary,”;

1 (B) by striking “the Attorney General may  
2 require by regulation” and inserting “the Sec-  
3 retary may require”; and

4 (C) by adding at the end the following: “If  
5 the alien is involved in proceedings before an  
6 immigration judge or in an administrative ap-  
7 peal of such proceedings, the alien shall submit  
8 to the Attorney General the alien’s current ad-  
9 dress and a telephone number, if any, at which  
10 the alien may be contacted.”;

11 (2) in subsection (b), by striking “Attorney  
12 General” each place such term appears and inserting  
13 “Secretary”;

14 (3) in subsection (e), by striking “given to such  
15 parent” and inserting “given by such parent”; and

16 (4) by inserting at the end the following:

17 “(d) ADDRESS TO BE PROVIDED.—

18 “(1) IN GENERAL.—Except as otherwise pro-  
19 vided by the Secretary under paragraph (2), an ad-  
20 dress provided by an alien under this section shall  
21 be the alien’s current residential mailing address,  
22 and shall not be a post office box or other non-resi-  
23 dential mailing address or the address of an attor-  
24 ney, representative, labor organization, or employer.

1           “(2) SPECIFIC REQUIREMENTS.—The Secretary  
2 may provide specific requirements with respect to—

3                   “(A) designated classes of aliens and spe-  
4 cial circumstances, including aliens who are em-  
5 ployed at a remote location; and

6                   “(B) the reporting of address information  
7 by aliens who are incarcerated in a Federal,  
8 State, or local correctional facility.

9           “(3) DETENTION.—An alien who is being de-  
10 tained by the Secretary under this Act is not re-  
11 quired to report the alien’s current address under  
12 this section during the time the alien remains in de-  
13 tention, but shall be required to notify the Secretary  
14 of the alien’s address under this section at the time  
15 of the alien’s release from detention.

16           “(e) USE OF MOST RECENT ADDRESS PROVIDED BY  
17 THE ALIEN.—

18                   “(1) IN GENERAL.—Notwithstanding any other  
19 provision of law, the Secretary may provide for the  
20 appropriate coordination and cross referencing of  
21 address information provided by an alien under this  
22 section with other information relating to the alien’s  
23 address under other Federal programs, including—

24                   “(A) any information pertaining to the  
25 alien, which is submitted in any application, pe-

1           tition, or motion filed under this Act with the  
2           Secretary of Homeland Security, the Secretary  
3           of State, or the Secretary of Labor;

4           “(B) any information available to the At-  
5           torney General with respect to an alien in a  
6           proceeding before an immigration judge or an  
7           administrative appeal or judicial review of such  
8           proceeding;

9           “(C) any information collected with respect  
10          to nonimmigrant foreign students or exchange  
11          program participants under section 641 of the  
12          Illegal Immigration Reform and Immigrant Re-  
13          sponsibility Act of 1996 (8 U.S.C. 1372); and

14          “(D) any information collected from State  
15          or local correctional agencies pursuant to the  
16          State Criminal Alien Assistance Program.

17          “(2) RELIANCE.—The Secretary may rely on  
18          the most recent address provided by the alien under  
19          this section or section 264 to send to the alien any  
20          notice, form, document, or other matter pertaining  
21          to Federal immigration laws, including service of a  
22          notice to appear. The Attorney General and the Sec-  
23          retary may rely on the most recent address provided  
24          by the alien under section 239(a)(1)(F) to contact  
25          the alien about pending removal proceedings.



1           “(3) OBLIGATION.—The alien’s provision of an  
2           address for any other purpose under the Federal im-  
3           migration laws does not excuse the alien’s obligation  
4           to submit timely notice of the alien’s address to the  
5           Secretary under this section (or to the Attorney  
6           General under section 239(a)(1)(F) with respect to  
7           an alien in a proceeding before an immigration judge  
8           or an administrative appeal of such proceeding).”.

9           (b) CONFORMING CHANGES WITH RESPECT TO REG-  
10          ISTRATION REQUIREMENTS.—Chapter 7 of title II (8  
11          U.S.C. 1301 et seq.) is amended—

12           (1) in section 262(c), by striking “Attorney  
13          General” and inserting “Secretary of Homeland Se-  
14          curity”;

15           (2) in section 263(a), by striking “Attorney  
16          General” and inserting “Secretary of Homeland Se-  
17          curity”; and

18           (3) in section 264—

19           (A) in subsections (a), (b), (c), and (d), by  
20          striking “Attorney General” each place it ap-  
21          pears and inserting “Secretary of Homeland  
22          Security”; and

23           (B) in subsection (f)—

24           (i) by striking “Attorney General is  
25          authorized” and inserting “Secretary of

1 Homeland Security and Attorney General  
2 are authorized”; and

3 (ii) by striking “Attorney General or  
4 the Service” and inserting “Secretary or  
5 the Attorney General”.

6 (c) PENALTIES.—Section 266 (8 U.S.C. 1306) is  
7 amended—

8 (1) by amending subsection (b) to read as fol-  
9 lows:

10 “(b) FAILURE TO PROVIDE NOTICE OF ALIEN’S  
11 CURRENT ADDRESS.—

12 “(1) CRIMINAL PENALTIES.—Any alien or any  
13 parent or legal guardian in the United States of any  
14 minor alien who fails to notify the Secretary of  
15 Homeland Security of the alien’s current address in  
16 accordance with section 265 shall be fined under  
17 title 18, United States Code, imprisoned for not  
18 more than 6 months, or both.

19 “(2) EFFECT ON IMMIGRATION STATUS.—Any  
20 alien who violates section 265 (regardless of whether  
21 the alien is punished under paragraph (1)) and does  
22 not establish to the satisfaction of the Secretary that  
23 such failure was reasonably excusable or was not  
24 willful shall be taken into custody in connection with  
25 removal of the alien. If the alien has not been in-

1       spected or admitted, or if the alien has failed on  
2       more than 1 occasion to submit notice of the alien’s  
3       current address as required under section 265, the  
4       alien may be presumed to be a flight risk. The Sec-  
5       retary or the Attorney General, in considering any  
6       form of relief from removal which may be granted  
7       in the discretion of the Secretary or the Attorney  
8       General, may take into consideration the alien’s fail-  
9       ure to comply with section 265 as a separate nega-  
10      tive factor. If the alien failed to comply with the re-  
11      quirements of section 265 after becoming subject to  
12      a final order of removal, deportation, or exclusion,  
13      the alien’s failure shall be considered as a strongly  
14      negative factor with respect to any discretionary mo-  
15      tion for reopening or reconsideration filed by the  
16      alien.”;

17           (2) in subsection (c), by inserting “or a notice  
18      of current address” before “containing statements”;  
19      and

20           (3) in subsections (c) and (d), by striking “At-  
21      torney General” each place it appears and inserting  
22      “Secretary”.

23      (d) EFFECTIVE DATES.—

24           (1) IN GENERAL.—Except as provided in para-  
25      graph (2), the amendments made by this section

1 shall apply to proceedings initiated on or after the  
2 date of the enactment of this Act.

3 (2) CONFORMING AND TECHNICAL AMEND-  
4 MENTS.—The amendments made by paragraphs  
5 (1)(A), (1)(B), (2) and (3) of subsection (a) are ef-  
6 fective as if enacted on March 1, 2003.

7 **SEC. 225. MANDATORY DETENTION FOR ALIENS APPRE-**  
8 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

9 (a) IN GENERAL.—Beginning on October 1, 2006, an  
10 alien who is attempting to illegally enter the United States  
11 and who is apprehended at a United States port of entry  
12 or along the international land or maritime border of the  
13 United States shall be detained until removed or a final  
14 decision granting admission has been determined, unless  
15 the alien—

16 (1) is permitted to withdraw an application for  
17 admission under section 235(a)(4) of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and  
19 immediately departs from the United States pursu-  
20 ant to such section; or

21 (2) is paroled into the United States by the  
22 Secretary for urgent humanitarian reasons or sig-  
23 nificant public benefit in accordance with section  
24 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

1 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-  
2 ginning 60 days after the date of the enactment of this  
3 Act and before October 1, 2006, an alien described in sub-  
4 section (a) may be released with a notice to appear only  
5 if—

6 (1) the Secretary determines, after conducting  
7 all appropriate background and security checks on  
8 the alien, that the alien does not pose a national se-  
9 curity risk; and

10 (2) the alien provides a bond of not less than  
11 \$5,000.

12 (c) RULES OF CONSTRUCTION.—

13 (1) ASYLUM AND REMOVAL.—Nothing in this  
14 section shall be construed as limiting the right of an  
15 alien to apply for asylum or for relief or deferral of  
16 removal based on a fear of persecution.

17 (2) TREATMENT OF CERTAIN ALIENS.—The  
18 mandatory detention requirement in subsection (a)  
19 shall not apply to any alien who is a native or citizen  
20 of a country in the Western Hemisphere with whose  
21 government the United States does not have full dip-  
22 lomatic relations.

23 (3) DISCRETION.—Nothing in this section shall  
24 be construed as limiting the authority of the Sec-  
25 retary, in the Secretary's sole unreviewable discre-

1       tion, to determine whether an alien described in  
2       clause (ii) of section 235(b)(1)(B) of the Immigra-  
3       tion and Nationality Act shall be detained or re-  
4       leased after a finding of a credible fear of persecu-  
5       tion (as defined in clause (v) of such section).

6       **SEC. 226. REMOVAL OF DRUNK DRIVERS.**

7       (a) IN GENERAL.—Section 101(a)(43)(F) of the Im-  
8       migration and Nationality Act (8 U.S.C. 1101(a)(43)(F))  
9       is amended by inserting “, including a third drunk driving  
10      conviction, regardless of the States in which the convic-  
11      tions occurred or whether the offenses are classified as  
12      misdemeanors or felonies under State or Federal law,”  
13      after “offense”).

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

16              (1) take effect on the date of the enactment of  
17              this Act; and

18              (2) apply to convictions entered before, on, or  
19              after such date.

20      **SEC. 227. EXPEDITED REMOVAL.**

21      (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is  
22      amended—

23              (1) by striking the section heading and insert-  
24              ing “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

1           (2) in subsection (a), by striking the subsection  
2 heading and inserting: “EXPEDITED REMOVAL  
3 FROM CORRECTIONAL FACILITIES.—”;

4           (3) in subsection (b), by striking the subsection  
5 heading and inserting: “REMOVAL OF CRIMINAL  
6 ALIENS.—”;

7           (4) in subsection (b), by striking paragraphs  
8 (1) and (2) and inserting the following:

9           “(1) IN GENERAL.—The Secretary of Homeland  
10 Security may, in the case of an alien described in  
11 paragraph (2), determine the deportability of such  
12 alien and issue an order of removal pursuant to the  
13 procedures set forth in this subsection or section  
14 240.

15           “(2) ALIENS DESCRIBED.—An alien is de-  
16 scribed in this paragraph if the alien, whether or not  
17 admitted into the United States, was convicted of  
18 any criminal offense described in subparagraph  
19 (A)(iii), (C), or (D) of section 237(a)(2).”;

20           (5) in the subsection (c) that relates to pre-  
21 sumption of deportability, by striking “convicted of  
22 an aggravated felony” and inserting “described in  
23 subsection (b)(2)”;

24           (6) by redesignating the subsection (c) that re-  
25 lates to judicial removal as subsection (d); and

1 (7) in subsection (d)(5) (as so redesignated), by  
2 striking “, who is deportable under this Act,”.

3 (b) APPLICATION TO CERTAIN ALIENS.—

4 (1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8  
5 U.S.C. 1225(b)(1)(A)(iii)) is amended—

6 (A) in subclause (I), by striking “Attorney  
7 General” and inserting “Secretary of Homeland  
8 Security” each place it appears; and

9 (B) by adding at the end the following new  
10 subclause:

11 “(III) EXCEPTION.—Notwith-  
12 standing subclauses (I) and (II), the  
13 Secretary of Homeland Security shall  
14 apply clauses (i) and (ii) of this sub-  
15 paragraph to any alien (other than an  
16 alien described in subparagraph (F))  
17 who is not a national of a country  
18 contiguous to the United States, who  
19 has not been admitted or paroled into  
20 the United States, and who is appre-  
21 hended within 100 miles of an inter-  
22 national land border of the United  
23 States and within 14 days of entry.”.



1           (2) EXCEPTIONS.—Section 235(b)(1)(F) of the  
2 Immigration and Nationality Act (8 U.S.C.  
3 1225(b)(1)(F)) is amended—

4           (A) by striking “and who arrives by air-  
5 craft at a port of entry” and inserting “and—  
6 ”; and

7           (B) by adding at the end the following:

8           “(i) who arrives by aircraft at a port  
9 of entry; or

10           “(ii) who is present in the United  
11 States and arrived in any manner at or be-  
12 tween a port of entry.”.

13       (c) LIMIT ON INJUNCTIVE RELIEF.—Section  
14 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting  
15 “or stay, whether temporarily or otherwise,” after “en-  
16 join”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the date of the enactment  
19 of this Act and shall apply to all aliens apprehended or  
20 convicted on or after such date.

21 **SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED**  
22 **SEX OFFENDERS.**

23       (a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C.  
24 1154(a)(1)), is amended—

1           (1) in subparagraph (A)(i) by striking “Any”  
2           and inserting “Except as provided in clause (viii),  
3           any”;

4           (2) in subparagraph (A) by inserting after  
5           clause (vii) the following:

6           “(viii) Clause (i) shall not apply to a citizen of the  
7           United States who has been convicted of an offense de-  
8           scribed in section 101(a)(43)(A), section 101(a)(43)(I), or  
9           section 101(a)(43)(K), unless the Secretary of Homeland  
10          Security, in the Secretary’s sole and unreviewable discre-  
11          tion, determines that the citizen poses no risk to the alien  
12          with respect to whom a petition described in clause (i) is  
13          filed.”; and

14          (3) in subparagraph (B)(i)—

15                 (A) by striking “Any alien” and inserting  
16                 the following: “(I) Except as provided in sub-  
17                 clause (II), any alien”; and

18                 (B) by adding at the end the following:

19                 “(II) Subclause (I) shall not apply in the case of an  
20                 alien admitted for permanent residence who has been con-  
21                 victed of an offense described in section 101(a)(43)(A),  
22                 section 101(a)(43)(I), or section 101(a)(43)(K), unless  
23                 the Secretary of Homeland Security, in the Secretary’s  
24                 sole and unreviewable discretion, determines that the alien  
25                 lawfully admitted for permanent residence poses no risk

1 to the alien with respect to whom a petition described in  
2 subclause (I) is filed.”.

3 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8  
4 U.S.C. 1101(a)(15)(K)), is amended by inserting “(other  
5 than a citizen described in section 204(a)(1)(A)(viii))”  
6 after “citizen of the United States” each place that phrase  
7 appears.

8 **SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND**  
9 **POLITICAL SUBDIVISIONS AND TRANSFER TO**  
10 **FEDERAL CUSTODY.**

11 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)  
12 is amended by adding after section 240C the following new  
13 section:

14 **“SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES**  
15 **AND POLITICAL SUBDIVISIONS AND TRANS-**  
16 **FER OF ALIENS TO FEDERAL CUSTODY.**

17 “(a) AUTHORITY.—Notwithstanding any other provi-  
18 sion of law, law enforcement personnel of a State or a  
19 political subdivision of a State have the inherent authority  
20 of a sovereign entity to investigate, apprehend, arrest, de-  
21 tain, or transfer to Federal custody (including the trans-  
22 portation across State lines to detention centers) an alien  
23 for the purpose of assisting in the enforcement of the  
24 criminal provisions of the immigration laws of the United  
25 States in the normal course of carrying out the law en-

1 enforcement duties of such personnel. This State authority  
2 has never been displaced or preempted by a Federal law.

3 “(b) CONSTRUCTION.—Nothing in this subsection  
4 shall be construed to require law enforcement personnel  
5 of a State or a political subdivision to assist in the enforce-  
6 ment of the immigration laws of the United States.

7 “(c) TRANSFER.—If the head of a law enforcement  
8 entity of a State (or, if appropriate, a political subdivision  
9 of the State) exercising authority with respect to the ap-  
10 prehension or arrest of an alien submits a request to the  
11 Secretary of Homeland Security that the alien be taken  
12 into Federal custody, the Secretary of Homeland Secu-  
13 rity—

14 “(1) shall—

15 “(A) deem the request to include the in-  
16 quiry to verify immigration status described in  
17 section 642(c) of the Illegal Immigration Re-  
18 form and Immigrant Responsibility Act of 1996  
19 (8 U.S.C. 1373(c)), and expeditiously inform  
20 the requesting entity whether such individual is  
21 an alien lawfully admitted to the United States  
22 or is otherwise lawfully present in the United  
23 States; and

24 “(B) if the individual is an alien who is not  
25 lawfully admitted to the United States or other-

1 wise is not lawfully present in the United  
2 States, either—

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

10 “(ii) request that the relevant State or  
11 local law enforcement agency temporarily  
12 detain or transport the alien to a location  
13 for transfer to Federal custody; and

14 “(2) shall designate at least 1 Federal, State,  
15 or local prison or jail or a private contracted prison  
16 or detention facility within each State as the central  
17 facility for that State to transfer custody of aliens  
18 to the Department of Homeland Security.

19 “(d) REIMBURSEMENT.—

20 “(1) IN GENERAL.—The Secretary of Homeland  
21 Security shall reimburse a State or a political sub-  
22 division of a State for expenses, as verified by the  
23 Secretary of Homeland Security, incurred by the  
24 State or political subdivision in the detention and

1 transportation of an alien as described in subpara-  
2 graphs (A) and (B) of subsection (c)(1).

3 “(2) COST COMPUTATION.—Compensation pro-  
4 vided for costs incurred under subparagraphs (A)  
5 and (B) of subsection (c)(1) shall be—

6 “(A) the product of—

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

12 “(ii) the number of days that the alien  
13 was in the custody of the State or political  
14 subdivision; plus

15 “(B) the cost of transporting the alien  
16 from the point of apprehension or arrest to the  
17 location of detention, and if the location of de-  
18 tention and of custody transfer are different, to  
19 the custody transfer point; plus

20 “(C) The cost of uncompensated emer-  
21 gency medical care provided to a detained alien  
22 during the period between the time of trans-  
23 mittal of the request described in subsection (c)  
24 and the time of transfer into Federal custody.

1       “(e) REQUIREMENT FOR APPROPRIATE SECURITY.—

2 The Secretary of Homeland Security shall ensure that  
3 aliens incarcerated in a Federal facility pursuant to this  
4 subsection are held in facilities which provide an appro-  
5 priate level of security, and that, where practicable, aliens  
6 detained solely for civil violations of Federal immigration  
7 law are separated within a facility or facilities.

8       “(f) REQUIREMENT FOR SCHEDULE.—In carrying

9 out this section, the Secretary of Homeland Security shall  
10 establish a regular circuit and schedule for the prompt  
11 transportation of apprehended aliens from the custody of  
12 those States and political subdivisions of States which rou-  
13 tinely submit requests described in subsection (c) into  
14 Federal custody.

15       “(g) AUTHORITY FOR CONTRACTS.—

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

21           “(2) DETERMINATION BY SECRETARY.—Prior

22 to entering into a contract or cooperative agreement  
23 with a State or political subdivision of a State under  
24 paragraph (1), the Secretary shall determine wheth-  
25 er the State, or where appropriate, the political sub-

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

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

17 **SEC. 230. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
18 **TIONAL CRIME INFORMATION CENTER DATA-**  
19 **BASE.**

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

22 (1) **IN GENERAL.**—Except as provided in para-  
23 graph (3), not later than 180 days after the date of  
24 the enactment of this Act, the Secretary shall pro-  
25 vide to the head of the National Crime Information



1 Center of the Department of Justice the information  
2 that the Secretary has or maintains related to any  
3 alien—

4 (A) against whom a final order of removal  
5 has been issued;

6 (B) who enters into a voluntary departure  
7 agreement, or is granted voluntary departure by  
8 an immigration judge, whose period for depar-  
9 ture has expired under subsection (a)(3) of sec-  
10 tion 240B of the Immigration and Nationality  
11 Act (8 U.S.C. 1229e) (as amended by section  
12 211(a)(1)(C)), subsection (b)(2) of such section  
13 240B, or who has violated a condition of a vol-  
14 untary departure agreement under such section  
15 240B;

16 (C) whom a Federal immigration officer  
17 has confirmed to be unlawfully present in the  
18 United States; or

19 (D) whose visa has been revoked.

20 (2) REMOVAL OF INFORMATION.—The head of  
21 the National Crime Information Center should  
22 promptly remove any information provided by the  
23 Secretary under paragraph (1) related to an alien  
24 who is granted lawful authority to enter or remain  
25 legally in the United States.

1           (3) PROCEDURE FOR REMOVAL OF ERRONEOUS  
2 INFORMATION.—The Secretary, in consultation with  
3 the head of the National Crime Information Center  
4 of the Department of Justice, shall develop and im-  
5 plement a procedure by which an alien may petition  
6 the Secretary or head of the National Crime Infor-  
7 mation Center, as appropriate, to remove any erro-  
8 neous information provided by the Secretary under  
9 paragraph (1) related to such alien. Under such pro-  
10 cedures, failure by the alien to receive notice of a  
11 violation of the immigration laws shall not constitute  
12 cause for removing information provided by the Sec-  
13 retary under paragraph (1) related to such alien, un-  
14 less such information is erroneous. Notwithstanding  
15 the 180 time period set forth in paragraph (1), the  
16 Secretary shall not provide the information required  
17 under paragraph (1) until the procedures required  
18 by this paragraph are developed and implemented.

19           (b) INCLUSION OF INFORMATION IN THE NATIONAL  
20 CRIME INFORMATION CENTER DATABASE.—Section  
21 534(a) of title 28, United States Code, is amended—

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

24           (2) by redesignating paragraph (4) as para-  
25 graph (5); and

1           (3) by inserting after paragraph (3) the fol-  
2           lowing new paragraph:

3           “(4) acquire, collect, classify, and preserve  
4           records of violations of the immigration laws of the  
5           United States; and”.

6 **SEC. 231. LAUNDERING OF MONETARY INSTRUMENTS.**

7           Section 1956(c)(7)(D) of title 18, United States  
8           Code, is amended—

9           (1) by inserting “section 1590 (relating to traf-  
10           ficking with respect to peonage, slavery, involuntary  
11           servitude, or forced labor),” after “section 1363 (re-  
12           lating to destruction of property within the special  
13           maritime and territorial jurisdiction),”; and

14           (2) by inserting “section 274(a) of the Immi-  
15           gration and Nationality Act (8 U.S.C.1324(a)) (re-  
16           lating to bringing in and harboring certain aliens),”  
17           after “section 590 of the Tariff Act of 1930 (19  
18           U.S.C. 1590) (relating to aviation smuggling),”.

19 **SEC. 232. SEVERABILITY.**

20           If any provision of this title, any amendment made  
21           by this title, or the application of such provision or amend-  
22           ment to any person or circumstance is held to be invalid  
23           for any reason, the remainder of this title, the amend-  
24           ments made by this title, and the application of the provi-

1 sions of such to any other person or circumstance shall  
 2 not be affected by such holding.

3 **TITLE III—UNLAWFUL**  
 4 **EMPLOYMENT OF ALIENS**

5 **SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.**

6 (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a)  
 7 is amended to read as follows:

8 **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

9 “(a) MAKING EMPLOYMENT OF UNAUTHORIZED  
 10 ALIENS UNLAWFUL.—

11 “(1) IN GENERAL.—It is unlawful for an em-  
 12 ployer—

13 “(A) to hire, or to recruit or refer for a  
 14 fee, an alien for employment in the United  
 15 States knowing, or with reason to know, that  
 16 the alien is an unauthorized alien with respect  
 17 to such employment; or

18 “(B) to hire, or to recruit or refer for a  
 19 fee, for employment in the United States an in-  
 20 dividual unless such employer meets the re-  
 21 quirements of subsections (c) and (d).

22 “(2) CONTINUING EMPLOYMENT.—It is unlaw-  
 23 ful for an employer, after lawfully hiring an alien for  
 24 employment, to continue to employ the alien in the  
 25 United States knowing or with reason to know that

1 the alien is (or has become) an unauthorized alien  
2 with respect to such employment.

3 “(3) USE OF LABOR THROUGH CONTRACT.—In  
4 this section, an employer who uses a contract, sub-  
5 contract, or exchange, entered into, renegotiated, or  
6 extended after the date of the enactment of the Se-  
7 curing America’s Borders Act, to obtain the labor of  
8 an alien in the United States knowing, or with rea-  
9 son to know, that the alien is an unauthorized alien  
10 with respect to performing such labor, shall be con-  
11 sidered to have hired the alien for employment in  
12 the United States in violation of paragraph (1)(A).

13 “(4) REBUTTABLE PRESUMPTION OF UNLAW-  
14 FUL HIRING.—If the Secretary determines that an  
15 employer has hired more than 10 unauthorized  
16 aliens during a calendar year, a rebuttable presump-  
17 tion is created for the purpose of a civil enforcement  
18 proceeding, that the employer knew or had reason to  
19 know that such aliens were unauthorized.

20 “(5) DEFENSE.—

21 “(A) IN GENERAL.—Subject to subpara-  
22 graph (B), an employer that establishes that  
23 the employer has complied in good faith with  
24 the requirements of subsections (c) and (d) has  
25 established an affirmative defense that the em-

1            employer has not violated paragraph (1)(A) with  
2            respect to such hiring, recruiting, or referral.

3            “(B) EXCEPTION.—Until the date that an  
4            employer is required to participate in the Elec-  
5            tronic Employment Verification System under  
6            subsection (d) or is permitted to participate in  
7            such System on a voluntary basis, the employer  
8            may establish an affirmative defense under sub-  
9            paragraph (A) without a showing of compliance  
10          with subsection (d).

11          “(b) ORDER OF INTERNAL REVIEW AND CERTIFI-  
12          CATION OF COMPLIANCE.—

13            “(1) AUTHORITY TO REQUIRE CERTIFI-  
14            CATION.—If the Secretary has reasonable cause to  
15            believe that an employer has failed to comply with  
16            this section, the Secretary is authorized, at any time,  
17            to require that the employer certify that the em-  
18            ployer is in compliance with this section, or has in-  
19            stituted a program to come into compliance.

20            “(2) CONTENT OF CERTIFICATION.—Not later  
21            than 60 days after the date an employer receives a  
22            request for a certification under paragraph (1) the  
23            chief executive officer or similar official of the em-  
24            ployer shall certify under penalty of perjury that—

1           “(A) the employer is in compliance with  
2           the requirements of subsections (c) and (d); or

3           “(B) that the employer has instituted a  
4           program to come into compliance with such re-  
5           quirements.

6           “(3) EXTENSION.—The 60-day period referred  
7           to in paragraph (2), may be extended by the Sec-  
8           retary for good cause, at the request of the em-  
9           ployer.

10           “(4) PUBLICATION.—The Secretary is author-  
11           ized to publish in the Federal Register standards or  
12           methods for certification and for specific record  
13           keeping practices with respect to such certification,  
14           and procedures for the audit of any records related  
15           to such certification.

16           “(c) DOCUMENT VERIFICATION REQUIREMENTS.—  
17           An employer hiring, or recruiting or referring for a fee,  
18           an individual for employment in the United States shall  
19           take all reasonable steps to verify that the individual is  
20           eligible for such employment. Such steps shall include  
21           meeting the requirements of subsection (d) and the fol-  
22           lowing paragraphs:

23           “(1) ATTESTATION BY EMPLOYER.—

24           “(A) REQUIREMENTS.—

1           “(i) IN GENERAL.—The employer  
2 shall attest, under penalty of perjury and  
3 on a form prescribed by the Secretary, that  
4 the employer has verified the identity and  
5 eligibility for employment of the individual  
6 by examining—

7                   “(I) a document described in  
8 subparagraph (B); or

9                   “(II) a document described in  
10 subparagraph (C) and a document de-  
11 scribed in subparagraph (D).

12           “(ii) SIGNATURE REQUIREMENTS.—  
13 An attestation required by clause (i) may  
14 be manifested by a handwritten or elec-  
15 tronic signature.

16           “(iii) STANDARDS FOR EXAMINA-  
17 TION.—An employer has complied with the  
18 requirement of this paragraph with respect  
19 to examination of documentation if, based  
20 on the totality of the circumstances, a rea-  
21 sonable person would conclude that the  
22 document examined is genuine and estab-  
23 lishes the individual’s identity and eligi-  
24 bility for employment in the United States.



1           “(iv) REQUIREMENTS FOR EMPLOY-  
2           MENT ELIGIBILITY SYSTEM PARTICI-  
3           PANTS.—A participant in the Electronic  
4           Employment Verification System estab-  
5           lished under subsection (d), regardless of  
6           whether such participation is voluntary or  
7           mandatory, shall be permitted to utilize  
8           any technology that is consistent with this  
9           section and with any regulation or guid-  
10          ance from the Secretary to streamline the  
11          procedures to comply with the attestation  
12          requirement, and to comply with the em-  
13          ployment eligibility verification require-  
14          ments contained in this section.

15          “(B) DOCUMENTS ESTABLISHING BOTH  
16          EMPLOYMENT ELIGIBILITY AND IDENTITY.—A  
17          document described in this subparagraph is an  
18          individual’s—

19                  “(i) United States passport; or

20                  “(ii) permanent resident card or other  
21          document designated by the Secretary, if  
22          the document—

23                          “(I) contains a photograph of the  
24                          individual and such other personal  
25                          identifying information relating to the

1 individual that the Secretary pro-  
2 scribes in regulations is sufficient for  
3 the purposes of this subparagraph;

4 “(II) is evidence of eligibility for  
5 employment in the United States; and

6 “(III) contains security features  
7 to make the document resistant to  
8 tampering, counterfeiting, and fraudu-  
9 lent use.

10 “(C) DOCUMENTS EVIDENCING EMPLOY-  
11 MENT ELIGIBILITY.—A document described in  
12 this subparagraph is an individual’s—

13 “(i) social security account number  
14 card issued by the Commissioner of Social  
15 Security (other than a card which specifies  
16 on its face that the issuance of the card  
17 does not authorize employment in the  
18 United States); or

19 “(ii) any other documents evidencing  
20 eligibility of employment in the United  
21 States, if—

22 “(I) the Secretary has published  
23 a notice in the Federal Register stat-  
24 ing that such document is acceptable

1 for purposes of this subparagraph;  
2 and

3 “(II) contains security features  
4 to make the document resistant to  
5 tampering, counterfeiting, and fraudu-  
6 lent use.

7 “(D) DOCUMENTS ESTABLISHING IDEN-  
8 TITY OF INDIVIDUAL.—A document described in  
9 this subparagraph is an individual’s—

10 “(i) driver’s license or identity card  
11 issued by a State, the Commonwealth of  
12 the Northern Mariana Islands, or an out-  
13 lying possession of the United States that  
14 complies with the requirements of the  
15 REAL ID Act of 2005 (division B of Pub-  
16 lic Law 109–13; 119 Stat. 302);

17 “(ii) driver’s license or identity card  
18 issued by a State, the Commonwealth of  
19 the Northern Mariana Islands, or an out-  
20 lying possession of the United States that  
21 is not in compliance with the requirements  
22 of the REAL ID Act of 2005, if the license  
23 or identity card—

1           “(I) is not required by the Sec-  
2           retary to comply with such require-  
3           ments; and

4           “(II) contains the individual’s  
5           photograph or information, including  
6           the individual’s name, date of birth,  
7           gender, and address; and

8           “(iii) identification card issued by a  
9           Federal agency or department, including a  
10          branch of the Armed Forces, or an agency,  
11          department, or entity of a State, or a Na-  
12          tive American tribal document, provided  
13          that such card or document—

14          “(I) contains the individual’s  
15          photograph or information including  
16          the individual’s name, date of birth,  
17          gender, eye color, and address; and

18          “(II) contains security features  
19          to make the card resistant to tam-  
20          pering, counterfeiting, and fraudulent  
21          use; or

22          “(iv) in the case of an individual who  
23          is under 16 years of age who is unable to  
24          present a document described in clause (i),

1 (ii), or (iii) a document of personal identity  
2 of such other type that—

3 “(I) the Secretary determines is  
4 a reliable means of identification; and

5 “(II) contains security features  
6 to make the document resistant to  
7 tampering, counterfeiting, and fraudu-  
8 lent use.

9 “(E) AUTHORITY TO PROHIBIT USE OF  
10 CERTAIN DOCUMENTS.—

11 “(i) AUTHORITY.—If the Secretary  
12 finds that a document or class of docu-  
13 ments described in subparagraph (B), (C),  
14 or (D) is not reliable to establish identity  
15 or eligibility for employment (as the case  
16 may be) or is being used fraudulently to an  
17 unacceptable degree, the Secretary is au-  
18 thorized to prohibit, or impose conditions,  
19 on the use of such document or class of  
20 documents for purposes of this subsection.

21 “(ii) REQUIREMENT FOR PUBLICA-  
22 TION.—The Secretary shall publish notice  
23 of any findings under clause (i) in the Fed-  
24 eral Register.

25 “(2) ATTESTATION OF EMPLOYEE.—

1           “(A) REQUIREMENTS.—

2                   “(i) IN GENERAL.—The individual  
3                   shall attest, under penalty of perjury on  
4                   the form prescribed by the Secretary, that  
5                   the individual is a national of the United  
6                   States, an alien lawfully admitted for per-  
7                   manent residence, or an alien who is au-  
8                   thorized under this Act or by the Secretary  
9                   to be hired, recruited or referred for a fee,  
10                  in the United States.

11                  “(ii) SIGNATURE FOR EXAMINA-  
12                  TION.—An attestation required by clause  
13                  (i) may be manifested by a handwritten or  
14                  electronic signature.

15                  “(B) PENALTIES.—An individual who  
16                  falsely represents that the individual is eligible  
17                  for employment in the United States in an at-  
18                  testation required by subparagraph (A) shall,  
19                  for each such violation, be subject to a fine of  
20                  not more than \$5,000, a term of imprisonment  
21                  not to exceed 3 years, or both.

22                  “(3) RETENTION OF ATTESTATION.—An em-  
23                  ployer shall retain a paper, microfiche, microfilm, or  
24                  electronic version of an attestation submitted under  
25                  paragraph (1) or (2) for an individual and make

1 such attestations available for inspection by an offi-  
2 cer of the Department of Homeland Security, any  
3 other person designated by the Secretary, the Spe-  
4 cial Counsel for Immigration-Related Unfair Em-  
5 ployment Practices of the Department of Justice, or  
6 the Secretary of Labor during a period beginning on  
7 the date of the hiring, or recruiting or referring for  
8 a fee, of the individual and ending—

9 “(A) in the case of the recruiting or refer-  
10 ral for a fee (without hiring) of an individual,  
11 7 years after the date of the recruiting or refer-  
12 ral; or

13 “(B) in the case of the hiring of an indi-  
14 vidual the later of—

15 “(i) 7 years after the date of such hir-  
16 ing;

17 “(ii) 1 year after the date the individ-  
18 ual’s employment is terminated; or

19 “(iii) in the case of an employer or  
20 class of employers, a period that is less  
21 than the applicable period described in  
22 clause (i) or (ii) if the Secretary reduces  
23 such period for such employer or class of  
24 employers.

1           “(4) DOCUMENT RETENTION AND RECORD  
2           KEEPING REQUIREMENTS.—

3           “(A) RETENTION OF DOCUMENTS.—An  
4           employer shall retain, for the applicable period  
5           described in paragraph (3), the following docu-  
6           ments:

7                   “(i) IN GENERAL.—Notwithstanding  
8                   any other provision of law, the employer  
9                   shall copy all documents presented by an  
10                  individual pursuant to this subsection and  
11                  shall retain paper, microfiche, microfilm,  
12                  or electronic copies of such documents.  
13                  Such copies shall reflect the signature of  
14                  the employer and the individual and the  
15                  date of receipt of such documents.

16                  “(ii) USE OF RETAINED DOCU-  
17                  MENTS.—An employer shall use copies re-  
18                  tained under clause (i) only for the pur-  
19                  poses of complying with the requirements  
20                  of this subsection, except as otherwise per-  
21                  mitted under law.

22           “(B) RETENTION OF SOCIAL SECURITY  
23           CORRESPONDENCE.—The employer shall main-  
24           tain records related to an individual of any no-  
25           match notice from the Commissioner of Social



1 Security regarding the individual's name or cor-  
2 responding social security account number and  
3 the steps taken to resolve each issue described  
4 in the no-match notice.

5 “(C) RETENTION OF CLARIFICATION DOC-  
6 UMENTS.—The employer shall maintain records  
7 of any actions and copies of any correspondence  
8 or action taken by the employer to clarify or re-  
9 solve any issue that raises reasonable doubt as  
10 to the validity of the individual's identity or eli-  
11 gibility for employment in the United States.

12 “(D) RETENTION OF OTHER RECORDS.—  
13 The Secretary may require that an employer re-  
14 tain copies of additional records related to the  
15 individual for the purposes of this section.

16 “(5) PENALTIES.—An employer that fails to  
17 comply with the requirement of this subsection shall  
18 be subject to the penalties described in subsection  
19 (e)(4)(B).

20 “(6) NO AUTHORIZATION OF NATIONAL IDENTI-  
21 FICATION CARDS.—Nothing in this section may be  
22 construed to authorize, directly or indirectly, the  
23 issuance, use, or establishment of a national identi-  
24 fication card.

1       “(d) ELECTRONIC EMPLOYMENT VERIFICATION SYS-  
2 TEM.—

3               “(1) REQUIREMENT FOR SYSTEM.—The Sec-  
4 retary, in cooperation with the Commissioner of So-  
5 cial Security, shall implement an Electronic Employ-  
6 ment Verification System (referred to in this sub-  
7 section as the ‘System’) as described in this sub-  
8 section.

9               “(2) MANAGEMENT OF SYSTEM.—

10               “(A) IN GENERAL.—The Secretary shall,  
11 through the System—

12                       “(i) provide a response to an inquiry  
13 made by an employer through the Internet  
14 or other electronic media or over a tele-  
15 phone line regarding an individual’s iden-  
16 tity and eligibility for employment in the  
17 United States;

18                       “(ii) establish a set of codes to be pro-  
19 vided through the System to verify such  
20 identity and authorization; and

21                       “(iii) maintain a record of each such  
22 inquiry and the information and codes pro-  
23 vided in response to such inquiry.

24               “(B) INITIAL RESPONSE.—Not later than  
25               3 days after an employer submits an inquire to

1 the System regarding an individual, the Sec-  
2 retary shall provide, through the System, to the  
3 employer—

4 “(i) if the System is able to confirm  
5 the individual’s identity and eligibility for  
6 employment in the United States, a con-  
7 firmation notice, including the appropriate  
8 codes on such confirmation notice; or

9 “(ii) if the System is unable to con-  
10 firm the individual’s identity or eligibility  
11 for employment in the United States, a  
12 tentative nonconfirmation notice, including  
13 the appropriate codes for such noncon-  
14 firmation notice.

15 “(C) VERIFICATION PROCESS IN CASE OF A  
16 TENTATIVE NONCONFIRMATION NOTICE.—

17 “(i) IN GENERAL.—If a tentative non-  
18 confirmation notice is issued under sub-  
19 paragraph (B)(ii), not later than 10 days  
20 after the date an individual submits infor-  
21 mation to contest such notice under para-  
22 graph (7)(C)(ii)(III), the Secretary,  
23 through the System, shall issue a final con-  
24 firmation notice or a final nonconfirmation

1 notice to the employer, including the ap-  
2 propriate codes for such notice.

3 “(ii) DEVELOPMENT OF PROCESS.—

4 The Secretary shall consult with the Com-  
5 missioner of Social Security to develop a  
6 verification process to be used to provide a  
7 final confirmation notice or a final noncon-  
8 firmation notice under clause (i).

9 “(D) DESIGN AND OPERATION OF SYS-

10 TEM.—The Secretary, in consultation with the  
11 Commissioner of Social Security, shall design  
12 and operate the System—

13 “(i) to maximize reliability and ease of  
14 use by employers in a manner that pro-  
15 tects and maintains the privacy and secu-  
16 rity of the information maintained in the  
17 System;

18 “(ii) to respond to each inquiry made  
19 by an employer; and

20 “(iii) to track and record any occur-  
21 rence when the System is unable to receive  
22 such an inquiry;

23 “(iv) to include appropriate adminis-  
24 trative, technical, and physical safeguards

1 to prevent unauthorized disclosure of per-  
2 sonal information;

3 “(v) to allow for monitoring of the use  
4 of the System and provide an audit capa-  
5 bility; and

6 “(vi) to have reasonable safeguards,  
7 developed in consultation with the Attorney  
8 General, to prevent employers from engag-  
9 ing in unlawful discriminatory practices,  
10 based on national origin or citizenship sta-  
11 tus.

12 “(E) RESPONSIBILITIES OF THE COMMIS-  
13 SIONER OF SOCIAL SECURITY.—The Commis-  
14 sioner of Social Security shall establish a reli-  
15 able, secure method to provide through the Sys-  
16 tem, within the time periods required by sub-  
17 paragraphs (B) and (C)—

18 “(i) a determination of whether the  
19 name and social security account number  
20 provided in an inquiry by an employer  
21 match such information maintained by the  
22 Commissioner in order to confirm the va-  
23 lidity of the information provided;

1           “(ii) a determination of whether such  
2           social security account number was issued  
3           to the named individual;

4           “(iii) determination of whether such  
5           social security account number is valid for  
6           employment in the United States; and

7           “(iv) a confirmation notice or a non-  
8           confirmation notice under subparagraph  
9           (B) or (C), in a manner that ensures that  
10          other information maintained by the Com-  
11          missioner is not disclosed or released to  
12          employers through the System.

13          “(F) RESPONSIBILITIES OF THE SEC-  
14          RETARY.—The Secretary shall establish a reli-  
15          able, secure method to provide through the Sys-  
16          tem, within the time periods required by sub-  
17          paragraphs (B) and (C)—

18                 “(i) a determination of whether the  
19                 name and alien identification or authoriza-  
20                 tion number provided in an inquiry by an  
21                 employer match such information main-  
22                 tained by the Secretary in order to confirm  
23                 the validity of the information provided;

1           “(ii) a determination of whether such  
2           number was issued to the named indi-  
3           vidual;

4           “(iii) a determination of whether the  
5           individual is authorized to be employed in  
6           the United States; and

7           “(iv) any other related information  
8           that the Secretary may require.

9           “(G)    UPDATING    INFORMATION.—The  
10          Commissioner of Social Security and the Sec-  
11          retary shall update the information maintained  
12          in the System in a manner that promotes max-  
13          imum accuracy and shall provide a process for  
14          the prompt correction of erroneous information.

15          “(3)   REQUIREMENTS FOR PARTICIPATION.—  
16          Except as provided in paragraphs (4) and (5), the  
17          Secretary shall require employers to participate in  
18          the System as follows:

19                 “(A) CRITICAL EMPLOYERS.—

20                         “(i) REQUIRED PARTICIPATION.—As  
21                         of the date that is 180 days after the date  
22                         of the enactment of the Securing America’s  
23                         Borders Act, the Secretary shall require  
24                         any employer or class of employers to par-  
25                         ticipate in the System, with respect to em-

1 employees hired by the employer prior to, on,  
2 or after such date of enactment, if the Sec-  
3 retary determines, in the Secretary's sole  
4 and unreviewable discretion, such employer  
5 or class of employer is—

6 “(I) part of the critical infra-  
7 structure of the United States; or

8 “(II) directly related to the na-  
9 tional security or homeland security of  
10 the United States.

11 “(ii) DISCRETIONARY PARTICIPA-  
12 TION.—As of the date that is 180 days  
13 after the date of the enactment of the Se-  
14 curing America's Borders Act, the Sec-  
15 retary may require additional any employer  
16 or class of employers to participate in the  
17 System with respect to employees hired on  
18 or after such date if the Secretary des-  
19 ignates such employer or class of employ-  
20 ers, in the Secretary's sole and  
21 unreviewable discretion, as a critical em-  
22 ployer based on immigration enforcement  
23 or homeland security needs.

24 “(B) LARGE EMPLOYERS.—Not later than  
25 2 years after the date of the enactment of the



1           Securing America’s Borders Act, Secretary  
2           shall require an employer with more than 5,000  
3           employees in the United States to participate in  
4           the System, with respect to all employees hired  
5           by the employer after the date the Secretary re-  
6           quires such participation.

7           “(C) MID-SIZED EMPLOYERS.—Not later  
8           than 3 years after the date of enactment of the  
9           Securing America’s Borders Act, the Secretary  
10          shall require an employer with less than 5,000  
11          employees and with more than 1,000 employees  
12          in the United States to participate in the Sys-  
13          tem, with respect to all employees hired by the  
14          employer after the date the Secretary requires  
15          such participation.

16          “(D) SMALL EMPLOYERS.—Not later than  
17          4 years after the date of the enactment of the  
18          Securing America’s Borders Act, the Secretary  
19          shall require all employers with less than 1,000  
20          employees and with more than 250 employees  
21          in the United States to participate in the Sys-  
22          tem, with respect to all employees hired by the  
23          employer after the date the Secretary requires  
24          such participation.

1           “(E) REMAINING EMPLOYERS.—Not later  
2 than 5 years after the date of the enactment of  
3 the Securing America’s Borders Act, the Sec-  
4 retary shall require all employers in the United  
5 States to participate in the System, with re-  
6 spect to all employees hired by an employer  
7 after the date the Secretary requires such par-  
8 ticipation.

9           “(F) REQUIREMENT TO PUBLISH.—The  
10 Secretary shall publish in the Federal Register  
11 the requirements for participation in the Sys-  
12 tem as described in subparagraphs (A), (B),  
13 (C), (D), and (E) prior to the effective date of  
14 such requirements.

15           “(4) OTHER PARTICIPATION IN SYSTEM.—Not-  
16 withstanding paragraph (3), the Secretary has the  
17 authority, in the Secretary’s sole and unreviewable  
18 discretion—

19           “(A) to permit any employer that is not re-  
20 quired to participate in the System under para-  
21 graph (3) to participate in the System on a vol-  
22 untary basis; and

23           “(B) to require any employer that is re-  
24 quired to participate in the System under para-  
25 graph (3) with respect to newly hired employees

1 to participate in the System with respect to all  
2 employees hired by the employer prior to, on, or  
3 after the date of the enactment of the Securing  
4 America’s Borders Act, if the Secretary has  
5 reasonable causes to believe that the employer  
6 has engaged in violations of the immigration  
7 laws.

8 “(5) WAIVER.—The Secretary is authorized to  
9 waive or delay the participation requirements of  
10 paragraph (3) respect to any employer or class of  
11 employers if the Secretary provides notice to Con-  
12 gress of such waiver prior to the date such waiver  
13 is granted.

14 “(6) CONSEQUENCE OF FAILURE TO PARTICI-  
15 PATE.—If an employer is required to participate in  
16 the System and fails to comply with the require-  
17 ments of the System with respect to an individual—

18 “(A) such failure shall be treated as a vio-  
19 lation of subsection (a)(1)(B) of this section  
20 with respect to such individual; and

21 “(B) a rebuttable presumption is created  
22 that the employer has violated subsection  
23 (a)(1)(A) of this section, however such pre-  
24 sumption may not apply to a prosecution under  
25 subsection (f)(1).

1 “(7) SYSTEM REQUIREMENTS.—

2 “(A) IN GENERAL.—An employer that par-  
3 ticipates in the System shall, with respect to the  
4 hiring, or recruiting or referring for a fee, any  
5 individual for employment in the United States,  
6 shall—

7 “(i) obtain from the individual and  
8 record on the form designated by the Sec-  
9 retary—

10 “(I) the individual’s social secu-  
11 rity account number; and

12 “(II) in the case of an individual  
13 who does not attest that the indi-  
14 vidual is a national of the United  
15 States under subsection (c)(2), such  
16 identification or authorization number  
17 that the Secretary shall require; and

18 “(ii) retain the original of such form  
19 and make such form available for inspec-  
20 tion for the periods and in the manner de-  
21 scribed in subsection (c)(3).

22 “(B) SEEKING VERIFICATION.—The em-  
23 ployer shall submit an inquiry through the Sys-  
24 tem to seek confirmation of the individual’s

1 identity and eligibility for employment in the  
2 United States—

3 “(i) not later than 3 working days (or  
4 such other reasonable time as may be spec-  
5 ified by the Secretary of Homeland Secu-  
6 rity) after the date of the hiring, or re-  
7 cruiting or referring for a fee, of the indi-  
8 vidual (as the case may be); or

9 “(ii) in the case of an employee hired  
10 prior to the date of enactment of the Se-  
11 curing America’s Borders Act, at such  
12 time as the Secretary shall specify.

13 “(C) CONFIRMATION OR NONCONFIRMA-  
14 TION.—

15 “(i) CONFIRMATION UPON INITIAL IN-  
16 QUIRY.—If an employer receives a con-  
17 firmation notice under paragraph (2)(B)(i)  
18 for an individual, the employer shall  
19 record, on the form specified by the Sec-  
20 retary, the appropriate code provided in  
21 such notice.

22 “(ii) NONCONFIRMATION AND  
23 VERIFICATION.—

24 “(I) NONCONFIRMATION.—If an  
25 employer receives a tentative noncon-

1           firmation notice under paragraph  
2           (2)(B)(ii) for an individual, the em-  
3           ployer shall inform such individual of  
4           the issuances of such notice in writing  
5           and the individual may contest such  
6           nonconfirmation notice.

7           “(II) NO CONTEST.—If the indi-  
8           vidual does not contest the tentative  
9           nonconfirmation notice under sub-  
10          clause (I) within 10 days of receiving  
11          notice from the individual’s employer,  
12          the notice shall become final and the  
13          employer shall record on the form  
14          specified by the Secretary, the appro-  
15          priate code provided in the noncon-  
16          firmation notice.

17          “(III) CONTEST.—If the indi-  
18          vidual contests the tentative noncon-  
19          firmation notice under subclause (I),  
20          the individual shall submit appro-  
21          priate information to contest such no-  
22          tice to the System within 10 days of  
23          receiving notice from the individual’s  
24          employer and shall utilize the

1 verification process developed under  
2 paragraph (2)(C)(ii).

3 “(IV) EFFECTIVE PERIOD OF  
4 TENTATIVE NONCONFIRMATION.—A  
5 tentative nonconfirmation notice shall  
6 remain in effect until a final such no-  
7 tice becomes final under clause (II) or  
8 a final confirmation notice or final  
9 nonconfirmation notice is issued by  
10 the System.

11 “(V) PROHIBITION ON TERMI-  
12 NATION.—An employer may not ter-  
13 minate the employment of an indi-  
14 vidual based on a tentative noncon-  
15 firmation notice until such notice be-  
16 comes final under clause (II) or a  
17 final nonconfirmation notice is issued  
18 for the individual by the System.  
19 Nothing in this clause shall apply to a  
20 termination of employment for any  
21 reason other than because of such a  
22 failure.

23 “(VI) RECORDING OF CONCLU-  
24 SION ON FORM.—If a final confirma-  
25 tion or nonconfirmation is provided by

1 the System regarding an individual,  
2 the employer shall record on the form  
3 designated by the Secretary the ap-  
4 propriate code that is provided under  
5 the System to indicate a confirmation  
6 or nonconfirmation of the identity and  
7 employment eligibility of the indi-  
8 vidual.

9 “(D) CONSEQUENCES OF NONCONFIRMA-  
10 TION.—

11 “(i) TERMINATION OF CONTINUED  
12 EMPLOYMENT.—If the employer has re-  
13 ceived a final nonconfirmation regarding  
14 an individual, the employer shall terminate  
15 the employment, recruitment, or referral of  
16 the individual. Such employer shall provide  
17 to the Secretary any information relating  
18 to the nonconfirmed individual that the  
19 Secretary determines would assist the Sec-  
20 retary in enforcing or administering the  
21 immigration laws. If the employer con-  
22 tinues to employ, recruit, or refer the indi-  
23 vidual after receiving final nonconfirma-  
24 tion, a rebuttable presumption is created  
25 that the employer has violated subsections



1           (a)(1)(A) and (a)(2). Such presumption  
2           may not apply to a prosecution under sub-  
3           section (f)(1).

4           “(8) PROTECTION FROM LIABILITY.—No em-  
5           ployer that participates in the System shall be liable  
6           under any law for any employment-related action  
7           taken with respect to an individual in good faith reli-  
8           ance on information provided by the System.

9           “(9) LIMITATION ON USE OF THE SYSTEM.—  
10          Notwithstanding any other provision of law, nothing  
11          in this subsection shall be construed to permit or  
12          allow any department, bureau, or other agency of  
13          the United States to utilize any information, data-  
14          base, or other records used in the System for any  
15          purpose other than as provided for under this sub-  
16          section.

17          “(10) MODIFICATION AUTHORITY.—The Sec-  
18          retary, after notice is submitted to Congress and  
19          provided to the public in the Federal Register, is au-  
20          thorized to modify the requirements of this sub-  
21          section, including requirements with respect to com-  
22          pletion of forms, method of storage, attestations,  
23          copying of documents, signatures, methods of trans-  
24          mitting information, and other operational and tech-

1 nical aspects to improve the efficiency, accuracy, and  
2 security of the System.

3 “(11) FEES.—The Secretary is authorized to  
4 require any employer participating in the System to  
5 pay a fee or fees for such participation. The fees  
6 may be set at a level that will recover the full cost  
7 of providing the System to all participants. The fees  
8 shall be deposited and remain available as provided  
9 in subsection (m) and (n) of section 286 and the  
10 System is providing an immigration adjudication  
11 and naturalization service for purposes of section  
12 286(n).

13 “(12) REPORT.—Not later than 1 year after  
14 the date of the enactment of the Securing America’s  
15 Borders Act, the Secretary shall submit to Congress  
16 a report on the capacity, systems integrity, and ac-  
17 curacy of the System.

18 “(e) COMPLIANCE.—

19 “(1) COMPLAINTS AND INVESTIGATIONS.—The  
20 Secretary shall establish procedures—

21 “(A) for individuals and entities to file  
22 complaints regarding potential violations of sub-  
23 section (a);

1           “(B) for the investigation of those com-  
2           plaints that the Secretary deems it appropriate  
3           to investigate; and

4           “(C) for the investigation of such other  
5           violations of subsection (a), as the Secretary de-  
6           termines are appropriate.

7           “(2) AUTHORITY IN INVESTIGATIONS.—

8           “(A) IN GENERAL.—In conducting inves-  
9           tigations and hearings under this subsection, of-  
10          ficers and employees of the Department of  
11          Homeland Security—

12           “(i) shall have reasonable access to  
13           examine evidence of any employer being in-  
14           vestigated; and

15           “(ii) if designated by the Secretary of  
16           Homeland Security, may compel by sub-  
17           poena the attendance of witnesses and the  
18           production of evidence at any designated  
19           place in an investigation or case under this  
20           subsection.

21           “(B) FAILURE TO COOPERATE.—In case of  
22           refusal to obey a subpoena lawfully issued  
23           under subparagraph (A)(ii), the Secretary may  
24           request that the Attorney General apply in an  
25           appropriate district court of the United States

1 for an order requiring compliance with such  
2 subpoena, and any failure to obey such order  
3 may be punished by such court as contempt.

4 “(C) DEPARTMENT OF LABOR.—The Sec-  
5 retary of Labor shall have the investigative au-  
6 thority provided under section 11(a) of the Fair  
7 Labor Standards Act of 1938 (29 U.S.C.  
8 211(a)) to ensure compliance with the provi-  
9 sions of this title, or any regulation or order  
10 issued under this title.

11 “(3) COMPLIANCE PROCEDURES.—

12 “(A) PRE-PENALTY NOTICE.—If the Sec-  
13 retary has reasonable cause to believe that  
14 there has been a violation of a requirement of  
15 this section and determines that further pro-  
16 ceedings related to such violation are war-  
17 ranted, the Secretary shall issue to the em-  
18 ployer concerned a written notice of the Sec-  
19 retary’s intention to issue a claim for a fine or  
20 other penalty. Such notice shall—

21 “(i) describe the violation;

22 “(ii) specify the laws and regulations  
23 allegedly violated;

24 “(iii) disclose the material facts which  
25 establish the alleged violation; and

1           “(iv) inform such employer that the  
2           employer shall have a reasonable oppor-  
3           tunity to make representations as to why a  
4           claim for a monetary or other penalty  
5           should not be imposed.

6           “(B) REMISSION OR MITIGATION OF PEN-  
7           ALTIES.—

8           “(i) PETITION BY EMPLOYER.—When-  
9           ever any employer receives written notice  
10          of a fine or other penalty in accordance  
11          with subparagraph (A), the employer may  
12          file within 30 days from receipt of such no-  
13          tice, with the Secretary a petition for the  
14          remission or mitigation of such fine or  
15          penalty, or a petition for termination of  
16          the proceedings. The petition may include  
17          any relevant evidence or proffer of evidence  
18          the employer wishes to present, and shall  
19          be filed and considered in accordance with  
20          procedures to be established by the Sec-  
21          retary.

22          “(ii) REVIEW BY SECRETARY.—If the  
23          Secretary finds that such fine or other  
24          penalty was incurred erroneously, or finds  
25          the existence of such mitigating cir-

1           cumstances as to justify the remission or  
2           mitigation of such fine or penalty, the Sec-  
3           retary may remit or mitigate such fine or  
4           other penalty on the terms and conditions  
5           as the Secretary determines are reasonable  
6           and just, or order termination of any pro-  
7           ceedings related to the notice. Such miti-  
8           gating circumstances may include good  
9           faith compliance and participation in, or  
10          agreement to participate in, the System, if  
11          not otherwise required.

12           “(iii) APPLICABILITY.—This subpara-  
13          graph may not apply to an employer that  
14          has or is engaged in a pattern or practice  
15          of violations of paragraph (1)(A), (1)(B),  
16          or (2) of subsection (a) or of any other re-  
17          quirements of this section.

18           “(C) PENALTY CLAIM.—After considering  
19          evidence and representations offered by the em-  
20          ployer pursuant to subparagraph (B), the Sec-  
21          retary shall determine whether there was a vio-  
22          lation and promptly issue a written final deter-  
23          mination setting forth the findings of fact and  
24          conclusions of law on which the determination  
25          is based and the appropriate penalty.

1 “(4) CIVIL PENALTIES.—

2 “(A) HIRING OR CONTINUING TO EMPLOY  
3 UNAUTHORIZED ALIENS.—Any employer that  
4 violates any provision of paragraph (1)(A) or  
5 (2) of subsection (a) shall pay civil penalties as  
6 follows:

7 “(i) Pay a civil penalty of not less  
8 than \$500 and not more than \$4,000 for  
9 each unauthorized alien with respect to  
10 each such violation.

11 “(ii) If the employer has previously  
12 been fined 1 time under this subparagraph,  
13 pay a civil penalty of not less than \$4,000  
14 and not more than \$10,000 for each unau-  
15 thorized alien with respect to each such  
16 violation.

17 “(iii) If the employer has previously  
18 been fined more than 1 time under this  
19 subparagraph or has failed to comply with  
20 a previously issued and final order related  
21 to any such provision, pay a civil penalty  
22 of not less than \$6,000 and not more than  
23 \$20,000 for each unauthorized alien with  
24 respect to each such violation.

1           “(B) RECORD KEEPING OR VERIFICATION  
2 PRACTICES.—Any employer that violates or fails  
3 to comply with the requirements of the sub-  
4 section (b), (c), and (d), shall pay a civil pen-  
5 alty as follows:

6           “(i) Pay a civil penalty of not less  
7 than \$200 and not more than \$2,000 for  
8 each such violation.

9           “(ii) If the employer has previously  
10 been fined 1 time under this subparagraph,  
11 pay a civil penalty of not less than \$400  
12 and not more than \$4,000 for each such  
13 violation.

14           “(iii) If the employer has previously  
15 been fined more than 1 time under this  
16 subparagraph or has failed to comply with  
17 a previously issued and final order related  
18 to such requirements, pay a civil penalty of  
19 \$6,000 for each such violation.

20           “(C) OTHER PENALTIES.—Notwith-  
21 standing subparagraphs (A) and (B), the Sec-  
22 retary may impose additional penalties for vio-  
23 lations, including cease and desist orders, spe-  
24 cially designed compliance plans to prevent fur-  
25 ther violations, suspended fines to take effect in



1 the event of a further violation, and in appro-  
2 priate cases, the civil penalty described in sub-  
3 section (g)(2).

4 “(D) REDUCTION OF PENALTIES.—Not-  
5 withstanding subparagraphs (A), (B), and (C),  
6 the Secretary is authorized to reduce or miti-  
7 gate penalties imposed upon employers, based  
8 upon factors including the employer’s hiring  
9 volume, compliance history, good-faith imple-  
10 mentation of a compliance program, participa-  
11 tion in a temporary worker program, and vol-  
12 untary disclosure of violations of this subsection  
13 to the Secretary.

14 “(E) ADJUSTMENT FOR INFLATION.—All  
15 penalties in this section may be adjusted every  
16 4 years to account for inflation, as provided by  
17 law.

18 “(5) JUDICIAL REVIEW.—An employer ad-  
19 versely affected by a final determination may, within  
20 45 days after the date the final determination is  
21 issued, file a petition in the Court of Appeals for the  
22 appropriate circuit for review of the order. The filing  
23 of a petition as provided in this paragraph shall stay  
24 the Secretary’s determination until entry of judg-  
25 ment by the court. The burden shall be on the em-

1 ployer to show that the final determination was not  
2 supported by substantial evidence. The Secretary is  
3 authorized to require that the petitioner provide,  
4 prior to filing for review, security for payment of  
5 fines and penalties through bond or other guarantee  
6 of payment acceptable to the Secretary.

7 “(6) ENFORCEMENT OF ORDERS.—If an em-  
8 ployer fails to comply with a final determination  
9 issued against that employer under this subsection,  
10 and the final determination is not subject to review  
11 as provided in paragraph (5), the Attorney General  
12 may file suit to enforce compliance with the final de-  
13 termination in any appropriate district court of the  
14 United States. In any such suit, the validity and ap-  
15 propriateness of the final determination shall not be  
16 subject to review.

17 “(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR  
18 PATTERN OR PRACTICE VIOLATIONS.—

19 “(1) CRIMINAL PENALTY.—An employer that  
20 engages in a pattern or practice of knowing viola-  
21 tions of subsection (a)(1)(A) or (a)(2) shall be fined  
22 not more than \$20,000 for each unauthorized alien  
23 with respect to whom such a violation occurs, im-  
24 prisoned for not more than 6 months for the entire  
25 pattern or practice, or both.

1           “(2) ENJOINING OF PATTERN OR PRACTICE  
2 VIOLATIONS.—If the Secretary or the Attorney Gen-  
3 eral has reasonable cause to believe that an employer  
4 is engaged in a pattern or practice of employment,  
5 recruitment, or referral in violation of paragraph  
6 (1)(A) or (2) of subsection (a), the Attorney General  
7 may bring a civil action in the appropriate district  
8 court of the United States requesting such relief, in-  
9 cluding a permanent or temporary injunction, re-  
10 straining order, or other order against the employer,  
11 as the Secretary deems necessary.

12           “(g) PROHIBITION OF INDEMNITY BONDS.—

13           “(1) PROHIBITION.—It is unlawful for an em-  
14 ployer, in the hiring, recruiting, or referring for a  
15 fee, of an individual, to require the individual to post  
16 a bond or security, to pay or agree to pay an  
17 amount, or otherwise to provide a financial guar-  
18 antee or indemnity, against any potential liability  
19 arising under this section relating to such hiring, re-  
20 cruiting, or referring of the individual.

21           “(2) CIVIL PENALTY.—Any employer which is  
22 determined, after notice and opportunity for mitiga-  
23 tion of the monetary penalty under subsection (e), to  
24 have violated paragraph (1) of this subsection shall  
25 be subject to a civil penalty of \$10,000 for each vio-

1 lation and to an administrative order requiring the  
2 return of any amounts received in violation of such  
3 paragraph to the employee or, if the employee can-  
4 not be located, to the Employer Compliance Fund  
5 established under section 286(w).

6 “(h) PROHIBITION ON AWARD OF GOVERNMENT  
7 CONTRACTS, GRANTS, AND AGREEMENTS.—

8 “(1) EMPLOYERS WITH NO CONTRACTS,  
9 GRANTS OR AGREEMENTS.—

10 “(A) IN GENERAL.—If an employer who  
11 does not hold a Federal contract, grant, or co-  
12 operative agreement is determined by the Sec-  
13 retary to be a repeat violator of this section or  
14 is convicted of a crime under this section, the  
15 employer shall be debarred from the receipt of  
16 a Federal contract, grant, or cooperative agree-  
17 ment for a period of 2 years. The Secretary or  
18 the Attorney General shall advise the Adminis-  
19 trator of General Services of such a debarment,  
20 and the Administrator of General Services shall  
21 list the employer on the List of Parties Ex-  
22 cluded from Federal Procurement and Non-  
23 procurement Programs for a period of 2 years.

24 “(B) WAIVER.—The Administrator of Gen-  
25 eral Services, in consultation with the Secretary

1 and the Attorney General, may waive operation  
2 of this subsection or may limit the duration or  
3 scope of the debarment.

4 “(2) EMPLOYERS WITH CONTRACTS, GRANTS,  
5 OR AGREEMENTS.—

6 “(A) IN GENERAL.—An employer who  
7 holds a Federal contract, grant, or cooperative  
8 agreement and is determined by the Secretary  
9 of Homeland Security to be a repeat violator  
10 of this section or is convicted of a crime under  
11 this section, shall be debarred from the receipt  
12 of Federal contracts, grants, or cooperative  
13 agreements for a period of 2 years.

14 “(B) NOTICE TO AGENCIES.—Prior to de-  
15 barring the employer under subparagraph (A),  
16 the Secretary, in cooperation with the Adminis-  
17 trator of General Services, shall advise any  
18 agency or department holding a contract, grant,  
19 or cooperative agreement with the employer of  
20 the Government’s intention to debar the em-  
21 ployer from the receipt of new Federal con-  
22 tracts, grants, or cooperative agreements for a  
23 period of 2 years.

24 “(C) WAIVER.—After consideration of the  
25 views of any agency or department that holds

1 a contract, grant, or cooperative agreement  
2 with the employer, the Secretary may, in lieu of  
3 debarring the employer from the receipt of new  
4 Federal contracts, grants, or cooperative agree-  
5 ments for a period of 2 years, waive operation  
6 of this subsection, limit the duration or scope of  
7 the debarment, or may refer to an appropriate  
8 lead agency the decision of whether to debar the  
9 employer, for what duration, and under what  
10 scope in accordance with the procedures and  
11 standards prescribed by the Federal Acquisition  
12 Regulation. However, any proposed debarment  
13 predicated on an administrative determination  
14 of liability for civil penalty by the Secretary or  
15 the Attorney General shall not be reviewable in  
16 any debarment proceeding. The decision of  
17 whether to debar or take alternation shall not  
18 be judicially reviewed.

19 “(3) SUSPENSION.—Indictments for violations  
20 of this section or adequate evidence of actions that  
21 could form the basis for debarment under this sub-  
22 section shall be considered a cause for suspension  
23 under the procedures and standards for suspension  
24 prescribed by the Federal Acquisition Regulation.

25 “(i) MISCELLANEOUS PROVISIONS.—

1           “(1) DOCUMENTATION.—In providing docu-  
2           mentation or endorsement of authorization of aliens  
3           (other than aliens lawfully admitted for permanent  
4           residence) eligible to be employed in the United  
5           States, the Secretary shall provide that any limita-  
6           tions with respect to the period or type of employ-  
7           ment or employer shall be conspicuously stated on  
8           the documentation or endorsement.

9           “(2) PREEMPTION.—The provisions of this sec-  
10          tion preempt any State or local law—

11                   “(A) imposing civil or criminal sanctions  
12                   (other than through licensing and similar laws)  
13                   upon those who employ, or recruit or refer for  
14                   a fee for employment, unauthorized aliens; or

15                   “(B) requiring as a condition of con-  
16                   ducting, continuing, or expanding a business  
17                   that a business entity—

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

22                           “(ii) take other steps that facilitate  
23                           the employment of day laborers by others.

24          “(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as  
25          otherwise specified, civil penalties collected under this sec-

1 tion shall be deposited by the Secretary into the Employer  
2 Compliance Fund established under section 286(w).

3 “(k) DEFINITIONS.—In this section:

4 “(1) EMPLOYER.—The term ‘employer’ means  
5 any person or entity, including any entity of the  
6 Government of the United States, hiring, recruiting,  
7 or referring an individual for employment in the  
8 United States.

9 “(2) NO-MATCH NOTICE.—The term ‘no-match  
10 notice’ means written notice from the Commissioner  
11 of Social Security to an employer reporting earnings  
12 on a Form W-2 that an employee name or cor-  
13 responding social security account number fail to  
14 match records maintained by the Commissioner.

15 “(3) SECRETARY.—Except as otherwise pro-  
16 vided, the term ‘Secretary’ means the Secretary of  
17 Homeland Security.

18 “(4) UNAUTHORIZED ALIEN.—The term ‘unau-  
19 thorized alien’ means, with respect to the employ-  
20 ment of an alien at a particular time, that the alien  
21 is not at that time either—

22 “(A) an alien lawfully admitted for perma-  
23 nent residence; or

24 “(B) authorized to be so employed by this  
25 Act or by the Secretary.”.



1 (b) CONFORMING AMENDMENT.—

2 (1) AMENDMENT.—Sections 401, 402, 403,  
3 404, and 405 of the Illegal Immigration Reform and  
4 Immigrant Responsibility Act of 1996 (division C of  
5 Public Law 104–208; 8 U.S.C. 1324a) are repealed.

6 (2) CONSTRUCTION.—Nothing in this sub-  
7 section or in subsection (d) of section 274A, as  
8 amended by subsection (a), may be construed to  
9 limit the authority of the Secretary to allow or con-  
10 tinue to allow the participation of employers who  
11 participated in the basic pilot program under such  
12 sections 401, 402, 403, 404, and 405 in the Elec-  
13 tronic Employment Verification System established  
14 pursuant to such subsection (d).

15 (c) TECHNICAL AMENDMENTS.—

16 (1) DEFINITION OF UNAUTHORIZED ALIEN.—  
17 Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8)  
18 (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C.  
19 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C.  
20 1324b(a)(1)) are amended by striking “274A(h)(3)”  
21 and inserting “274A”.

22 (2) DOCUMENT REQUIREMENTS.—Section 274B  
23 (8 U.S.C. 1324b) is amended—

1 (A) in subsections (a)(6) and (g)(2)(B), by  
2 striking “274A(b)” and inserting “274A(d)”;  
3 and

4 (B) in subsection (g)(2)(B)(ii), by striking  
5 “274A(b)(5)” and inserting “274A(d)(9)”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 subsections (a), (b), and (c) shall take effect on the date  
8 that is 180 days after the date of the enactment of this  
9 Act.

10 **SEC. 302. EMPLOYER COMPLIANCE FUND.**

11 Section 286 (8 U.S.C. 1356) is amended by adding  
12 at the end the following new subsection:

13 “(w) EMPLOYER COMPLIANCE FUND.—

14 “(1) IN GENERAL.—There is established in the  
15 general fund of the Treasury, a separate account,  
16 which shall be known as the ‘Employer Compliance  
17 Fund’ (referred to in this subsection as the ‘Fund’).

18 “(2) DEPOSITS.—There shall be deposited as  
19 offsetting receipts into the Fund all civil monetary  
20 penalties collected by the Secretary of Homeland Se-  
21 curity under section 274A.

22 “(3) PURPOSE.—Amounts refunded to the Sec-  
23 retary from the Fund shall be used for the purposes  
24 of enhancing and enforcing employer compliance  
25 with section 274A.



1 each of the fiscal years 2007 through 2011 such sums as  
 2 may be necessary to carry out this section.

3 **SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MIS-**  
 4 **REPRESENTATION.**

5 Section 212(a)(6)(C)(ii)(I) (8 U.S.C.  
 6 1182(a)(6)(C)(ii)(I)), is amended by striking “citizen”  
 7 and inserting “national”.

8 **TITLE IV—BACKLOG REDUCTION**  
 9 **AND VISAS FOR STUDENTS,**  
 10 **MEDICAL PROVIDERS, AND**  
 11 **ALIENS WITH ADVANCED DE-**  
 12 **GREES**

13 **SEC. 401. ELIMINATION OF EXISTING BACKLOGS.**

14 (a) FAMILY-SPONSORED IMMIGRANTS.—Section  
 15 201(e) (8 U.S.C. 1151(e)) is amended to read as follows:

16 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED  
 17 IMMIGRANTS.—The worldwide level of family-sponsored  
 18 immigrants under this subsection for a fiscal year is equal  
 19 to the sum of—

20 “(1) 480,000;

21 “(2) the difference between the maximum num-  
 22 ber of visas authorized to be issued under this sub-  
 23 section during the previous fiscal year and the num-  
 24 ber of visas issued during the previous fiscal year;

25 “(3) the difference between—

1           “(A) the maximum number of visas au-  
2           thorized to be issued under this subsection dur-  
3           ing fiscal years 2001 through 2005 minus the  
4           number of visas issued under this subsection  
5           during those fiscal years; and

6           “(B) the number of visas calculated under  
7           subparagraph (A) that were issued after fiscal  
8           year 2005.”.

9           (b) EMPLOYMENT-BASED IMMIGRANTS.—Section  
10          201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

11          “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
12          IMMIGRANTS.—

13                 “(1) IN GENERAL.—Subject to paragraph (2),  
14                 the worldwide level of employment-based immigrants  
15                 under this subsection for a fiscal year is equal to the  
16                 sum of—

17                         “(A) 290,000;

18                         “(B) the difference between the maximum  
19                         number of visas authorized to be issued under  
20                         this subsection during the previous fiscal year  
21                         and the number of visas issued during the pre-  
22                         vious fiscal year; and

23                         “(C) the difference between—

24                                 “(i) the maximum number of visas au-  
25                                 thorized to be issued under this subsection

1           during fiscal years 2001 through 2005 and  
2           the number of visa numbers issued under  
3           this subsection during those fiscal years;  
4           and

5                   “(ii) the number of visas calculated  
6           under clause (i) that were issued after fis-  
7           cal year 2005.

8                   “(2) VISAS FOR SPOUSES AND CHILDREN.—Im-  
9           migrant visas issued on or after October 1, 2004, to  
10          spouses and children of employment-based immi-  
11          grants shall not be counted against the numerical  
12          limitation set forth in paragraph (1).”.

13 **SEC. 402. COUNTRY LIMITS.**

14          Section 202(a) (8 U.S.C. 1152(a)) is amended—

15               (1) in paragraph (2)—

16                   (A) by striking “, (4), and (5)” and insert-  
17           ing “and (4)”; and

18                   (B) by striking “7 percent (in the case of  
19           a single foreign state) or 2 percent” and insert-  
20           ing “10 percent (in the case of a single foreign  
21           state) or 5 percent”; and

22               (2) by striking paragraph (5).

1 **SEC. 403. ALLOCATION OF IMMIGRANT VISAS.**

2 (a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
3 SORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a))  
4 is amended to read as follows:

5 “(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPON-  
6 SORED IMMIGRANTS.—Aliens subject to the worldwide  
7 level specified in section 201(c) for family-sponsored immi-  
8 grants shall be allocated visas as follows:

9 “(1) UNMARRIED SONS AND DAUGHTERS OF  
10 CITIZENS.—Qualified immigrants who are the un-  
11 married sons or daughters of citizens of the United  
12 States shall be allocated visas in a quantity not to  
13 exceed the sum of—

14 “(A) 10 percent of such worldwide level;  
15 and

16 “(B) any visas not required for the class  
17 specified in paragraph (4).

18 “(2) SPOUSES AND UNMARRIED SONS AND  
19 DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

20 “(A) IN GENERAL.—Visas in a quantity  
21 not to exceed 50 percent of such worldwide level  
22 plus any visas not required for the class speci-  
23 fied in paragraph (1) shall be allocated to quali-  
24 fied immigrants who are—

1           “(i) the spouses or children of an  
2           alien lawfully admitted for permanent resi-  
3           dence; or

4           “(ii) the unmarried sons or daughters  
5           of an alien lawfully admitted for perma-  
6           nent residence.

7           “(B) MINIMUM PERCENTAGE.—Visas allo-  
8           cated to individuals described in subparagraph  
9           (A)(i) shall constitute not less than 77 percent  
10          of the visas allocated under this paragraph.

11          “(3) MARRIED SONS AND DAUGHTERS OF CITI-  
12          ZENS.—Qualified immigrants who are the married  
13          sons and daughters of citizens of the United States  
14          shall be allocated visas in a quantity not to exceed  
15          the sum of—

16                 “(A) 10 percent of such worldwide level;  
17                 and

18                 “(B) any visas not required for the classes  
19                 specified in paragraphs (1) and (2).

20          “(4) BROTHERS AND SISTERS OF CITIZENS.—  
21          Qualified immigrants who are the brothers or sisters  
22          of a citizen of the United States who is at least 21  
23          years of age shall be allocated visas in a quantity  
24          not to exceed 30 percent of the worldwide level.”.



1 (b) PREFERENCE ALLOCATION FOR EMPLOYMENT-  
2 BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b))  
3 is amended—

4 (1) in paragraph (1), by striking “28.6 per-  
5 cent” and inserting “15 percent”;

6 (2) in paragraph (2)(A), by striking “28.6 per-  
7 cent” and inserting “15 percent”;

8 (3) in paragraph (3)(A)—

9 (A) by striking “28.6 percent” and insert-  
10 ing “35 percent”; and

11 (B) by striking clause (iii);

12 (4) by striking paragraph (4);

13 (5) by redesignating paragraph (5) as para-  
14 graph (4);

15 (6) in paragraph (4)(A), as redesignated, by  
16 striking “7.1 percent” and inserting “5 percent”;

17 (7) by inserting after paragraph (4), as redesi-  
18 gnated, the following:

19 “(5) OTHER WORKERS.—Visas shall be made  
20 available, in a number not to exceed 30 percent of  
21 such worldwide level, plus any visa numbers not re-  
22 quired for the classes specified in paragraphs (1)  
23 through (4), to qualified immigrants who are capa-  
24 ble, at the time of petitioning for classification under  
25 this paragraph, of performing unskilled labor that is

1 not of a temporary or seasonal nature, for which  
2 qualified workers are determined to be unavailable in  
3 the United States.”; and

4 (8) by striking paragraph (6).

5 (c) CONFORMING AMENDMENTS.—

6 (1) DEFINITION OF SPECIAL IMMIGRANT.—Sec-  
7 tion 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is  
8 amended by striking “subject to the numerical limi-  
9 tations of section 203(b)(4),”.

10 (2) REPEAL OF TEMPORARY REDUCTION IN  
11 WORKERS’ VISAS.—Section 203(e) of the Nicaraguan  
12 Adjustment and Central American Relief Act (Public  
13 Law 105–100; 8 U.S.C. 1153 note) is repealed.

14 **SEC. 404. RELIEF FOR MINOR CHILDREN.**

15 (a) IN GENERAL.—Section 201(b)(2) (8 U.S.C.  
16 1151(b)(2)) is amended to read as follows:

17 “(2)(A)(i) Aliens admitted under section 211(a)  
18 on the basis of a prior issuance of a visa under sec-  
19 tion 203(a) to their accompanying parent who is an  
20 immediate relative.

21 “(ii) In this subparagraph, the term ‘immediate  
22 relative’ means a child, spouse, or parent of a citizen  
23 of the United States (and each child of such child,  
24 spouse, or parent who is accompanying or following  
25 to join the child, spouse, or parent), except that, in

1 the case of parents, such citizens shall be at least 21  
2 years of age.

3 “(iii) An alien who was the spouse of a citizen  
4 of the United States for not less than 2 years at the  
5 time of the citizen’s death and was not legally sepa-  
6 rated from the citizen at the time of the citizen’s  
7 death, and each child of such alien, shall be consid-  
8 ered, for purposes of this subsection, to remain an  
9 immediate relative after the date of the citizen’s  
10 death if the spouse files a petition under section  
11 204(a)(1)(A)(ii) before the earlier of—

12 “(I) 2 years after such date; or

13 “(II) the date on which the spouse remar-  
14 ries.

15 “(iv) In this clause, an alien who has filed a pe-  
16 tition under clause (iii) or (iv) of section  
17 204(a)(1)(A) remains an immediate relative if the  
18 United States citizen spouse or parent loses United  
19 States citizenship on account of the abuse.

20 “(B) Aliens born to an alien lawfully admitted  
21 for permanent residence during a temporary visit  
22 abroad.”.

23 (b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C.  
24 1154 (a)(1)(A)(ii)) is amended by striking “in the second  
25 sentence of section 201(b)(2)(A)(i) also” and inserting “in

1 section 201(b)(2)(A)(iii) or an alien child or alien parent  
2 described in the 201(b)(2)(A)(iv)”.

3 **SEC. 405. STUDENT VISAS.**

4 (a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C.  
5 1101(a)(15)(F)) is amended—

6 (1) in clause (i)—

7 (A) by striking “he has no intention of  
8 abandoning, who is” and inserting the fol-  
9 lowing: “except in the case of an alien described  
10 in clause (iv), the alien has no intention of  
11 abandoning, who is—

12 “(I);

13 (B) by striking “consistent with section  
14 214(l)” and inserting “(except for a graduate  
15 program described in clause (iv)) consistent  
16 with section 214(m)”;

17 (C) by striking the comma at the end and  
18 inserting the following: “; or

19 “(II) engaged in temporary employment  
20 for optional practical training related to the  
21 alien’s area of study, which practical training  
22 shall be authorized for a period or periods of up  
23 to 24 months;”;

24 (2) in clause (ii)—

1 (A) by inserting “or (iv)” after “clause  
2 (i)”; and

3 (B) by striking “, and” and inserting a  
4 semicolon;

5 (3) in clause (iii), by adding “and” at the end;  
6 and

7 (4) by adding at the end the following:

8 “(iv) an alien described in clause (i)  
9 who has been accepted and plans to attend  
10 an accredited graduate program in mathe-  
11 matics, engineering, technology, or the  
12 sciences in the United States for the pur-  
13 pose of obtaining an advanced degree.”.

14 (b) ADMISSION OF NONIMMIGRANTS.—Section  
15 214(b) (8 U.S.C. 1184(b)) is amended by striking “sub-  
16 paragraph (L) or (V)” and inserting “subparagraph  
17 (F)(iv), (L), or (V)”.

18 (c) REQUIREMENTS FOR F-4 VISA.—Section 214(m)  
19 (8 U.S.C. 1184(m)) is amended—

20 (1) by inserting before paragraph (1) the fol-  
21 lowing:

22 “(m) NONIMMIGRANT ELEMENTARY, SECONDARY,  
23 AND POST-SECONDARY SCHOOL STUDENTS.—”; and

24 (2) by adding at the end the following:

1 “(3) A visa issued to an alien under section  
2 101(a)(15)(F)(iv) shall be valid—

3 “(A) during the intended period of study in a  
4 graduate program described in such section;

5 “(B) for an additional period, not to exceed 1  
6 year after the completion of the graduate program,  
7 if the alien is actively pursuing an offer of employ-  
8 ment related to the knowledge and skills obtained  
9 through the graduate program; and

10 “(C) for the additional period necessary for the  
11 adjudication of any application for labor certifi-  
12 cation, employment-based immigrant petition, and  
13 application under section 245(a)(2) to adjust such  
14 alien’s status to that of an alien lawfully admitted  
15 for permanent residence, if such application for  
16 labor certification or employment-based immigrant  
17 petition has been filed not later than 1 year after  
18 the completion of the graduate program.”.

19 (d) OFF CAMPUS WORK AUTHORIZATION FOR FOR-  
20 EIGN STUDENTS.—

21 (1) IN GENERAL.—Aliens admitted as non-  
22 immigrant students described in section  
23 101(a)(15)(F) of the Immigration and Nationality  
24 Act (8 U.S.C. 1101(a)(15)(F)) may be employed in

1 an off-campus position unrelated to the alien's field  
2 of study if—

3 (A) the alien has enrolled full time at the  
4 educational institution and is maintaining good  
5 academic standing;

6 (B) the employer provides the educational  
7 institution and the Secretary of Labor with an  
8 attestation that the employer—

9 (i) has spent at least 21 days recruit-  
10 ing United States citizens to fill the posi-  
11 tion; and

12 (ii) will pay the alien and other simi-  
13 larly situated workers at a rate equal to  
14 not less than the greater of—

15 (I) the actual wage level for the  
16 occupation at the place of employ-  
17 ment; or

18 (II) the prevailing wage level for  
19 the occupation in the area of employ-  
20 ment; and

21 (C) the alien will not be employed more  
22 than—

23 (i) 20 hours per week during the aca-  
24 demic term; or

1 (ii) 40 hours per week during vacation  
2 periods and between academic terms.

3 (2) DISQUALIFICATION.—If the Secretary of  
4 Labor determines that an employer has provided an  
5 attestation under paragraph (1)(B) that is materi-  
6 ally false or has failed to pay wages in accordance  
7 with the attestation, the employer, after notice and  
8 opportunity for a hearing, shall be disqualified from  
9 employing an alien student under paragraph (1).

10 (e) ADJUSTMENT OF STATUS.—Section 245(a) (8  
11 U.S.C. 1255(a)) is amended to read as follows:

12 “(a) AUTHORIZATION.—

13 “(1) IN GENERAL.—The status of an alien, who  
14 was inspected and admitted or paroled into the  
15 United States, or who has an approved petition for  
16 classification under subparagraph (A)(iii), (A)(iv),  
17 (B)(ii), or (B)(iii) of section 204(a)(1), may be ad-  
18 justed by the Secretary of Homeland Security or the  
19 Attorney General, under such regulations as the Sec-  
20 retary or the Attorney General may prescribe, to  
21 that of an alien lawfully admitted for permanent res-  
22 idence if—

23 “(A) the alien makes an application for  
24 such adjustment;



1           “(B) the alien is eligible to receive an im-  
2 migrant visa;

3           “(C) the alien is admissible to the United  
4 States for permanent residence; and

5           “(D) an immigrant visa is immediately  
6 available to the alien at the time the application  
7 is filed.

8           “(2) STUDENT VISAS.—Notwithstanding the re-  
9 quirement under paragraph (1)(C), an alien may file  
10 an application for adjustment of status under this  
11 section if—

12           “(A) the alien has been issued a visa or  
13 otherwise provided nonimmigrant status under  
14 section 101(a)(15)(F)(iv), or would have quali-  
15 fied for such nonimmigrant status if section  
16 101(a)(15)(F)(iv) had been enacted before such  
17 alien’s graduation;

18           “(B) the alien has earned an advanced de-  
19 gree in the sciences, technology, engineering, or  
20 mathematics;

21           “(C) the alien is the beneficiary of a peti-  
22 tion filed under subparagraph (E) or (F) of sec-  
23 tion 204(a)(1); and

24           “(D) a fee of \$1,000 is remitted to the  
25 Secretary on behalf of the alien.

1           “(3) LIMITATION.—An application for adjust-  
 2           ment of status filed under this section may not be  
 3           approved until an immigrant visa number becomes  
 4           available.”.

5           (f) USE OF FEES.—

6           (1) JOB TRAINING; SCHOLARSHIPS.—Section  
 7           286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by in-  
 8           serting “and 80 percent of the fees collected under  
 9           section 245(a)(2)(D)” before the period at the end.

10          (2) FRAUD PREVENTION AND DETECTION.—  
 11          Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended  
 12          by inserting “and 20 percent of the fees collected  
 13          under section 245(a)(2)(D)” before the period at the  
 14          end.

15   **SEC. 406. VISAS FOR INDIVIDUALS WITH ADVANCED DE-**  
 16                                   **GREES.**

17          (a) ALIENS WITH CERTAIN ADVANCED DEGREES  
 18          NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOY-  
 19          MENT BASED IMMIGRANTS.—

20          (1) IN GENERAL.—Section 201(b)(1) (8 U.S.C.  
 21          1151(b)(1)) is amended by adding at the end the  
 22          following:

23                           “(F) Aliens who have earned an advanced  
 24                           degree in science, technology, engineering, or  
 25                           math and have been working in a related field

1 in the United States under a nonimmigrant visa  
2 during the 3-year period preceding their appli-  
3 cation for an immigrant visa under section  
4 203(b).

5 “(G) Aliens described in subparagraph (A)  
6 or (B) of section 203(b)(1)(A) or who have re-  
7 ceived a national interest waiver under section  
8 203(b)(2)(B).

9 “(H) The spouse and minor children of an  
10 alien who is admitted as an employment-based  
11 immigrant under section 203(b).”.

12 (2) APPLICABILITY.—The amendment made by  
13 paragraph (1) shall apply to any visa application—

14 (A) pending on the date of the enactment  
15 of this Act; or

16 (B) filed on or after such date of enact-  
17 ment.

18 (b) LABOR CERTIFICATION.—Section  
19 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amend-  
20 ed—

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

23 (2) in subclause (II), by striking the period at  
24 the end and inserting “; or”; and

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

1                   “(III) has an advanced degree in  
2                   the sciences, technology, engineering,  
3                   or mathematics from an accredited  
4                   university in the United States and is  
5                   employed in a field related to such de-  
6                   gree.”.

7           (c) TEMPORARY WORKERS.—Section 214(g) (8  
8 U.S.C. 1184(g)) is amended—

9                   (1) in paragraph (1)—

10                   (A) by striking “(beginning with fiscal year  
11                   1992)”; and

12                   (B) in subparagraph (A)—

13                   (i) in clause (vii), by striking “each  
14                   succeeding fiscal year; or” and inserting  
15                   “each of fiscal years 2004, 2005, and  
16                   2006;”; and

17                   (ii) by adding after clause (vii) the  
18                   following:

19                   “(viii) 115,000 in the first fiscal year  
20                   beginning after the date of the enactment  
21                   of this clause; and

22                   “(ix) the number calculated under  
23                   paragraph (9) in each fiscal year after the  
24                   year described in clause (viii); or”;

25                   (2) in paragraph (5)—

1 (A) in subparagraph (B), by striking “or”  
2 at the end;

3 (B) in subparagraph (C), by striking the  
4 period at the end and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(D) has earned an advanced degree in  
7 science, technology, engineering, or math.”;

8 (3) by redesignating paragraphs (9), (10), and  
9 (11) as paragraphs (10), (11), and (12), respec-  
10 tively; and

11 (4) by inserting after paragraph (8) the fol-  
12 lowing:

13 “(9) If the numerical limitation in paragraph  
14 (1)(A)—

15 “(A) is reached during a given fiscal year,  
16 the numerical limitation under paragraph  
17 (1)(A)(ix) for the subsequent fiscal year shall  
18 be equal to 120 percent of the numerical limita-  
19 tion of the given fiscal year; or

20 “(B) is not reached during a given fiscal  
21 year, the numerical limitation under paragraph  
22 (1)(A)(ix) for the subsequent fiscal year shall  
23 be equal to the numerical limitation of the given  
24 fiscal year.”.

1 (d) APPLICABILITY.—The amendment made by sub-  
2 section (c)(2) shall apply to any visa application—

3 (1) pending on the date of the enactment of  
4 this Act; or

5 (2) filed on or after such date of enactment.

6 **SEC. 407. MEDICAL SERVICES IN UNDERSERVED AREAS.**

7 Section 220(c) of the Immigration and Nationality  
8 Technical Corrections Act of 1994 (8 U.S.C. 1182 note;  
9 Public Law 103–416) is amended by striking “Act and  
10 before June 1, 2006.” and inserting “Act.”.

11 **TITLE V—IMMIGRATION**  
12 **LITIGATION REDUCTION**

13 **SEC. 501. CONSOLIDATION OF IMMIGRATION APPEALS.**

14 (a) REAPPORTIONMENT OF CIRCUIT COURT  
15 JUDGES.—The table in section 44(a) of title 28, United  
16 States Code, is amended in the item relating to the Fed-  
17 eral Circuit by striking “12” and inserting “15”.

18 (b) REVIEW OF ORDERS OF REMOVAL.—Section  
19 242(b) (8 U.S.C. 1252(b)) is amended—

20 (1) in paragraph (2), by striking the first sen-  
21 tence and inserting “The petition for review shall be  
22 filed with the United States Court of Appeals for the  
23 Federal Circuit.”;

24 (2) in paragraph (5)(B), by adding at the end  
25 the following: “Any appeal of a decision by the dis-

1       trict court under this paragraph shall be filed with  
2       the United States Court of Appeals for the Federal  
3       Circuit.”; and

4               (3) in paragraph (7), by amending subpara-  
5       graph (C) to read as follows:

6                       “(C) CONSEQUENCE OF INVALIDATION  
7                       AND VENUE OF APPEALS.—

8                       “(i) INVALIDATION.—If the district  
9                       court rules that the removal order is in-  
10                      valid, the court shall dismiss the indict-  
11                      ment for violation of section 243(a).

12                     “(ii) APPEALS.—The United States  
13                     Government may appeal a dismissal under  
14                     clause (i) to the United States Court of  
15                     Appeals for the Federal Circuit within 30  
16                     days after the date of the dismissal. If the  
17                     district court rules that the removal order  
18                     is valid, the defendant may appeal the dis-  
19                     trict court decision to the United States  
20                     Court of Appeals for the Federal Circuit  
21                     within 30 days after the date of completion  
22                     of the criminal proceeding.”.

23       (e) REVIEW OF ORDERS REGARDING INADMISSABLE  
24       ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended  
25       by adding at the end the following new paragraph:

1           “(6) VENUE.—The petition to appeal any deci-  
2           sion by the district court pursuant to this subsection  
3           shall be filed with the United States Court of Ap-  
4           peals for the Federal Circuit.”.

5           (d) EXCLUSIVE JURISDICTION.—Section 242(g) (8  
6 U.S.C. 1252(g)) is amended—

7           (1) by striking “Except”; and inserting the fol-  
8           lowing:

9           “(1) IN GENERAL.—Except”; and

10          (2) by adding at the end the following:

11          “(2) APPEALS.—Notwithstanding any other  
12          provision of law, the United States Court of Appeals  
13          for the Federal Circuit shall have exclusive jurisdic-  
14          tion to review a district court order arising from any  
15          action taken, or proceeding brought, to remove or  
16          exclude an alien from the United States, including  
17          a district court order granting or denying a petition  
18          for writ of habeas corpus.”.

19          (e) JURISDICTION OF THE UNITED STATES COURT  
20 OF APPEALS FOR THE FEDERAL CIRCUIT.—

21          (1) EXCLUSIVE JURISDICTION.—Section  
22          1295(a) of title 28, United States Code, is amended  
23          by adding at the end the following new paragraph:

24          “(15) of an appeal to review a final administra-  
25          tive order or a district court decision arising from



1 any action taken, or proceeding brought, to remove  
2 or exclude an alien from the United States.”.

3 (2) CONFORMING AMENDMENTS.—Such section  
4 1295(a) is further amended—

5 (A) in paragraph (13), by striking “and”;  
6 and

7 (B) in paragraph (14), by striking the pe-  
8 riod at the end and inserting a semicolon and  
9 “and”.

10 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to the United States  
12 Court of Appeals for the Federal Circuit for each of the  
13 fiscal years 2007 through 2011 such sums as may be nec-  
14 essary to carry out this subsection, including the hiring  
15 of additional attorneys for the such Court.

16 (g) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect upon the date of enactment  
18 of this Act and shall apply to any final agency order or  
19 district court decision entered on or after the date of en-  
20 actment of this Act.

21 **SEC. 502. ADDITIONAL IMMIGRATION PERSONNEL.**

22 (a) DEPARTMENT OF HOMELAND SECURITY.—

23 (1) TRIAL ATTORNEYS.—In each of fiscal years  
24 2007 through 2011, the Secretary shall, subject to  
25 the availability of appropriations for such purpose,

1 increase the number of positions for attorneys in the  
2 Office of General Counsel of the Department who  
3 represent the Department in immigration matters by  
4 not less than 100 above the number of such posi-  
5 tions for which funds were made available during  
6 each preceding fiscal year.

7 (2) AUTHORIZATION OF APPROPRIATIONS.—

8 There are authorized to be appropriated to the Sec-  
9 retary for each of fiscal years 2007 through 2011  
10 such sums as may be necessary to carry out this  
11 subsection.

12 (b) DEPARTMENT OF JUSTICE.—

13 (1) LITIGATION ATTORNEYS.—In each of fiscal  
14 years 2007 through 2011, the Attorney General  
15 shall, subject to the availability of appropriations for  
16 such purpose, increase by not less than 50 the num-  
17 ber of positions for attorneys in the Office of Immi-  
18 gration Litigation of the Department of Justice.

19 (2) UNITED STATES ATTORNEYS.—In each of  
20 fiscal years 2007 through 2011, the Attorney Gen-  
21 eral shall, subject to the availability of appropria-  
22 tions for such purpose, increase by not less than 50  
23 the number of attorneys in the United States Attor-  
24 neys' office to litigate immigration cases in the Fed-  
25 eral courts.

1           (3) IMMIGRATION JUDGES.—In each of fiscal  
2 years 2007 through 2011, the Attorney General  
3 shall, subject to the availability of appropriations for  
4 such purpose—

5           (A) increase by not less than 20 the num-  
6 ber of full-time immigration judges compared to  
7 the number of such positions for which funds  
8 were made available during the preceding fiscal  
9 year; and

10          (B) increase by not less than 80 the num-  
11 ber of positions for personnel to support the im-  
12 migration judges described in subparagraph (A)  
13 compared to the number of such positions for  
14 which funds were made available during the  
15 preceding fiscal year.

16          (4) STAFF ATTORNEYS.—In each of fiscal years  
17 2007 through 2011, the Attorney General shall, sub-  
18 ject to the availability of appropriations for such  
19 purpose—

20          (A) increase by not less than 10 the num-  
21 ber of positions for full-time staff attorneys in  
22 the Board of Immigration Appeals compared to  
23 the number of such positions for which funds  
24 were made available during the preceding fiscal  
25 year; and



1           “(47)(A)(i) The term ‘order of removal’ means  
2           the order of the immigration judge, the Board of  
3           Immigration Appeals, or other administrative officer  
4           to whom the Attorney General or the Secretary of  
5           Homeland Security has delegated the responsibility  
6           for determining whether an alien is removable, con-  
7           cluding that the alien is removable, or ordering re-  
8           moval.

9           “(ii) The term ‘order of deportation’ means the  
10          order of the special inquiry officer, immigration  
11          judge, the Board of Immigration Appeals, or other  
12          such administrative officer to whom the Attorney  
13          General has delegated the responsibility for deter-  
14          mining whether an alien is deportable, concluding  
15          that the alien is deportable, or ordering deportation.

16          “(B) An order described under subparagraph  
17          (A) shall become final upon the earlier of—

18                 “(i) a determination by the Board of Im-  
19                 migration Appeals affirming such order;

20                 “(ii) the entry by the Board of Immigra-  
21                 tion Appeals of such order;

22                 “(iii) the expiration of the period in which  
23                 any party is permitted to seek review of such  
24                 order by the Board of Immigration Appeals;

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

3           “(v) the entry by another administrative  
4           officer of such order, at the conclusion of a  
5           process authorized by law other than under sec-  
6           tion 240.”.

7           (b) CONFORMING AMENDMENTS.—The Immigration  
8           and Nationality Act is amended—

9           (1) in section 212(d)(12)(A) (8 U.S.C.  
10          1182(d)(12)(A)), by inserting “an order of” before  
11          “removal”; and

12          (2) in section 245A(g)(2)(B) (8 U.S.C.  
13          1255a(g)(2)(B))—

14           (A) in the heading, by inserting “, RE-  
15          MOVAL,” after “DEPORTATION”; and

16           (B) in clause (i), by striking “deporta-  
17          tion,” and inserting “deportation or an order of  
18          removal,”.

19       **SEC. 504. JUDICIAL REVIEW OF VISA REVOCATION.**

20          Section 221(i) (8 U.S.C. 1201(i)) is amended by  
21          striking the last sentence and inserting “Notwithstanding  
22          any other provision of law (statutory or nonstatutory), in-  
23          cluding section 2241 of title 28, United States Code, or  
24          any other habeas corpus provision, and sections 1361 and  
25          1651 of such title, a revocation under this subsection may

1 not be reviewed by any court, and no court shall have ju-  
2 risdiction to hear any claim arising from, or any challenge  
3 to, such a revocation.”.

4 **SEC. 505. REINSTATEMENT OF REMOVAL ORDERS.**

5 (a) REINSTATEMENT.—

6 (1) IN GENERAL.—Section 241(a)(5) (8 U.S.C.  
7 1231(a)(5)) is amended to read as follows:

8 “(5) REINSTATEMENT OF REMOVAL ORDERS  
9 AGAINST ALIENS ILLEGALLY REENTERING.—

10 “(A) IN GENERAL.—If the Secretary of  
11 Homeland Security finds that an alien has en-  
12 tered the United States illegally after having  
13 been removed, deported, or excluded or having  
14 departed voluntarily, under an order of removal,  
15 deportation, or exclusion, regardless of the date  
16 of the original order or the date of the illegal  
17 entry—

18 “(i) the order of removal, deportation,  
19 or exclusion is reinstated from its original  
20 date and is not subject to being reopened  
21 or reviewed notwithstanding section  
22 242(a)(2)(D);

23 “(ii) the alien is not eligible and may  
24 not apply for any relief under this Act, re-  
25 gardless of the date that an application or

1 request for such relief may have been filed  
2 or made; and

3 “(iii) the alien shall be removed under  
4 the order of removal, deportation, or exclu-  
5 sion at any time after the illegal entry.

6 “(B) NO OTHER PROCEEDINGS.—Rein-  
7 statement under this paragraph shall not re-  
8 quire proceedings under section 240 or other  
9 proceedings before an immigration judge.”.

10 (2) CONFORMING AMENDMENT.—Section  
11 242(a)(2)(D) (8 U.S.C. 1252(a)(2)(D)) is amended  
12 by striking “section)” and inserting “section or sec-  
13 tion 241(a)(5))”.

14 (b) JUDICIAL REVIEW.—Section 242 (8 U.S.C. 1252)  
15 is amended by adding at the end the following new sub-  
16 section:

17 “(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER  
18 SECTION 241(a)(5).—

19 “(1) REVIEW OF REINSTATEMENT.—Judicial  
20 review of a determination under section 241(a)(5) is  
21 available under subsection (a) of this section.

22 “(2) NO REVIEW OF ORIGINAL ORDER.—Not-  
23 withstanding any other provision of law (statutory or  
24 nonstatutory), including section 2241 of title 28,  
25 United States Code, or any other habeas corpus pro-



1 vision, and sections 1361 and 1651 of such title, no  
2 court shall have jurisdiction to review any cause or  
3 claim, arising from or relating to any challenge to  
4 the original order.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 subsections (a) and (b) shall take effect as if enacted on  
7 April 1, 1997, and shall apply to all orders reinstated on  
8 or after that date by the Secretary (or by the Attorney  
9 General prior to March 1, 2003), regardless of the date  
10 of the original order.

11 **SEC. 506. WITHHOLDING OF REMOVAL.**

12 (a) IN GENERAL.—Section 241(b)(3) (8 U.S.C.  
13 1231(b)(3)) is amended—

14 (1) in subparagraph (A), by adding at the end  
15 “The burden of proof is on the alien to establish  
16 that the alien’s life or freedom would be threatened  
17 in that country, and that race, religion, nationality,  
18 membership in a particular social group, or political  
19 opinion would be at least one central reason for such  
20 threat.”; and

21 (2) in subparagraph (C), by striking “In deter-  
22 mining whether an alien has demonstrated that the  
23 alien’s life or freedom would be threatened for a rea-  
24 son described in subparagraph (A)” and inserting  
25 “For purposes of this paragraph,”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect as if enacted on May 11,  
3 2005, and shall apply to applications for withholding of  
4 removal made on or after such date.

5 **SEC. 507. CERTIFICATE OF REVIEWABILITY.**

6 (a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C.  
7 1252(b)(3)(C)) is amended to read as follows:

8 “(C) BRIEFS.—

9 “(i) ALIEN’S BRIEF.—The alien shall  
10 serve and file a brief in connection with a  
11 petition for judicial review not later than  
12 40 days after the date on which the admin-  
13 istrative record is available. The court may  
14 not extend this deadline except upon mo-  
15 tion for good cause shown. If an alien fails  
16 to file a brief within the time provided in  
17 this subparagraph, the court shall dismiss  
18 the appeal unless a manifest injustice  
19 would result.

20 “(ii) UNITED STATES BRIEF.—The  
21 United States shall not be afforded an op-  
22 portunity to file a brief in response to the  
23 alien’s brief until a judge issues a certifi-  
24 cate of reviewability as provided in sub-  
25 paragraph (D), unless the court requests

1 the United States to file a reply brief prior  
2 to issuing such certification.”.

3 (b) CERTIFICATE OF REVIEWABILITY.—Section  
4 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding  
5 at the end the following new subparagraphs:

6 “(D) CERTIFICATE OF REVIEWABILITY.—

7 “(i) After the alien has filed a brief,  
8 the petition for review shall be assigned to  
9 one judge on the Federal Circuit Court of  
10 Appeals.

11 “(ii) Unless such judge issues a cer-  
12 tificate of reviewability, the petition for re-  
13 view shall be denied and the United States  
14 may not file a brief.

15 “(iii) Such judge may not issue a cer-  
16 tificate of reviewability under clause (ii)  
17 unless the petitioner establishes a prima  
18 facie case that the petition for review  
19 should be granted.

20 “(iv) Such judge shall complete all ac-  
21 tion on such certificate, including ren-  
22 dering judgment, not later than 60 days  
23 after the date on which the judge is as-  
24 signed the petition for review, unless an  
25 extension is granted under clause (v).

1           “(v) Such judge may grant, on the  
2 judge’s own motion or on the motion of a  
3 party, an extension of the 60-day period  
4 described in clause (iv) if—

5                   “(I) all parties to the proceeding  
6 agree to such extension; or

7                   “(II) such extension is for good  
8 cause shown or in the interests of jus-  
9 tice, and the judge states the grounds  
10 for the extension with specificity.

11           “(vi) If no certificate of reviewability  
12 is issued before the end of the period de-  
13 scribed in clause (iv), including any exten-  
14 sion under clause (v), the petition for re-  
15 view shall be denied, any stay or injunction  
16 on petitioner’s removal shall be dissolved  
17 without further action by the court or the  
18 Government, and the alien may be re-  
19 moved.

20           “(vii) If such judge issues a certificate  
21 of reviewability under clause (ii), the Gov-  
22 ernment shall be afforded an opportunity  
23 to file a brief in response to the alien’s  
24 brief. The alien may serve and file a reply  
25 brief not later than 14 days after service of

1           the Government brief, and the court may  
2           not extend this deadline except upon mo-  
3           tion for good cause shown.

4           “(E) NO FURTHER REVIEW OF DECISION  
5           NOT TO ISSUE A CERTIFICATE OF  
6           REVIEWABILITY.—The decision of a judge on  
7           the Federal Circuit Court of Appeals not to  
8           issue a certificate of reviewability or to deny a  
9           petition for review, shall be the final decision  
10          for the Federal Circuit Court of Appeals and  
11          may not be reconsidered, reviewed, or reversed  
12          by the such Court through any mechanism or  
13          procedure.”.

14 **SEC. 508. DISCRETIONARY DECISIONS ON MOTIONS TO RE-**  
15 **OPEN OR RECONSIDER.**

16          (a) EXERCISE OF DISCRETION.—Section 240(c) (8  
17 U.S.C. 1229a(c)) is amended—

18           (1) in paragraph (6), by adding at the end the  
19          following new subparagraph:

20           “(D) DISCRETION.—The decision to grant  
21          or deny a motion to reconsider is committed to  
22          the Attorney General’s discretion.”; and

23           (2) in paragraph (7), by adding at the end the  
24          following new subparagraph:

1           “(D) DISCRETION.—The decision to grant  
2           or deny a motion to reopen is committed to the  
3           Attorney General’s discretion.”.

4           (b) ELIGIBILITY FOR PROTECTION FROM REMOVAL  
5 TO ALTERNATIVE COUNTRY.—Section 240(c) (8 U.S.C.  
6 1229a(c)), as amended by subsection (a), is further  
7 amended by adding at the end of paragraph (7)(C) the  
8 following new clause:

9                   “(v) SPECIAL RULE FOR ALTER-  
10                   NATIVE COUNTRIES OF REMOVAL.—The re-  
11                   quirements of this paragraph may not  
12                   apply if—

13                           “(I) the Secretary of Homeland  
14                           Security is seeking to remove the alien  
15                           to an alternative or additional country  
16                           of removal under paragraph (1)(C),  
17                           2(D), or 2(E) of section 241(b) that  
18                           was not considered during the alien’s  
19                           prior removal proceedings;

20                                   “(II) the alien’s motion to reopen  
21                                   is filed within 30 days after receiving  
22                                   notice of the Secretary’s intention to  
23                                   remove the alien to that country; and

24   “(III) the alien establishes a  
25   prima facie case that the alien is enti-

1 tled by law to withholding of removal  
2 under section 241(b)(3) or protection  
3 under the Convention Against Torture  
4 and Other Cruel, Inhuman or Degrad-  
5 ing Treatment or Punishment, done  
6 at New York December 10, 1984,  
7 with respect to that particular coun-  
8 try.”.

9 (c) EFFECTIVE DATE.—This amendment made by  
10 this section shall apply to motions to reopen or reconsider  
11 which are filed on or after the date of the enactment of  
12 this Act in removal, deportation, or exclusion proceedings,  
13 whether a final administrative order is entered before, on,  
14 or after the date of the enactment of this Act.

15 **SEC. 509. PROHIBITION OF ATTORNEY FEE AWARDS FOR**  
16 **REVIEW OF FINAL ORDERS OF REMOVAL.**

17 (a) IN GENERAL.—Section 242 (8 U.S.C. 1252), as  
18 amended by section 505(b), is further amended by adding  
19 at the end the following new subsection:

20 “(i) PROHIBITION ON ATTORNEY FEE AWARDS.—  
21 Notwithstanding any other provision of law, a court may  
22 not award fees or other expenses to an alien based upon  
23 the alien’s status as a prevailing party in any proceedings  
24 relating to an order of removal issued under this Act, un-  
25 less the court of appeals concludes that the determination

1 of the Attorney General or the Secretary of Homeland Se-  
2 curity that the alien was removable under sections 212  
3 and 237 was not substantially justified.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply to proceedings relating to an  
6 order of removal issued on or after the date of the enact-  
7 ment of this Act, regardless of the date that such fees  
8 or expenses were incurred.

9 **SEC. 510. BOARD OF IMMIGRATION APPEALS.**

10 (a) REQUIREMENT TO HEAR CASES IN 3-MEMBER  
11 PANELS.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graphs (2) and (3), cases before the Board of Immi-  
14 gration Appeals of the Department of Justice shall  
15 be heard by 3-member panels of such Board.

16 (2) HEARING BY A SINGLE MEMBER.—A 3-  
17 member panel of the Board of Immigration Appeals  
18 or a member of such Board alone may—

19 (A) summarily dismiss any appeal or por-  
20 tion of any appeal in any case which—

21 (i) the party seeking the appeal fails  
22 to specify the reasons for the appeal;

23 (ii) the only reason for the appeal  
24 specified by such party involves a finding



1 of fact or a conclusion of law that was con-  
2 ceded by that party at a prior proceeding;

3 (iii) the appeal is from an order that  
4 granted such party the relief that had been  
5 requested;

6 (iv) the appeal is determined to be  
7 filed for an improper purpose, such as to  
8 cause unnecessary delay; or

9 (v) the appeal lacks an arguable basis  
10 in fact or in law and is not supported by  
11 a good faith argument for extension, modi-  
12 fication, or reversal of existing law;

13 (B) grant an unopposed motion or a mo-  
14 tion to withdraw an appeal pending before the  
15 Board; or

16 (C) adjudicate a motion to remand any ap-  
17 peal—

18 (i) from the decision of an officer of  
19 the Department if the appropriate official  
20 of the Department requests that the mat-  
21 ter be remanded back for further consider-  
22 ation;

23 (ii) if remand is required because of a  
24 defective or missing transcript; or

1 (iii) if remand is required for any  
2 other procedural or ministerial issue.

3 (3) HEARING EN BANC.—The Board of Immi-  
4 gration Appeals may, by a majority vote of the  
5 Board members—

6 (A) consider any case as the full Board en  
7 banc; or

8 (B) reconsider as the full Board en banc  
9 any case that has been considered or decided by  
10 a 3-member panel.

11 (b) AFFIRMANCE WITHOUT OPINION.—Upon individ-  
12 ualized review of a case, the Board of Immigration Ap-  
13 peals may affirm the decision of an immigration judge  
14 without opinion only if—

15 (1) the decision of the immigration judge re-  
16 solved all issues in the case;

17 (2) the issue on appeal is squarely controlled by  
18 existing Board or Federal court precedent and does  
19 not involve the application of precedent to a novel  
20 fact situation;

21 (3) the factual and legal questions raised on ap-  
22 peal are so insubstantial that the case does not war-  
23 rant the issuance of a written opinion in the case;  
24 and

1           (4) the Board approves both the result reached  
2           in the decision below and all of the reasoning of that  
3           decision.

4           (c) REQUIREMENT FOR REGULATIONS.—Not later  
5           than 180 days after the date of the enactment of this Act,  
6           the Attorney General shall promulgate regulations to carry  
7           out this section.

## 8           **TITLE VI—MISCELLANEOUS**

### 9           **SEC. 601. TECHNICAL AND CONFORMING AMENDMENTS.**

10          The Attorney General, in consultation with the Sec-  
11          retary, shall, as soon as practicable but not later than 90  
12          days after the date of the enactment of this Act, submit  
13          to Congress a draft of any technical and conforming  
14          changes in the Immigration and Nationality Act which are  
15          necessary to reflect the changes in the substantive provi-  
16          sions of law made by the Homeland Security Act of 2002,  
17          this Act, or any other provision of law.

**Calendar No. 376**

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2454**

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**A BILL**

To amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

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MARCH 16 (legislative day, MARCH 15), 2006

Read twice and ordered to be placed on the calendar