

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3938

To provide for comprehensive immigration reform.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2005

Mr. HAYWORTH (for himself, Mr. MILLER of Florida, Mr. SESSIONS, Ms. FOXX, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. TANCREDO, Mr. RENZI, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. POE, Mr. GUTKNECHT, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. FRANKS of Arizona, Mr. HUNTER, Mrs. KELLY, Mr. CARTER, Mr. GOODE, Mr. EVERETT, Mr. DUNCAN, Mr. GOHMERT, and Mr. MCCOTTER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Ways and Means, Financial Services, Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for comprehensive immigration reform.

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 “Enforcement First Immigration Reform Act of 2005”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—CLEAR AUTHORITY FOR INTERIOR ENFORCEMENT

- Sec. 101. State defined.
- Sec. 102. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 103. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 104. Civil and criminal penalties for aliens unlawfully present in the United States.
- Sec. 105. Listing of immigration violators in the national crime information center database.
- Sec. 106. State and local law enforcement provision of information about apprehended illegal aliens.
- Sec. 107. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 108. Increased Federal detention space.
- Sec. 109. Federal custody of illegal aliens apprehended by State or local law enforcement.
- Sec. 110. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 111. Immunity.
- Sec. 112. Institutional removal program (IRP).
- Sec. 113. State criminal alien assistance program (SCAAP).
- Sec. 114. Detention of dangerous aliens.
- Sec. 115. Increased criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.
- Sec. 116. Penalty for countries that do not accept return of nationals.
- Sec. 117. No judicial review of visa revocation.
- Sec. 118. Alternatives to detention.
- Sec. 119. Additional immigration personnel.
- Sec. 120. Completion of background and security checks.
- Sec. 121. Denial of benefits to terrorists and criminals.
- Sec. 122. Reinstatement of previous removal orders.
- Sec. 123. Automated alien records.
- Sec. 124. Annual report on interior enforcement.

#### TITLE II—IMPROVED BORDER SECURITY

- Sec. 201. Assignment of members of the Armed Forces to assist Bureau of Border Security and Bureau of Citizenship and Immigration Services of the Department of Homeland Security.
- Sec. 202. Necessary assets for controlling United States borders.
- Sec. 203. Expedited removal between ports of entry.
- Sec. 204. Document fraud detection.
- Sec. 205. Reducing illegal immigration and alien smuggling on tribal lands.

#### TITLE III—SOCIAL SECURITY FOR WORKING AMERICANS

- Sec. 301. Letters to employers by the Commissioner of Social Security for purposes of resolving discrepancies in wage records and notification of the Secretary of Homeland Security regarding such letters.
- Sec. 302. Tightening requirements for the provision of social security numbers on withholding exemption certificates.

- Sec. 303. Annual reports to the Congress regarding large employers with the largest numbers of employees with non-matching social security account numbers.
- Sec. 304. Exclusion of unauthorized work from work upon which creditable earnings may be based.

#### TITLE IV—WORK AUTHORIZATION AND ENFORCEMENT

- Sec. 401. Requirement for employers to conduct employment eligibility verification.
- Sec. 402. Amendments to the Social Security Act relating to identification of individuals.
- Sec. 403. Employment Eligibility Database.
- Sec. 404. Requirements relating to individuals commencing work in the United States.
- Sec. 405. Compliance.
- Sec. 406. Increase in personnel ensuring compliance with prohibitions on unlawful employment of aliens.
- Sec. 407. Integration of fingerprinting databases.
- Sec. 408. Authorizations of appropriations.
- Sec. 409. Rules of construction.

#### TITLE V—SECURE IDENTIFICATION STANDARDS

- Sec. 501. Prohibition on acceptance of identification issued by foreign governments.
- Sec. 502. Foreign-issued forms of identification prohibited as proof of identity to open accounts at financial institutions.
- Sec. 503. Identification standard for Federal benefits.
- Sec. 504. Change in format of Individual Taxpayer Identification Numbers (ITINs).
- Sec. 505. Sharing ITIN-related information.
- Sec. 506. Birth certificates.

#### TITLE VI—REFORM OF LEGAL IMMIGRATION

- Sec. 601. Increase in employment based visas.
- Sec. 602. Increase in cap on unskilled workers.
- Sec. 603. Elimination of family 4th preference visa category for adult siblings of citizens.
- Sec. 604. 3-year moratorium on immigrant visas for Mexican nationals.
- Sec. 605. Limitation on number of family-sponsored immigrant visas from Mexico.
- Sec. 606. Elimination of diversity lottery visa category.
- Sec. 607. Annual report on projected job creation and foreign labor demand.
- Sec. 608. Visa term compliance bonds.
- Sec. 609. Release of aliens in removal proceedings.
- Sec. 610. Detention of aliens delivered by bondsmen.

#### TITLE VII—CITIZENSHIP REFORM

- Sec. 701. Citizenship at birth for children of non-citizen, non-permanent resident aliens.
- Sec. 702. Sanctions for Acts Violating the Oath of Renunciation and Allegiance.
- Sec. 703. Policy of discouragement of dual/multiple citizenship.

Sec. 704. Informing birth nations of their previous citizens' new status as American citizens.

**TITLE VIII—WAGES PAID TO UNAUTHORIZED ALIENS**

Sec. 801. Clarification that wages paid to unauthorized aliens may not be deducted from gross income.

1       (c) SEVERABILITY.—If any provision of this Act, or  
2 the application of such provision to any person or cir-  
3 cumstance, is held invalid, the remainder of this Act, and  
4 the application of such provision to other persons not simi-  
5 larly situated or to other circumstances, shall not be af-  
6 fected by such invalidation.

7       **TITLE I—CLEAR AUTHORITY**  
8       **FOR INTERIOR ENFORCEMENT**

9       **SEC. 101. STATE DEFINED.**

10       For purposes of this title, the term “State” has the  
11 meaning given such term in section 101(a)(36) of the Im-  
12 migration and Nationality Act (8 U.S.C. 1101(a)(36)).

13       **SEC. 102. FEDERAL AFFIRMATION OF ASSISTANCE IN THE**  
14                               **IMMIGRATION LAW ENFORCEMENT BY**  
15                               **STATES AND POLITICAL SUBDIVISIONS OF**  
16                               **STATES.**

17       Notwithstanding any other provision of law and re-  
18 affirming the existing inherent authority of States, law en-  
19 forcement personnel of a State or a political subdivision  
20 of a State have the inherent authority of a sovereign entity  
21 to investigate, identify, apprehend, arrest, detain, or  
22 transfer to Federal custody aliens in the United States

1 (including the transportation of such aliens across State  
2 lines to detention centers), for the purposes of assisting  
3 in the enforcement of the immigration laws of the United  
4 States in the course of carrying out routine duties. This  
5 State authority has never been displaced or preempted by  
6 the Congress.

7 **SEC. 103. STATE AUTHORIZATION FOR ASSISTANCE IN THE**  
8 **ENFORCEMENT OF IMMIGRATION LAWS EN-**  
9 **COURAGED.**

10 (a) IN GENERAL.—Effective 2 years after the date  
11 of the enactment of this title, a State (or political subdivi-  
12 sion of a State) that has in effect a statute, policy, or  
13 practice that prohibits law enforcement officers of the  
14 State, or of a political subdivision within the State, from  
15 assisting or cooperating with Federal immigration law en-  
16 forcement in the course of carrying out the officers' rou-  
17 tine law enforcement duties shall not receive any of the  
18 funds that would otherwise be allocated to the State under  
19 section 241(i) of the Immigration and Nationality Act (8  
20 U.S.C. 1231(i)).

21 (b) CONSTRUCTION.—Nothing in this section shall  
22 require law enforcement officials from States or political  
23 subdivisions of States to report or arrest victims or wit-  
24 nesses of a criminal offense.

1 (c) REALLOCATION OF FUNDS.—Any funds that are  
2 not allocated to a State or political subdivision of a State  
3 due to the failure of the State to comply with subsection  
4 (a) shall be reallocated to States that comply with such  
5 subsection.

6 **SEC. 104. CIVIL AND CRIMINAL PENALTIES FOR ALIENS UN-**  
7 **LAWFULLY PRESENT IN THE UNITED STATES.**

8 (a) ALIENS UNLAWFULLY PRESENT.—

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

13 “CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN  
14 THE UNITED STATES

15 “SEC. 275A. (a) IN GENERAL.—In addition to any  
16 other penalty, an alien who is present in the United States  
17 in violation of this Act shall be guilty of a felony and shall  
18 be fined under title 18, United States Code, imprisoned  
19 not less than 1 year and a day, or both.

20 “(b) DEFENSE.—It shall be an affirmative defense  
21 to a violation of subsection (a) that the alien overstayed  
22 the time allotted under a visa due to an exceptional and  
23 extremely unusual hardship or physical illness that pre-  
24 vented the alien from leaving the United States by the  
25 required date.”.

1           (2) CLERICAL AMENDMENT.—The table of con-  
2           tents of such Act is amended by inserting after the  
3           item relating to section 275 the following new item:

“Sec. 275A. Criminal penalties for unlawful presence in the United States.”.

4           (b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL  
5 ENTRY.—Section 275(a) of such Act (8 U.S.C. 1325(a))  
6 is amended by striking “6 months,” and inserting “1  
7 year,”.

8           (c) INCREASE IN CIVIL PENALTIES FOR VARIOUS  
9 VIOLATIONS OF THE IMMIGRATION LAWS OF THE UNITED  
10 STATES.—Section 275(b) of such Act (8 U.S.C. 1325(b))  
11 is amended to read as follows:

12           “(b)(1) Subject to paragraph (2), any alien described  
13 in paragraph (3) shall be subject to a civil penalty of—

14                   “(A) \$500 for the first violation;

15                   “(B) \$1,000 in the case of an alien who has  
16           been once previously been subject to a civil penalty  
17           under this subsection;

18                   “(C) \$2,500 in the case of an alien who has  
19           been twice previously been subject to a civil penalty  
20           under this subsection; or

21                   “(D) \$5,000 in the case of an alien who has  
22           been three or more times previously been subject to  
23           a civil penalty under this subsection.

24           “(2) In the case of an alien described in paragraph  
25 (3)(D), the alien shall be subject to civil penalties under

1 this subsection that are 5 times the amounts set forth  
2 under paragraph (1).

3 “(3) An alien described in this paragraph is an alien  
4 who—

5 “(A) is apprehended while entering (or attempt-  
6 ing to enter) the United States at a time or place  
7 other than as designated by immigration officers;

8 “(B) enters the United States without inspec-  
9 tion;

10 “(C) fails to depart the United States within 30  
11 days after the expiration date of a nonimmigrant  
12 visa or a voluntary departure agreement and is not  
13 in other lawful status; or

14 “(D) fails to depart the United States within  
15 30 days after the date of a final order of removal  
16 and is not in other lawful status.

17 “(4) Civil penalties under this subsection are in addi-  
18 tion to, and not in lieu of, any criminal or other civil pen-  
19 alties that may be imposed.”.

20 (d) PERMISSION TO DEPART VOLUNTARILY.—Sec-  
21 tion 240B of such Act (8 U.S.C. 1229e) is amended—

22 (1) by striking “Attorney General” and insert-  
23 ing “Secretary of Homeland Security” each place it  
24 appears; and

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

3 **SEC. 105. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
4 **TIONAL CRIME INFORMATION CENTER DATA-**  
5 **BASE.**

6           (a) PROVISION OF INFORMATION TO THE NCIC.—  
7 Not later than 180 days after the date of the enactment  
8 of this title, the Under Secretary for Border and Trans-  
9 portation Security of the Department of Homeland Secu-  
10 rity shall provide the National Crime Information Center  
11 of the Department of Justice with such information as the  
12 Under Secretary may have on any and all aliens against  
13 whom a final order of removal has been issued, any and  
14 all aliens who have signed a voluntary departure agree-  
15 ment, any and all aliens who have overstayed their author-  
16 ized period of stay, and any and all aliens whose visas  
17 have been revoked. Such information shall be provided to  
18 the National Crime Information Center, and the National  
19 Crime Information Center shall enter such information  
20 into the Immigration Violators File of the National Crime  
21 Information Center database, regardless of whether—

22           (1) the alien received notice of a final order of  
23           removal;

24           (2) the alien has already been removed; or

1           (3) sufficient identifying information is avail-  
2           able on the alien.

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

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

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

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

12           “(4) acquire, collect, classify, and preserve  
13 records of violations of the immigration laws of the  
14 United States, regardless of whether the alien has  
15 received notice of the violation or whether sufficient  
16 identifying information is available on the alien and  
17 even if the alien has already been removed; and”.

18 **SEC. 106. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
19 **SION OF INFORMATION ABOUT APPRE-**  
20 **HENDED ILLEGAL ALIENS.**

21           (a) PROVISION OF INFORMATION.—In compliance  
22 with section 642(a) of the Illegal Immigration Reform and  
23 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)  
24 and section 434 of the Personal Responsibility and Work  
25 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),

1 each State and each political subdivision of a State is en-  
2 couraged to provide the Department of Homeland Security  
3 in a timely manner with the information listed in sub-  
4 section (b) on each alien apprehended in the jurisdiction  
5 of the State or political subdivision who is believed to be  
6 in violation of the immigration laws of the United States.

7 (b) INFORMATION REQUIRED.—The information list-  
8 ed in this subsection is as follows:

9 (1) The alien’s name.

10 (2) The alien’s address or place of residence.

11 (3) A physical description of the alien.

12 (4) The date, time, and location of the encoun-  
13 ter with the alien and reason for stopping, detaining,  
14 apprehending, or arresting the alien.

15 (5) If applicable, the alien’s driver’s license  
16 number and the State of issuance of such license.

17 (6) If applicable, the type of any other identi-  
18 fication document issued to the alien, any designa-  
19 tion number contained on the identification docu-  
20 ment, and the issuing entity for the identification  
21 document.

22 (7) If applicable, the license plate number,  
23 make, and model of any automobile registered to, or  
24 driven by, the alien.

1           (8) A photo of the alien, if available or readily  
2           obtainable.

3           (9) The alien's fingerprints, if available or read-  
4           ily obtainable.

5           (c) ANNUAL REPORT ON REPORTING.—The Sec-  
6           retary shall maintain and annually submit to Congress a  
7           detailed report listing the States or political subdivisions  
8           of States that are providing information under subsection  
9           (a).

10          (d) REIMBURSEMENT.—The Department of Home-  
11          land Security shall reimburse States and political subdivi-  
12          sions of a State for all reasonable costs, as determined  
13          by the Secretary of Homeland Security, incurred by that  
14          State or political subdivision as a result of providing infor-  
15          mation under this section.

16          (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
17          authorized to be appropriated such sums as are necessary  
18          to carry out this section.

19          (f) CONSTRUCTION.— Nothing in this section shall  
20          require law enforcement officials of a State or political  
21          subdivision of a State to provide the Department of Home-  
22          land Security with information related to a victim of a  
23          crime or witness to a criminal offense.

1 **SEC. 107. FINANCIAL ASSISTANCE TO STATE AND LOCAL**  
2 **POLICE AGENCIES THAT ASSIST IN THE EN-**  
3 **FORCEMENT OF IMMIGRATION LAWS.**

4 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING  
5 AND PROCESSING ILLEGAL ALIENS.—From amounts  
6 made available to make grants under this section, the Sec-  
7 retary of Homeland Security shall make grants to States  
8 and political subdivisions of States for procurement of  
9 equipment, technology, facilities, and other products that  
10 facilitate and are directly related to investigating, appre-  
11 hending, arresting, detaining, or transporting immigration  
12 law violators, including additional administrative costs in-  
13 curred under this title.

14 (b) ELIGIBILITY.—To be eligible to receive a grant  
15 under this section, a State or political subdivision of a  
16 State must have the authority to, and have in effect the  
17 policy and practice to, assist in the enforcement of the  
18 immigration laws of the United States in the course of  
19 carrying out such agency's routine law enforcement duties.

20 (c) FUNDING.—There is authorized to be appro-  
21 priated for grants under this section \$1,000,000,000 for  
22 each fiscal year.

23 (d) GAO AUDIT.—Not later than 3 years after the  
24 date of the enactment of this title, the Comptroller Gen-  
25 eral of the United States shall conduct an audit of funds

1 distributed to States and political subdivisions of States  
2 under subsection (a).

3 **SEC. 108. INCREASED FEDERAL DETENTION SPACE.**

4 (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
5 FACILITIES.—

6 (1) IN GENERAL.—The Secretary of Homeland  
7 Security shall construct or acquire, in addition to ex-  
8 isting facilities for the detention of aliens, 20 deten-  
9 tion facilities in the United States, with at least 500  
10 beds per facility, for aliens detained pending removal  
11 or a decision on removal of such alien from the  
12 United States.

13 (2) DETERMINATIONS.—The location of any de-  
14 tention facility built or acquired in accordance with  
15 this subsection shall be determined by the Deputy  
16 Assistant Director of the Detention Management Di-  
17 vision of the Immigration and Customs Enforcement  
18 Office of Detention and Removal within the U.S.  
19 Immigration and Customs Enforcement.

20 (3) USE OF INSTALLATIONS UNDER BASE CLO-  
21 SURE LAWS.—In acquiring detention facilities under  
22 this subsection, the Secretary of Homeland Security  
23 shall consider the transfer of appropriate portions of  
24 military installations approved for closure or realign-  
25 ment under the Defense Base Closure and Realign-

1       ment Act of 1990 (part A of title XXIX of Public  
2       Law 101–510; 10 U.S.C. 2687 note) for use in ac-  
3       cordance with paragraph (1).

4       (b) **AUTHORIZATION OF APPROPRIATIONS.**—There  
5       are authorized to be appropriated such sums as are nec-  
6       essary to carry out this section.

7       (c) **TECHNICAL AND CONFORMING AMENDMENT.**—  
8       Section 241(g)(1) of the Immigration and Nationality Act  
9       (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-  
10      pend” and inserting “shall expend”.

11      **SEC. 109. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**  
12                              **HENDED BY STATE OR LOCAL LAW ENFORCE-**  
13                              **MENT.**

14      (a) **STATE APPREHENSION.**—

15              (1) **IN GENERAL.**—Title II of the Immigration  
16      and Nationality Act (8 U.S.C. 1151 et seq.) is  
17      amended by inserting after section 240C the fol-  
18      lowing:

19                      “CUSTODY OF ILLEGAL ALIENS  
20      “SEC. 240D. (a) **TRANSFER OF CUSTODY BY STATE**  
21      **AND LOCAL OFFICIALS.**—If a State (or, if appropriate,  
22      a political subdivision of the State) exercising authority  
23      with respect to the apprehension or arrest of an illegal  
24      alien submits a request to the Secretary of Homeland Se-  
25      curity that the alien be taken into Federal custody, the  
26      Secretary of Homeland Security—

1 “(1) shall—

2 “(A) not later than 48 hours after the con-  
3 clusion of the State charging process or dis-  
4 missal process, or if no State charging or dis-  
5 missal process is required, not later than 48  
6 hours after the illegal alien is apprehended,  
7 take the illegal alien into the custody of the  
8 Federal Government and incarcerate the alien;  
9 or

10 “(B) request that the relevant State or  
11 local law enforcement agency temporarily incar-  
12 cerate or transport the illegal alien for transfer  
13 to Federal custody; and

14 “(2) shall designate at least one 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 the  
18 criminal or illegal aliens to the Department of  
19 Homeland Security.

20 “(b) POLICY ON DETENTION IN STATE AND LOCAL  
21 DETENTION FACILITIES.—In carrying out section  
22 241(g)(1), the Attorney General or Secretary of Homeland  
23 Security shall ensure that an alien arrested under this Act  
24 shall be detained, pending the alien’s being taken for the  
25 examination under this section, in a State or local prison,

1 jail, detention center, or other comparable facility. Not-  
2 withstanding any other provision of law or regulation,  
3 such facility is adequate for detention, if—

4           “(1) such a facility is the most suitably located  
5       Federal, State, or local facility available for such  
6       purpose under the circumstances;

7           “(2) an appropriate arrangement for such use  
8       of the facility can be made; and

9           “(3) such facility satisfies the standards for the  
10       housing, care, and security of persons held in cus-  
11       tody of a United States marshal.

12       “(c) REIMBURSEMENT.—The Secretary of Homeland  
13       Security shall reimburse States and political subdivisions  
14       of States for all reasonable expenses, as determined by the  
15       Secretary, incurred by the State or political subdivision  
16       in the incarceration and transportation of an illegal alien  
17       as described in subparagraphs (A) and (B) of subsection  
18       (a)(1). Compensation provided for costs incurred under  
19       such subparagraphs shall be the average cost of incarcer-  
20       ation of a prisoner in the relevant State, as determined  
21       by the chief executive officer of a State (or, as appropriate,  
22       a political subdivision of the State) plus the cost of trans-  
23       porting the criminal or illegal alien from the point of ap-  
24       prehension, to the place of detention, and to the custody

1 transfer point if the place of detention and place of cus-  
2 tody are different.

3 “(d) SECURE FACILITIES.—The Secretary of Home-  
4 land Security shall ensure that illegal aliens incarcerated  
5 in Federal facilities pursuant to this Act are held in facili-  
6 ties that provide an appropriate level of security.

7 “(e) TRANSFER.—

8 “(1) IN GENERAL.—In carrying out this sec-  
9 tion, the Secretary of Homeland Security shall es-  
10 tablish a regular circuit and schedule for the prompt  
11 transfer of apprehended illegal aliens from the cus-  
12 tody of States and political subdivisions of States to  
13 Federal custody.

14 “(2) CONTRACTS.—The Secretary of Homeland  
15 Security may enter into contracts, including appro-  
16 priate private contracts, to implement this sub-  
17 section.

18 “(f) DEFINITION.—For purposes of this section, the  
19 term ‘illegal alien’ means an alien who—

20 “(1) entered the United States without inspec-  
21 tion or at any time, manner or place other than that  
22 designated by the Secretary of Homeland Security;

23 “(2) was admitted as a nonimmigrant and who,  
24 at the time the alien was taken into custody by the

1 State or a political subdivision of the State, had  
2 failed to—

3 “(A) maintain the nonimmigrant status in  
4 which the alien was admitted or to which it was  
5 changed under section 248; or

6 “(B) comply with the conditions of any  
7 such status;

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

11 “(4) failed to depart the United States under a  
12 voluntary departure agreement or under a final  
13 order of removal.

14 “(g) AUTHORIZATION OF APPROPRIATIONS FOR THE  
15 DETENTION AND TRANSPORTATION TO FEDERAL CUS-  
16 TODY OF ALIENS NOT LAWFULLY PRESENT.—There is  
17 authorized to be appropriated \$500,000,000 for the deten-  
18 tion and removal of aliens not lawfully present in the  
19 United States under this Act for fiscal year 2006 and each  
20 subsequent fiscal year.”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents of such Act is amended by inserting after the  
23 item relating to section 240C the following new item:

“Sec. 240D. Custody of illegal aliens.”.

24 (b) GAO AUDIT.—Not later than 3 years after the  
25 date of the enactment of this title, the Comptroller Gen-

1 eral of the United States shall conduct an audit of com-  
2 pensation to States and political subdivisions of States for  
3 the incarceration of illegal aliens under section 240D(a)  
4 of the Immigration and Nationality Act (as inserted by  
5 subsection (a)(1)).

6 **SEC. 110. TRAINING OF STATE AND LOCAL LAW ENFORCE-**  
7 **MENT PERSONNEL RELATING TO THE EN-**  
8 **FORCEMENT OF IMMIGRATION LAWS.**

9 (a) ESTABLISHMENT OF TRAINING MANUAL AND  
10 POCKET GUIDE.—Not later than 180 days after the date  
11 of the enactment of this title, the Secretary of Homeland  
12 Security shall establish—

13 (1) a training manual for law enforcement per-  
14 sonnel of a State or political subdivision of a State  
15 to train such personnel in the investigation, identi-  
16 fication, apprehension, arrest, detention, and trans-  
17 fer to Federal custody of aliens in the United States  
18 (including the transportation of such aliens across  
19 State lines to detention centers and the identifica-  
20 tion of fraudulent documents); and

21 (2) an immigration enforcement pocket guide  
22 for law enforcement personnel of a State or political  
23 subdivision of a State to provide a quick reference  
24 for such personnel in the course of duty.

1           (b) AVAILABILITY.—The training manual and pocket  
2 guide established in accordance with subsection (a) shall  
3 be made available to all State and local law enforcement  
4 personnel.

5           (c) APPLICABILITY.—Nothing in this section shall be  
6 construed to require State or local law enforcement per-  
7 sonnel to carry the training manual or pocket guide estab-  
8 lished under subsection (a)(2) with them while on duty.

9           (d) COSTS.—The Department of Homeland Security  
10 shall be responsible for any and all costs incurred in estab-  
11 lishing the training manual and pocket guide under sub-  
12 section (a).

13           (e) TRAINING FLEXIBILITY.—

14           (1) IN GENERAL.—The Department of Home-  
15 land Security shall make training of State and local  
16 law enforcement officers available through as many  
17 means as possible, including residential training at  
18 the Center for Domestic Preparedness, onsite train-  
19 ing held at State or local police agencies or facilities,  
20 online training courses by computer, teleconfer-  
21 encing, and videotape, or the digital video display  
22 (DVD) of a training course or courses. E-learning  
23 through a secure, encrypted distributed learning sys-  
24 tem that has all its servers based in the United  
25 States, is sealable, survivable, and can have a portal

1 in place within 30 days, shall be made available by  
2 the Federal Law Enforcement Training Center Dis-  
3 tributed Learning Program for State and local law  
4 enforcement personnel.

5 (2) FEDERAL PERSONNEL TRAINING.—The  
6 training of State and local law enforcement per-  
7 sonnel under this section shall not displace the train-  
8 ing of Federal personnel.

9 (3) CLARIFICATION.—Nothing in this title or  
10 any other provision of law shall be construed as  
11 making any immigration-related training a require-  
12 ment for, or prerequisite to, any State or local law  
13 enforcement officer to assist in the enforcement of  
14 Federal immigration laws in the normal course of  
15 carrying out their normal law enforcement duties.

16 (f) TRAINING LIMITATION.—Section 287(g) of the  
17 Immigration and Nationality Act (8 U.S.C. 1357(g)) is  
18 amended—

19 (1) by striking “Attorney General” and insert-  
20 ing “Secretary of Homeland Security” each place it  
21 appears; and

22 (2) in paragraph (2), by adding at the end the  
23 following: “Such training shall not exceed 14 days or  
24 80 hours, whichever is longer.”.

1 **SEC. 111. IMMUNITY.**

2 (a) **PERSONAL IMMUNITY.**—Notwithstanding any  
3 other provision of law, a law enforcement officer of a State  
4 or local law enforcement agency who is acting within the  
5 scope of the officer’s official duties shall be immune, to  
6 the same extent as a Federal law enforcement officer,  
7 from personal liability arising out of the performance of  
8 any duty described in this title.

9 (b) **AGENCY IMMUNITY.**—Notwithstanding any other  
10 provision of law, a State or local law enforcement agency  
11 shall be immune from any claim for money damages based  
12 on Federal, State, or local civil rights law for an incident  
13 arising out of the enforcement of any immigration law,  
14 except to the extent a law enforcement officer of that  
15 agency committed a violation of Federal, State, or local  
16 criminal law in the course of enforcing such immigration  
17 law.

18 **SEC. 112. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

19 (a) **CONTINUATION AND EXPANSION.**—

20 (1) **IN GENERAL.**—The Department of Home-  
21 land Security shall continue to operate and imple-  
22 ment the program known as the Institutional Re-  
23 moval Program (IRP) which—

24 (A) identifies removable criminal aliens in  
25 Federal and State correctional facilities;

1 (B) ensures such aliens are not released  
2 into the community; and

3 (C) removes such aliens from the United  
4 States after the completion of their sentences.

5 (2) EXPANSION.—The institutional removal  
6 program shall be extended to all States. Any State  
7 that receives Federal funds for the incarceration of  
8 criminal aliens shall—

9 (A) cooperate with officials of the institu-  
10 tional removal program;

11 (B) expeditiously and systematically iden-  
12 tify criminal aliens in its prison and jail popu-  
13 lations; and

14 (C) promptly convey such information to  
15 officials of such program as a condition for re-  
16 ceiving such funds.

17 (b) AUTHORIZATION FOR DETENTION AFTER COM-  
18 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
19 enforcement officers of a State or political subdivision of  
20 a State have the authority to—

21 (1) hold an illegal alien for a period of up to  
22 14 days after the alien has completed the alien's  
23 State prison sentence in order to effectuate the  
24 transfer of the alien to Federal custody when the

1 alien is removable or not lawfully present in the  
2 United States; or

3 (2) issue a detainer that would allow aliens who  
4 have served a State prison sentence to be detained  
5 by the State prison until personnel from the U.S.  
6 Immigration and Customs Enforcement can take the  
7 alien into custody.

8 (c) TECHNOLOGY USAGE.—Technology such as video  
9 conferencing shall be used to the maximum extent possible  
10 in order to make the Institutional Removal Program  
11 (IRP) available in remote locations. Mobile access to Fed-  
12 eral databases of aliens, such as IDENT, and live scan  
13 technology shall be used to the maximum extent prac-  
14 ticable in order to make these resources available to State  
15 and local law enforcement agencies in remote locations.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
17 authorized to be appropriated to carry out the institutional  
18 removal program—

19 (1) \$100,000,000 for fiscal year 2007;

20 (2) \$115,000,000 for fiscal year 2008;

21 (3) \$130,000,000 for fiscal year 2009;

22 (4) \$145,000,000 for fiscal year 2010; and

23 (5) \$160,000,000 for fiscal year 2011.

1 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**  
2 **(SCAAP).**

3 Section 241(i)(5) of the Immigration and Nationality  
4 Act (8 U.S.C. 1231(i)) is amended by inserting before the  
5 period at the end the following: “and \$1,000,000,000 for  
6 each subsequent fiscal year”.

7 **SEC. 114. DETENTION OF DANGEROUS ALIENS.**

8 (a) REMOVAL OF TERRORIST ALIENS.—

9 (1) IN GENERAL.—Title II of the Immigration  
10 and Nationality Act (8 U.S.C. 1151 et seq.) is  
11 amended—

12 (A) in section 208(b)(2)(A), by amending  
13 clause (v) to read as follows:

14 “(v) the alien is described in section  
15 212(a)(3)(B), 212(a)(3)(F), or  
16 237(a)(4)(B) unless, in the case only of an  
17 alien described in section  
18 212(a)(3)(B)(i)(IV), the Secretary of  
19 Homeland Security or the Attorney Gen-  
20 eral determines that there are not reason-  
21 able grounds for regarding the alien as a  
22 danger to the security of the United  
23 States; or”;

24 (B) in section 240A(c), by amending para-  
25 graph (4) to read as follows:

1           “(4) An alien described in section 212(a)(3) or  
2           237(a)(4).”;

3           (C) in section 240B(b)(1)(C), by striking  
4           “deportable under” and inserting “described  
5           in”;

6           (D) in section 241(b)(3)(B)—

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

9           (ii) in clause (iv), by striking the pe-  
10          riod at the end and inserting “; or”;

11          (iii) by inserting after clause (iv) the  
12          following:

13               “(v) the alien is described in section  
14               212(a)(3)(B),           212(a)(3)(F),           or  
15               237(a)(4)(B), unless, in the case only of  
16               an alien described in section  
17               212(a)(3)(B)(i)(IV), the Secretary of  
18               Homeland Security or the Attorney Gen-  
19               eral determines that there are not reason-  
20               able grounds for regarding the alien as a  
21               danger to the security of the United  
22               States.”; and

23           (iv) by striking “For purposes of  
24           clause (iv)” and all that follows; and

25           (E) in section 249—

1 (i) by striking “inadmissible under  
2 section 212(a)(3)(E) or under section” and  
3 inserting “described in section  
4 212(a)(3)(E) or”; and

5 (ii) in subsection (d), by striking “to  
6 citizenship and is not deportable under”  
7 and inserting “for citizenship and is not  
8 described in”.

9 (2) EFFECTIVE DATE.—The amendments made  
10 by paragraph (1) shall take effect on the date of en-  
11 actment of this Act and shall apply to—

12 (A) all aliens subject to removal, deporta-  
13 tion, or exclusion at any time; and

14 (B) acts and conditions constituting a  
15 ground for inadmissibility, excludability, depor-  
16 tation, or removal occurring or existing before,  
17 on, or after such effective date.

18 (b) DETENTION OF DANGEROUS ALIENS.—

19 (1) IN GENERAL.—Section 241(a) of the Immi-  
20 gration and Nationality Act (8 U.S.C. 1231(a)) is  
21 amended—

22 (A) by striking “Attorney General” each  
23 place it appears and inserting “Secretary of  
24 Homeland Security”;

1 (B) in paragraph (2), by inserting “If a  
2 court orders a stay of removal of an alien who  
3 is subject to an order of removal that is admin-  
4 istratively final, the Secretary of Homeland Se-  
5 curity, in the exercise of the Secretary’s discre-  
6 tion, may detain the alien during the pendency  
7 of such stay of removal, before the beginning of  
8 the removal period, as provided in paragraph  
9 (1)(B)(ii).” after “detain the alien.”; and

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

17 (2) EFFECTIVE DATE.—The amendments made  
18 by paragraph (1) shall take effect upon the date of  
19 enactment of this Act, and shall apply to cases in  
20 which the final administrative removal order was  
21 issued before, on, or after such date.

1 **SEC. 115. INCREASED CRIMINAL PENALTIES FOR ALIEN**  
2 **SMUGGLING, DOCUMENT FRAUD, GANG VIO-**  
3 **LENCE, AND DRUG TRAFFICKING.**

4 (a) ALIEN SMUGGLING.—Section 274(a) of the Immi-  
5 gration and Nationality Act (8 U.S.C. 1324(a)) is amend-  
6 ed—

7 (1) in paragraph (1)(B)—

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

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

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

14 (2) in paragraph (2)—

15 (A) in subparagraph (A), by striking “one  
16 year, or both; or” and inserting “3 years, or  
17 both”;

18 (B) in subparagraph (B)—

19 (i) in clause (i), by adding at the end  
20 the following: “be fined under title 18,  
21 United States Code, and imprisoned not  
22 less than 5 years nor more than 25  
23 years;”;

24 (ii) in clause (ii), by striking “or” at  
25 the end and inserting the following: “be  
26 fined under title 18, United States Code,

1 and imprisoned not less than 3 years not  
2 more than 20 years; or”; and

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

7 (C) by striking the matter following clause  
8 (iii) and inserting the following:

9 “(C) in the case of a third or subsequent  
10 offense described in subparagraph (B) and for  
11 any other violation, shall be fined under title  
12 18, United States Code, and imprisoned not  
13 less than 5 years nor more than 15 years.”;

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

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

18 (b) DOCUMENT FRAUD.—Section 1546 of title 18,  
19 United States Code, is amended—

20 (1) in subsection (a)—

21 (A) by striking “not more than 25 years”  
22 and inserting “not less than 25 years”

23 (B) by inserting “and if the terrorism of-  
24 fense resulted in the death of any person, shall

1 be punished by death or imprisoned for life,”  
 2 after “section 2331 of this title),”;

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

5 (D) by striking “10 years” and inserting  
 6 “imprisoned not more than 20 years”; and

7 (E) by striking “15 years” and inserting  
 8 “imprisoned not more than 25 years”; and

9 (2) in subsection (b), by striking “5 years” and  
 10 inserting “10 years”.

11 (c) CRIMES OF VIOLENCE.—

12 (1) IN GENERAL.—Title 18, United States  
 13 Code, is amended by inserting after chapter 51 the  
 14 following:

15 **“CHAPTER 52—ILLEGAL ALIENS**

“Sec.

“1131. Enhanced penalties for certain crimes committed by illegal aliens.

16 **“§ 1131. Enhanced penalties for certain crimes com-**  
 17 **mitted by illegal aliens**

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

23 “(b) If an alien who violates subsection (a) was pre-  
 24 viously ordered removed under the Immigration and Na-

1 tionality Act (8 U.S.C. 1101 et seq.) on the grounds of  
 2 having committed a crime, the alien shall be sentenced to  
 3 not less than 15 years in prison.

4 “(c) A sentence of imprisonment imposed under this  
 5 section shall run consecutively to any other sentence of  
 6 imprisonment imposed for any other crime.”.

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

“52. **Illegal aliens** ..... **1131**”.

11 (d) CRIMINAL STREET GANGS.—

12 (1) INADMISSIBILITY.—Section 212(a)(2) of the  
 13 Immigration and Nationality Act (8 U.S.C.  
 14 1182(a)(2)) is amended—

15 (A) by redesignating subparagraph (F) as  
 16 subparagraph (J); and

17 (B) by inserting after subparagraph (E)  
 18 the following:

19 “(F) ALIENS WHO ARE MEMBERS OF  
 20 CRIMINAL STREET GANGS.—Any alien who is a  
 21 member of a criminal street gang (as defined in  
 22 section 521(a) of title 18, United States Code)  
 23 is inadmissible.”.

24 (2) DEPORTABILITY.—Section 237(a)(2) of the  
 25 Immigration and Nationality Act (8 U.S.C.

1 1227(a)(2)) is amended by adding at the end the  
2 following:

3 “(F) ALIENS WHO ARE MEMBERS OF  
4 CRIMINAL STREET GANGS.—Any alien who is a  
5 member of a criminal street gang (as defined in  
6 section 521(a) of title 18, United States Code)  
7 is deportable.”.

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

11 (A) in clause (i), by striking “or” at the  
12 end;

13 (B) in clause (ii), by striking the period at  
14 the end and inserting “; or”; and

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

16 “(iii) the alien is a member of a crimi-  
17 nal street gang (as defined in section  
18 521(a) of title 18, United States Code).”.

19 **SEC. 116. PENALTY FOR COUNTRIES THAT DO NOT ACCEPT**  
20 **RETURN OF NATIONALS.**

21 Section 243(d) of the Immigration and Nationality  
22 Act (8 U.S.C. 1253(d)) is amended—

23 (1) by striking “On being notified” and insert-  
24 ing the following:

25 “(1) IN GENERAL.—Upon notification”; and

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

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

5           “(2) DENIAL OF ADMISSION.—The Secretary of  
6           Homeland Security, after making a determination  
7           that the government of a foreign country has denied  
8           or unreasonably delayed accepting an alien who is a  
9           citizen, subject, national, or resident of that country  
10          after the alien has been ordered removed, and after  
11          consultation with the Secretary of State, may deny  
12          admission to any citizen, subject, national or resi-  
13          dent of that country until the country accepts the  
14          alien that was ordered removed.”.

15 **SEC. 117. NO JUDICIAL REVIEW OF VISA REVOCATION.**

16          Section 221(i) of the Immigration and Nationality  
17          Act (8 U.S.C. 1201(i)) is amended by striking “, except  
18          in the context of a removal proceeding” and all that fol-  
19          lows and inserting a period.

20 **SEC. 118. ALTERNATIVES TO DETENTION.**

21          The Secretary of Homeland Security shall implement  
22          pilot programs in all States to study the effectiveness of  
23          alternatives to detention, including electronic monitoring  
24          devices and intensive supervision programs, in ensuring

1 alien appearance at court and compliance with removal or-  
2 ders.

3 **SEC. 119. ADDITIONAL IMMIGRATION PERSONNEL.**

4 (a) DEPARTMENT OF HOMELAND SECURITY.—

5 (1) INVESTIGATIVE PERSONNEL.—In addition  
6 to the positions authorized under section 5203 of the  
7 Intelligence Reform and Terrorism Prevention Act  
8 of 2004, for each of fiscal years 2006 through 2010,  
9 the Secretary of Homeland Security shall, subject to  
10 the availability of appropriations for such purpose,  
11 increase by not less than 200 the number of posi-  
12 tions for investigative personnel within the Depart-  
13 ment of Homeland Security investigating alien  
14 smuggling and immigration status violations above  
15 the number of such positions for which funds were  
16 made available during the preceding fiscal year.

17 (2) TRIAL ATTORNEYS.—In each of fiscal years  
18 2006 through 2010, the Secretary of Homeland Se-  
19 curity shall, subject to the availability of appropria-  
20 tions for such purpose, increase the number of posi-  
21 tions for attorneys in the Office of General Counsel  
22 of the Department of Homeland Security who rep-  
23 resent the Department in immigration matters by  
24 not less than 100 above the number of such posi-

1 tions for which funds were made available during  
2 each preceding fiscal year.

3 (3) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the De-  
5 partment of Homeland Security for each of fiscal  
6 years 2006 through 2010 such sums as may be nec-  
7 essary to carry out this subsection.

8 (b) DEPARTMENT OF JUSTICE.—

9 (1) ASSISTANT ATTORNEY GENERAL FOR IMMI-  
10 GRATION ENFORCEMENT.—

11 (A) ESTABLISHMENT.—There is estab-  
12 lished within the Department of Justice the po-  
13 sition of Assistant Attorney General for Immi-  
14 gration Enforcement, which shall coordinate  
15 and prioritize immigration litigation and en-  
16 forcement in the Federal courts, including—

- 17 (i) removal and deportation;  
18 (ii) employer sanctions; and  
19 (iii) alien smuggling and human traf-  
20 ficking.

21 (B) CONFORMING AMENDMENT.—Section  
22 506 of title 28, United States Code, is amended  
23 by striking “ten” and inserting “11”.

24 (2) LITIGATION ATTORNEYS.—In each of fiscal  
25 years 2006 through 2010, the Attorney General

1 shall, subject to the availability of appropriations for  
2 such purpose, increase by not less than 50 the num-  
3 ber of positions for attorneys in the Office of Immi-  
4 gration Litigation of the Department of Justice.

5 (3) UNITED STATES ATTORNEYS.—In each of  
6 fiscal years 2006 through 2010, the Attorney Gen-  
7 eral shall, subject to the availability of appropria-  
8 tions for such purpose, increase by not less than 50  
9 the number of attorneys in the United States Attor-  
10 neys' office to litigate immigration cases in the Fed-  
11 eral courts.

12 (4) IMMIGRATION JUDGES.—In each of fiscal  
13 years 2006 through 2010, the Attorney General  
14 shall, subject to the availability of appropriations for  
15 such purpose, increase by not less than 50 the num-  
16 ber of immigration judges.

17 (5) AUTHORIZATION OF APPROPRIATIONS.—  
18 There are authorized to be appropriated to the De-  
19 partment of Justice for each of fiscal years 2006  
20 through 2010 such sums as may be necessary to  
21 carry out this subsection, including the hiring of  
22 necessary support staff.

1 **SEC. 120. COMPLETION OF BACKGROUND AND SECURITY**  
2 **CHECKS.**

3 Section 103 of the Immigration and Nationality Act  
4 (8 U.S.C. 1103) is amended by adding at the end the fol-  
5 lowing:

6 “(i) Notwithstanding any other provision of law, the  
7 Secretary of Homeland Security, the Attorney General, or  
8 any court may not—

9 “(1) grant or order the grant of adjustment of  
10 status to that of an alien lawfully admitted for per-  
11 manent residence;

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

15 “(3) issue any documentation evidencing or re-  
16 lated to such grant by the Attorney General, the  
17 Secretary, or any court,

18 until such background and security checks as the Sec-  
19 retary may in his discretion require have been completed  
20 to the satisfaction of the Secretary.”.

21 **SEC. 121. DENIAL OF BENEFITS TO TERRORISTS AND**  
22 **CRIMINALS.**

23 Chapter 4 of title III of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1501 et seq.) is amended by adding  
25 at the end the following:

1 “CONSTRUCTION

2 “SEC. 362. (a) Nothing in this Act or any other pro-  
3 vision of law shall be construed to require the Secretary  
4 of Homeland Security, the Attorney General, the Sec-  
5 retary of State, the Secretary of Labor, or any other au-  
6 thorized head of any agency to grant any application, ap-  
7 prove any petition, or grant or continue any status or ben-  
8 efit under the immigration laws by, to, or on behalf of—

9 “(1) any alien described in subparagraphs  
10 (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or  
11 subparagraphs (A)(i), (A)(iii), or (B) of section  
12 237(a)(4);

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

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

20 “(b) An official described in subsection (a) may deny  
21 or withhold (with respect to an alien described in sub-  
22 section (a)(1)) or withhold pending resolution of the inves-  
23 tigation, case, or law enforcement checks (with respect to  
24 an alien described in paragraph (2) or (3) of subsection

1 (a) any such application, petition, status or benefit on  
2 such basis.”.

3 **SEC. 122. REINSTATEMENT OF PREVIOUS REMOVAL OR-**  
4 **DERS.**

5 (a) IN GENERAL.—Section 241(a)(5) of the Immi-  
6 gration and Nationality Act (8 U.S.C. 1231(a)(5)) is  
7 amended to read as follows:

8 “(5) REINSTATEMENT OF PREVIOUS REMOVAL  
9 ORDERS.—

10 “(A) REMOVAL.—The Secretary of Home-  
11 land Security shall remove an alien who is an  
12 applicant for admission (other than an admis-  
13 sible alien presenting himself or herself for in-  
14 spection at a port of entry or an alien paroled  
15 into the United States under section  
16 212(d)(5)), after having been, on or after Sep-  
17 tember 30, 1996, excluded, deported, or re-  
18 moved, or having departed voluntarily under an  
19 order of exclusion, deportation, or removal.

20 “(B) JUDICIAL REVIEW.—The removal de-  
21 scribed in subparagraph (A) shall not require  
22 any proceeding before an immigration judge,  
23 and shall be under the prior order of exclusion,  
24 deportation, or removal, which is not subject to  
25 reopening or review. The alien is not eligible

1           and may not apply for or receive any immigra-  
2           tion relief or benefit under this Act or any other  
3           law, with the exception of sections 208 or  
4           241(b)(3) or the United Nations Convention  
5           Against Torture and Other Cruel, Inhuman, or  
6           Degrading Treatment or Punishment in the  
7           case of an alien who indicates either an inten-  
8           tion to apply for asylum under section 208 or  
9           a fear of persecution or torture.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11         subsection (a)(1) shall take effect as if enacted on March  
12         1, 2003.

13         **SEC. 123. AUTOMATED ALIEN RECORDS.**

14          (a) IN GENERAL.—Not later than 5 years after the  
15         date of enactment of this Act, the Secretary of Homeland  
16         Security shall automate the storage of alien records in an  
17         electronic format that is interoperable with the alien  
18         record keeping systems of the Department of Justice and  
19         accessible by other Federal agencies for the purposes of  
20         administering the immigration laws of the United States.

21          (b) EXISTING RECORDS.—The Secretary of Home-  
22         land Security shall automate all alien records that were  
23         created during the 5-year period ending on the date of  
24         enactment of this Act.

1           (c) OVERSIGHT.—The Chief Information Officer of  
2 the Department of Homeland Security shall be responsible  
3 for oversight and management of automating the storage  
4 of alien records in an electronic format.

5           (d) OFFICIAL RECORD.—The automated alien record  
6 created under this section shall constitute the official  
7 record for purposes of the National Archives and Records  
8 Administration.

9           (e) REPORTS.—The Secretary of Homeland Security  
10 shall report to the appropriate committees in Congress in  
11 2008 and 2010 on the progress made in automating alien  
12 records under this section.

13           (f) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated \$10,000,000 for each  
15 of the fiscal years 2006 through 2010 to carry out this  
16 section.

17 **SEC. 124. ANNUAL REPORT ON INTERIOR ENFORCEMENT.**

18           The Secretary of Homeland Security shall submit to  
19 Congress, by not later than January 15 of each year (be-  
20 ginning with 2006) on the progress of enforcing immigra-  
21 tion laws in the interior of the United States.

1     **TITLE II—IMPROVED BORDER**  
2                     **SECURITY**

3     **SEC. 201. ASSIGNMENT OF MEMBERS OF THE ARMED**  
4                     **FORCES TO ASSIST BUREAU OF BORDER SE-**  
5                     **CURITY AND BUREAU OF CITIZENSHIP AND**  
6                     **IMMIGRATION SERVICES OF THE DEPART-**  
7                     **MENT OF HOMELAND SECURITY.**

8             (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-  
9     FENSE.—Chapter 18 of title 10, United States Code, is  
10  amended by inserting after section 374 the following new  
11  section:

12  “**§ 374a. Assignment of members to assist border pa-**  
13                     **trol and control**

14             “(a) ASSIGNMENT AUTHORIZED.—Upon submission  
15  of a request consistent with subsection (b), the Secretary  
16  of Defense may assign members of the Army, Navy, Air  
17  Force, and Marine Corps to assist—

18                     “(1) the Bureau of Border Security of the De-  
19             partment of Homeland Security in preventing the  
20             entry of terrorists, drug traffickers, and illegal aliens  
21             into the United States; and

22                     “(2) the United States Customs Service of the  
23             Department of Homeland Security in the inspection  
24             of cargo, vehicles, and aircraft at points of entry  
25             into the United States to prevent the entry of weap-

1       ons of mass destruction, components of weapons of  
2       mass destruction, prohibited narcotics or drugs, or  
3       other terrorist or drug trafficking items.

4       “(b) REQUEST FOR ASSIGNMENT.—The assignment  
5 of members under subsection (a) may occur only if—

6             “(1) the assignment is at the request of the  
7       Secretary of Homeland Security; and

8             “(2) the request is accompanied by a certifi-  
9       cation by the Secretary of Homeland Security that  
10       the assignment of members pursuant to the request  
11       is necessary to respond to a threat to national secu-  
12       rity posed by the entry into the United States of ter-  
13       rorists, drug traffickers, or illegal aliens.

14       “(c) TRAINING PROGRAM REQUIRED.—The Sec-  
15       retary of Homeland Security and the Secretary of De-  
16       fense, shall establish a training program to ensure that  
17       members receive general instruction regarding issues af-  
18       fecting law enforcement in the border areas in which the  
19       members may perform duties under an assignment under  
20       subsection (a). A member may not be deployed at a border  
21       location pursuant to an assignment under subsection (a)  
22       until the member has successfully completed the training  
23       program.

24       “(d) CONDITIONS OF USE.—(1) Whenever a member  
25       who is assigned under subsection (a) to assist the Bureau

1 of Border Security or the United States Customs Service  
2 is performing duties at a border location pursuant to the  
3 assignment, a civilian law enforcement officer from the  
4 agency concerned shall accompany the member.

5 “(2) Nothing in this section shall be construed to—

6 “(A) authorize a member assigned under sub-  
7 section (a) to conduct a search, seizure, or other  
8 similar law enforcement activity or to make an ar-  
9 rest; and

10 “(B) supersede section 1385 of title 18 (popu-  
11 larly known as the ‘Posse Comitatus Act’).

12 “(e) ESTABLISHMENT OF ONGOING JOINT TASK  
13 FORCES.—(1) The Secretary of Homeland Security may  
14 establish ongoing joint task forces if the Secretary of  
15 Homeland Security determines that the joint task force,  
16 and the assignment of members to the joint task force,  
17 is necessary to respond to a threat to national security  
18 posed by the entry into the United States of terrorists,  
19 drug traffickers, or illegal aliens.

20 “(2) If established, the joint task force shall fully  
21 comply with the standards as set forth in this section.

22 “(f) NOTIFICATION REQUIREMENTS.—The Secretary  
23 of Homeland Security shall provide to the Governor of the  
24 State in which members are to be deployed pursuant to  
25 an assignment under subsection (a) and to local govern-

1 ments in the deployment area notification of the deploy-  
2 ment of the members to assist the Department of Home-  
3 land Security under this section and the types of tasks  
4 to be performed by the members.

5 “(g) REIMBURSEMENT REQUIREMENT.—Section 377  
6 of this title shall apply in the case of members assigned  
7 under subsection (a).

8 “(h) TERMINATION OF AUTHORITY.—No assignment  
9 may be made or continued under subsection (a) after Sep-  
10 tember 30, 2007.”.

11 (b) COMMENCEMENT OF TRAINING PROGRAM.—The  
12 training program required by subsection (b) of section  
13 374a of title 10, United States Code, shall be established  
14 as soon as practicable after the date of the enactment of  
15 this title.

16 (c) CLERICAL AMENDMENT.—The table of sections  
17 at the beginning of such chapter is amended by inserting  
18 after the item relating to section 374 the following new  
19 item:

“374a. Assignment of members to assist border patrol and control.”.

20 **SEC. 202. NECESSARY ASSETS FOR CONTROLLING UNITED**  
21 **STATES BORDERS.**

22 (a) PERSONNEL.—

23 (1) CUSTOMS AND BORDER PROTECTION OFFI-  
24 CERS.—In each of the fiscal years 2006 through  
25 2010, the Secretary of Homeland Security shall in-

1       crease by not less than 250 the number of positions  
2       for full-time active duty Customs and Border Pro-  
3       tection officers.

4               (2) AUTHORIZATION OF APPROPRIATIONS.—

5                       (A) CUSTOMS AND BORDER PROTECTION  
6                       OFFICERS.—There are authorized to be appro-  
7                       priated such sums as may be necessary for each  
8                       of fiscal years 2006 through 2010 to carry out  
9                       paragraph (1).

10                      (B) BORDER PATROL AGENTS.—There are  
11                      authorized to be appropriated such sums as  
12                      may be necessary for each of fiscal years 2006  
13                      through 2010 to carry out section 5202 of the  
14                      Intelligence Reform and Terrorism Prevention  
15                      Act of 2004 (118 Stat. 3734).

16                      (C) TRANSPORTATION OF ALIENS.—There  
17                      are authorized to be appropriated \$25,000,000  
18                      for each of fiscal years 2006 through 2010 for  
19                      the transportation of aliens.

20               (b) TECHNOLOGICAL ASSETS.—

21                      (1) ACQUISITION.—The Secretary of Homeland  
22                      Security shall procure unmanned aerial vehicles,  
23                      cameras, poles, sensors, radar, and other tech-  
24                      nologies necessary to achieve operational control of  
25                      the borders of the United States.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated  
3 \$500,000,000 for each of fiscal years 2006 through  
4 2010 to carry out paragraph (1).

5 (c) INFRASTRUCTURE.—

6 (1) CONSTRUCTION OF BORDER CONTROL FA-  
7 CILITIES.—The Secretary of Homeland Security  
8 shall construct all-weather roads and shall acquire  
9 vehicle barriers and necessary facilities to support  
10 its mission of achieving operational control of the  
11 borders of the United States.

12 (2) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated  
14 \$500,000,000 for each of fiscal years 2006 through  
15 2010 to carry out paragraph (1).

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

20 **SEC. 203. EXPEDITED REMOVAL BETWEEN PORTS OF**  
21 **ENTRY.**

22 (a) IN GENERAL.—Section 235 of the Immigration  
23 and Nationality Act (8 U.S.C. 1225) is amended—

24 (1) in subsection (b)(1)(A)(i), by striking “the  
25 officer” the inserting “a supervisory officer” and

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

3           “(4) EXPANSION.—The Secretary of Homeland  
4 Security shall make the expedited removal proce-  
5 dures under this subsection available in all border  
6 patrol sectors on the southern border of the United  
7 States as soon as operationally possible.

8           “(5) TRAINING.—The Secretary of Homeland  
9 Security shall provide employees of the Department  
10 of Homeland Security with comprehensive training  
11 of the procedures authorized under this subsection.”.

12           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated \$10,000,000 for each  
14 of fiscal years 2006 through 2010 to carry out the amend-  
15 ments made by this section.

16 **SEC. 204. DOCUMENT FRAUD DETECTION.**

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

23           (b) FORENSIC DOCUMENT LABORATORY.—The Sec-  
24 retary of Homeland Security shall provide all customs and

1 border protection officers with access to the Forensic Doc-  
2 ument Laboratory.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated \$5,000,000 for each of  
5 fiscal years 2006 through 2010 to carry out this section.

6 **SEC. 205. REDUCING ILLEGAL IMMIGRATION AND ALIEN**  
7 **SMUGGLING ON TRIBAL LANDS.**

8 (a) GRANTS AUTHORIZED.—The Secretary of Home-  
9 land Security may award grants to Indian tribes with  
10 lands adjacent to an international border of the United  
11 States that have been adversely affected by illegal immi-  
12 gration.

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 enactment of this Act, the Secretary of Homeland Secu-  
21 rity shall submit a report to the Committee on the Judici-  
22 ary of the Senate and the Committee on the Judiciary of  
23 the House of Representatives 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 of Homeland Security for Indian tribes, either  
8 directly or through State or local grants, relating to  
9 border security expenses.

10       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated \$10,000,000 for each  
12 of fiscal years 2006 through 2010 to carry out this sec-  
13 tion.

## 14       **TITLE III—SOCIAL SECURITY** 15       **FOR WORKING AMERICANS**

16       **SEC. 301. LETTERS TO EMPLOYERS BY THE COMMISSIONER**  
17               **OF SOCIAL SECURITY FOR PURPOSES OF RE-**  
18               **SOLVING DISCREPANCIES IN WAGE RECORDS**  
19               **AND NOTIFICATION OF THE SECRETARY OF**  
20               **HOMELAND SECURITY REGARDING SUCH**  
21               **LETTERS.**

22       (a) IN GENERAL.—Section 205(c)(2) of the Social  
23 Security Act (42 U.S.C. 405(c)(2)) is amended by adding  
24 at the end the following new subparagraph:

1       “(I)(i) In any case in which the Commissioner deter-  
2 mines that the social security account numbers in the  
3 wage records provided to the Social Security Administra-  
4 tion by an employer with respect to 10 or more employees  
5 do not match relevant records otherwise maintained by the  
6 Social Security Administration, the Commissioner shall  
7 promptly send to the employer a written notice—

8               “(I) informing the employer of the discrep-  
9 ancies,

10              “(II) requesting such information as may be in  
11 the possession of the employer as would assist the  
12 Commissioner in resolving the discrepancies, and

13              “(III) informing the employer that a copy of  
14 such notice is being provided to the Secretary of  
15 Homeland Security to assist such Secretary in the  
16 enforcement of applicable Federal immigration laws  
17 relating to employment of individuals who are not  
18 authorized to work in the United States.

19       “(ii) In any case in which the Commissioner sends  
20 a notice described in clause (i) with respect to employees  
21 of an employer, the Commissioner shall simultaneously  
22 transmit a copy of such notice to the Secretary of Home-  
23 land Security, including a listing of the names, addresses,  
24 and social security account numbers of such employees,  
25 according to the wage records described in clause (i), and

1 any nonmatching information with respect to the names,  
 2 addresses, or social security account numbers of such em-  
 3 ployees in the relevant records otherwise maintained by  
 4 the Social Security Administration.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall apply with respect to determinations  
 7 by the Commissioner of Social Security (that relevant  
 8 records maintained by the Commissioner do not match so-  
 9 cial security account numbers provided to the Commis-  
 10 sioner by employers) made on or after the date of the en-  
 11 actment of this Act.

12 **SEC. 302. TIGHTENING REQUIREMENTS FOR THE PROVI-**  
 13 **SION OF SOCIAL SECURITY NUMBERS ON**  
 14 **WITHHOLDING EXEMPTION CERTIFICATES.**

15 (a) IN GENERAL.—Section 6724 of the Internal Rev-  
 16 enue Code of 1986 (relating to waiver; definitions and spe-  
 17 cial rules) is amended by adding at the end the following  
 18 new subsection:

19 “(f) SPECIAL RULES WITH RESPECT TO SOCIAL SE-  
 20 CURITY NUMBERS ON WITHHOLDING EXEMPTION CER-  
 21 TIFICATES.—

22 “(1) AUTOMATIC WAIVER OF PENALTY IF SO-  
 23 CIAL SECURITY NUMBER VERIFIED.—No penalty  
 24 shall be imposed under this part with respect to the  
 25 social security account number of an employee fur-

1 nished under section 6051(a)(2) if the employer  
2 verifies the employee’s identity pursuant to section  
3 205(c)(2) of the Social Security Act.

4 “(2) REASONABLE CAUSE WAIVER NOT TO  
5 APPLY.—

6 “(A) IN GENERAL.—Subsection (a) shall  
7 not apply with respect to the social security ac-  
8 count number of an employee furnished under  
9 section 6051(a)(2).

10 “(B) EXCEPTION.—Subparagraph (A)  
11 shall not apply in any case in which the em-  
12 ployer—

13 “(i) receives confirmation of an indi-  
14 vidual’s identity pursuant to section  
15 205(c)(2) of the Social Security Act, or

16 “(ii) corrects a clerical error made by  
17 the employer with respect to the social se-  
18 curity account number of an employee  
19 within 60 days after notification under sec-  
20 tion 205(c)(2)(I) of the Social Security Act  
21 that the social security account number  
22 contained in wage records provided to the  
23 Social Security Administration by the em-  
24 ployer with respect to the employee does  
25 not match the social security account num-

1                   ber of the employee contained in relevant  
2                   records otherwise maintained by the Social  
3                   Security Administration.”.

4           (b) INCREASE IN PENALTY ON EMPLOYER PRO-  
5 VIDING FALSE EMPLOYEE SOCIAL SECURITY ACCOUNT  
6 NUMBER.—Section 6721 of such Code (relating to imposi-  
7 tion of penalty) is amended by adding at the end the fol-  
8 lowing new subsection:

9           “(f) INCREASED PENALTIES FOR FAILURE TO FUR-  
10 NISH CORRECT SOCIAL SECURITY ACCOUNT NUMBER.—  
11 In the case of a failure to furnish the correct social secu-  
12 rity account number under section 6051(a)(2)—

13                   “(1) subsection (a)(1) shall be applied by sub-  
14                   stituting ‘\$500’ for ‘\$50’ and ‘\$2,500,000’ for  
15                   ‘\$250,000’,

16                   “(2) subsection (b) shall not apply,

17                   “(3) subsection (c) shall not apply,

18                   “(4) subsection (d)(1)(A) shall be applied by  
19                   substituting ‘\$500,000’ for ‘\$250,000’, and

20                   “(5) subsection (e) shall be applied by sub-  
21                   stituting ‘\$1,000’ for ‘\$100’ in paragraph (2), and  
22                   ‘\$2,500,000’ for ‘\$250,000’ in paragraph (3)(A).”.

23           (c) EFFECTIVE DATES.—

1           (1) SUBSECTION (a).—The amendment made  
2           by subsection (a) shall apply to statements furnished  
3           after December 31, 2005.

4           (2) SUBSECTION (b).—The amendment made  
5           by subsection (b) shall apply to failures occurring  
6           after December 31, 2005.

7 **SEC. 303. ANNUAL REPORTS TO THE CONGRESS REGARD-**  
8 **ING LARGE EMPLOYERS WITH THE LARGEST**  
9 **NUMBERS OF EMPLOYEES WITH NON-MATCH-**  
10 **ING SOCIAL SECURITY ACCOUNT NUMBERS.**

11       Section 205(c)(2) of the Social Security Act (as  
12 amended by section 301 of this title) is amended further  
13 by adding at the end the following new subparagraph:

14       “(J)(i) Not later than January 31 of 2006 and of  
15 each subsequent calendar year, the Commissioner of So-  
16 cial Security, in consultation with the Secretary of the  
17 Treasury, shall—

18           “(I) determine the 500 large employers who,  
19           during the preceding calendar year, employed the  
20           largest number of employees whose social security  
21           account numbers, as furnished under section  
22           6051(a)(2) of the Internal Revenue Code of 1986,  
23           did not match relevant records otherwise maintained  
24           by the Commissioner or such Secretary as of the end  
25           of such calendar year,

1           “(II) determine the 250 large employers with  
2           the highest percentages, expressed as a percentage  
3           of each employer’s workforce as of the end of such  
4           preceding calendar year, of employees described in  
5           subclause (I), and

6           “(III) report to the Committee on Ways and  
7           Means of the House of Representatives and the  
8           Committee on Finance of the Senate the identities  
9           and addresses of the employers described in sub-  
10          clause (I) and the identities and addresses of the  
11          employers described in subclause (II) in connection  
12          with such preceding calendar year.

13          “(ii) For purposes of this subparagraph—

14                 “(I) The term ‘large employer’ means, in con-  
15                 nection with any calendar year, an employer who  
16                 normally employed more than 100 employees on a  
17                 typical business day during the calendar year.

18                 “(II) In the case of an employer which was not  
19                 in existence throughout the calendar year, the deter-  
20                 mination of whether such employer is a large em-  
21                 ployer shall be based on the number of employees  
22                 that it is reasonably expected such employer will  
23                 normally employ on business days in the subsequent  
24                 calendar year.

1           “(III) The Commissioner, in consultation with  
2           the Secretary of the Treasury, may prescribe regula-  
3           tions which provide for references in this clause to  
4           an employer to be treated as including references to  
5           predecessors of such employer.”.

6 **SEC. 304. EXCLUSION OF UNAUTHORIZED WORK FROM**  
7                                   **WORK UPON WHICH CREDITABLE EARNINGS**  
8                                   **MAY BE BASED.**

9           (a) EXCLUSION OF UNAUTHORIZED EMPLOYMENT  
10 FROM EMPLOYMENT UPON WHICH CREDITABLE WAGES  
11 MAY BE BASED.—Section 210(a)(19) of the Social Secu-  
12 rity Act (42 U.S.C. 410(a)(19)) is amended—

13           (1) by striking “(19) Service” and inserting the  
14           following:

15           “(19)(A) Service performed by an alien while  
16           employed in the United States for any period during  
17           which the alien is not authorized to be so employed.

18           “(B) Service”.

19           (b) EXCLUSION OF UNAUTHORIZED FUNCTIONS AND  
20 SERVICES FROM TRADE OR BUSINESS FROM WHICH  
21 CREDITABLE SELF-EMPLOYMENT INCOME MAY BE DE-  
22 RIVED.—Section 211(c) of the Social Security Act (42  
23 U.S.C. 411(c)) is amended by inserting after paragraph  
24 (6) the following new paragraph:

1           “(7) The performance of a function or service  
2           in the United States by an alien during any period  
3           for which the alien is not authorized to perform such  
4           function or service in the United States.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply with respect to wages earned, and  
7           self-employment income derived, before, on, or after the  
8           date of the enactment of this Act, except that such amend-  
9           ments shall not apply with respect to monthly insurance  
10          benefits under title II of the Social Security Act of individ-  
11          uals who became eligible for such benefits for a month  
12          beginning before the date of the enactment of this Act.  
13          For purposes of this subsection, an individual shall be  
14          deemed eligible for a benefit for a month if, upon filing  
15          application therefor in such month, such individual would  
16          be entitled to such benefit for such month.

17       **TITLE IV—WORK AUTHORIZA-**  
18       **TION AND ENFORCEMENT**

19       **SEC. 401. REQUIREMENT FOR EMPLOYERS TO CONDUCT**  
20       **EMPLOYMENT ELIGIBILITY VERIFICATION.**

21           (a) RENAMING OF BASIC PILOT PROGRAM.—The  
22          basic pilot program established under section 403(a) of  
23          the Illegal Immigration Reform and Immigrant Responsi-  
24          bility Act of 1996 (division C of Public Law 104–208; 8  
25          U.S.C. 1324a note) is hereby renamed as the “Employ-

1 ment Eligibility Verification System” (and is referred to  
2 in this section as such).

3 (b) EXTENSION OF SCOPE OF PROGRAM.—The Sec-  
4 retary of Homeland Security shall provide for the imple-  
5 mentation of the Employment Eligibility Verification Sys-  
6 tem throughout the United States on a timely basis, con-  
7 sistent with the implementation of subsection (c) and such  
8 System shall continue in operation until the implementa-  
9 tion of the employment eligibility verification system es-  
10 tablished under the succeeding provisions of this title.

11 (c) REQUIREMENT FOR USE OF EMPLOYMENT ELIGI-  
12 BILITY VERIFICATION.—

13 (1) IN GENERAL.—Subject to paragraph (3),  
14 any person or other entity that hires any individual  
15 for employment in the United States, including the  
16 Federal Government and any contractors of the Fed-  
17 eral Government, shall participate in the Employ-  
18 ment Eligibility Verification System.

19 (2) SANCTIONS FOR NONCOMPLIANCE; CON-  
20 TINUATION OF CURRENT COMPLIANCE AUTHOR-  
21 ITY.—The provisions of paragraph (2) of section  
22 402(e) of the Illegal Immigration Reform and Immig-  
23 rant Responsibility Act of 1996 (division C of Pub-  
24 lic Law 104–208; 8 U.S.C. 1324a note) shall apply  
25 with respect to a person or entity required to partici-

1       pate in the Employment Eligibility Verification Sys-  
2       tem in the same manner as such paragraph applies  
3       to a person or entity required to participate under  
4       such subsection.

5           (3) EFFECTIVE DATE.—The requirement of  
6       paragraph (1) applies to individuals hired on or  
7       after the date that is 30 days after the date of the  
8       enactment of this Act.

9           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
10      are authorized to be appropriated such sums as may be  
11      required to carry out the Employment Eligibility  
12      Verification System throughout the United States.

13      **SEC. 402. AMENDMENTS TO THE SOCIAL SECURITY ACT RE-**  
14                           **LATING TO IDENTIFICATION OF INDIVID-**  
15                           **UALS.**

16           (a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY  
17      CARDS.—Section 205(c)(2)(G) of the Social Security Act  
18      (42 U.S.C. 405(c)(2)(G)) is amended—

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

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

22           (3) by adding at the end the following new  
23      clauses:

24      “(ii) Each Social Security card issued under this sub-  
25      paragraph shall include an encrypted machine-readable

1 electronic identification strip which shall be unique to the  
2 individual to whom the card is issued. The Commissioner  
3 shall develop such electronic identification strip in con-  
4 sultation with the Secretary of Homeland Security, so as  
5 to enable employers to use such strip in accordance with  
6 section 274A(a)(1)(B) of the Immigration and Nationality  
7 Act (8 U.S.C. 1324a(a)(1)(B)) to obtain access to the Em-  
8 ployment Eligibility Database established by such Sec-  
9 retary pursuant to section 4 of such Act with respect to  
10 the individual to whom the card is issued.

11 “(iii) Each Social Security card issued under this  
12 subparagraph shall contain—

13 “(I) physical security features designed to pre-  
14 vent tampering, counterfeiting, or duplication of the  
15 card for fraudulent purposes; and

16 “(II) a disclaimer stating the following: ‘This  
17 card shall not be used for the purpose of identifica-  
18 tion.’.

19 “(iv) The Commissioner shall provide for the issuance  
20 (or reissuance) to each individual who—

21 “(I) has been assigned a Social Security ac-  
22 count number under subparagraph (B),

23 “(II) has attained the minimum age applicable,  
24 in the jurisdiction in which such individual engages

1 in employment, for legally engaging in such employ-  
2 ment, and

3 “(III) files application for such card under this  
4 clause in such form and manner as shall be pre-  
5 scribed by the Commissioner,

6 a Social Security card which meets the preceding require-  
7 ments of this subparagraph and which includes a recent  
8 digitized photograph of the individual to whom the card  
9 is issued.

10 “(v) The Commissioner shall maintain an ongoing ef-  
11 fort to develop measures in relation to the Social Security  
12 card and the issuance thereof to preclude fraudulent use  
13 thereof.”

14 (b) SHARING OF INFORMATION WITH THE SEC-  
15 RETARY OF HOMELAND SECURITY.—Section 205(c)(2) of  
16 such Act is amended by adding at the end the following  
17 new subparagraph:

18 “(I) Upon the issuance of a Social Security account  
19 number under subparagraph (B) to any individual or the  
20 issuance of a Social Security card under subparagraph (G)  
21 to any individual, the Commissioner of Social Security  
22 shall transmit to the Secretary of Homeland Security such  
23 information received by the Commissioner in the individ-  
24 ual’s application for such number or such card as such  
25 Secretary determines necessary and appropriate for ad-

1 ministration of the Enforcement First Immigration Re-  
2 form Act of 2005. Such information shall be used solely  
3 for inclusion in the Employment Eligibility Database es-  
4 tablished pursuant to section 4 of such Act.”.

5 (c) EFFECTIVE DATES.—The amendment made by  
6 subsection (a) shall apply with respect to Social Security  
7 cards issued after 2 years after the date of the enactment  
8 of this title. The amendment made by subsection (b) shall  
9 apply with respect to the issuance of Social Security ac-  
10 count numbers and Social Security cards after 2 years  
11 after the date of the enactment of this title.

12 **SEC. 403. EMPLOYMENT ELIGIBILITY DATABASE.**

13 (a) IN GENERAL.—The Secretary of Homeland Secu-  
14 rity shall establish and maintain an Employment Eligi-  
15 bility Database. The Database shall include data com-  
16 prised of the citizenship status of individuals and the work  
17 and residency eligibility information (including expiration  
18 dates) with respect to individuals who are not citizens or  
19 nationals of the United States but are authorized to work  
20 in the United States. Such data shall include all such data  
21 maintained by the Department of Homeland Security as  
22 of the date of the establishment of such database and in-  
23 formation obtained from the Commissioner of Social Secu-  
24 rity pursuant to section 205(c)(2)(I) of the Social Security  
25 Act. The Secretary shall maintain ongoing consultations

1 with the Commissioner to ensure efficient and effective op-  
2 eration of the Database.

3 (b) INCORPORATION OF ONGOING PILOT PRO-  
4 GRAMS.—To the extent that the Secretary determines ap-  
5 propriate in furthering the purposes of subsection (a), the  
6 Secretary may incorporate the information, processes, and  
7 procedures employed in connection with the Citizen Attes-  
8 tation Verification Pilot Program and the Employment  
9 Eligibility Verification Program into the operation and  
10 maintenance of the Database under subsection (a).

11 (c) CONFIDENTIALITY.—

12 (1) IN GENERAL.—No officer or employee of  
13 the Department of Homeland Security shall have ac-  
14 cess to any information contained in the Database  
15 for any purpose other than—

16 (A) the establishment of a system of  
17 records necessary for the effective administra-  
18 tion of this title; or

19 (B) any other purpose the Secretary of  
20 Homeland Security deems to be in the national  
21 security interests of the United States.

22 (2) RESTRICTION.—The Secretary shall restrict  
23 access to such information to officers and employees  
24 of the United States whose duties or responsibilities

1 require access for the purposes described in para-  
2 graph (1).

3 (3) OTHER SAFEGUARDS.—The Secretary shall  
4 provide such other safeguards as the Secretary de-  
5 termines to be necessary or appropriate to protect  
6 the confidentiality of information contained in the  
7 Database.

8 (d) DEADLINE FOR MEETING REQUIREMENTS.—The  
9 Secretary shall complete the establishment of the Data-  
10 base and provide for the efficient and effective operation  
11 of the Database in accordance with this section not later  
12 than 2 years after the date of the enactment of this title.

13 **SEC. 404. REQUIREMENTS RELATING TO INDIVIDUALS**  
14 **COMMENCING WORK IN THE UNITED STATES.**

15 (a) REQUIREMENTS FOR EMPLOYERS AND EMPLOY-  
16 EES.—Section 274A(a)(1) of the Immigration and Nation-  
17 ality Act (8 U.S.C. 1324a(a)(1)) is amended to read as  
18 follows:

19 “(1) IN GENERAL.—

20 “(A) REQUIREMENTS FOR EMPLOYEES.—

21 No individual may commence employment with  
22 an employer in the United States unless such  
23 individual has—

24 “(i) obtained a Social Security card  
25 issued by the Commissioner of Social Secu-

1 rity meeting the requirements of section  
2 205(c)(2)(G)(iii) of the Social Security  
3 Act; and

4 “(ii) displayed such card to the em-  
5 ployer pursuant to the employer’s request  
6 for purposes of the verification required  
7 under subparagraph (B).

8 “(B) REQUIREMENTS FOR EMPLOYERS.—

9 “(i) IN GENERAL.—No employer may  
10 hire for employment an individual in the  
11 United States in any capacity unless such  
12 employer verifies under this subparagraph  
13 that such individual has in his or her pos-  
14 session a Social Security card issued to  
15 such individual pursuant to section  
16 205(c)(2)(G) of the Social Security Act  
17 which bears a photograph of such indi-  
18 vidual and that such individual is author-  
19 ized to work in the United States in such  
20 capacity. Such verification shall be made in  
21 accordance with procedures prescribed by  
22 the Secretary of Homeland Security for the  
23 purposes of ensuring against fraudulent  
24 use of the card and accurate and prompt  
25 verification of the authorization of such in-

1           dividual to work in the United States in  
2           such capacity.

3           “(ii) VERIFICATION PROCEDURES.—

4           Such procedures shall include use of—

5                     “(I) a phone verification system  
6                     which shall be established by the Sec-  
7                     retary; or

8                     “(II) a card-reader verification  
9                     system employing a device approved  
10                    by the Secretary as capable of reading  
11                    the electronic identification strip  
12                    borne by the card so as to verify the  
13                    identity of the card holder and the  
14                    card holder’s authorization to work,  
15                    and which is made available at mini-  
16                    mal cost to the employer.

17                    “(iii) SECURITY AND EFFECTIVE-  
18                    NESS.—The Secretary shall ensure that  
19                    the phone verification system described in  
20                    subparagraph (I) of clause (ii) is as secure  
21                    and effective as the card-reader verification  
22                    system described in subparagraph (II) of  
23                    such clause.

24                    “(iv) ACCESS TO DATABASE.—The  
25                    Secretary shall ensure that, by means of

1 such procedures, the employer will have  
2 such access to the Employment Eligibility  
3 Database established and operated by the  
4 Secretary pursuant to section 4 of the En-  
5 forcement First Immigration Reform Act  
6 of 2005 as to enable the employer to ob-  
7 tain information, relating to the citizen-  
8 ship, residency, and work eligibility of the  
9 individual seeking employment by the em-  
10 ployer in any capacity, which is necessary  
11 to inform the employer as to whether the  
12 individual is authorized to work for the  
13 employer in the United States in such ca-  
14 pacity.

15 “(v) DEFENSE.—An employer who es-  
16 tablishes that the employer complied in  
17 good faith with the requirements of this  
18 subparagraph shall not be liable for hiring  
19 an unauthorized alien, if—

20 “(I) such hiring occurred due to  
21 an error in the phone verification sys-  
22 tem, the card-reader verification sys-  
23 tem, or the Employment Eligibility  
24 Database which was unknown to the

1 employer at the time of such hiring;

2 and

3 “(II) the employer terminates

4 that employment of the alien upon

5 being informed of the error.”.

6 (b) CONFORMING AMENDMENTS.—Section 274A of  
7 the Immigration and Nationality Act (8 U.S.C. 1324a) is  
8 amended—

9 (1) in subsection (a), by striking paragraphs  
10 (3), (5), and (6) and redesignating paragraphs (4)  
11 and (7) as paragraphs (3) and (4), respectively;

12 (2) in subsection (b)—

13 (A) by striking “Attorney General” each  
14 place such term appears and inserting “Sec-  
15 retary of Homeland Security”;

16 (B) by amending the matter preceding  
17 paragraph (2) to read as follows:

18 “(b) EMPLOYMENT VERIFICATION FORMS.—

19 “(1) EMPLOYER ATTESTATION OF COMPLI-  
20 ANCE.—The verification procedures prescribed under  
21 subsection (a)(1)(B) shall include an attestation,  
22 made under penalty of perjury and on a form des-  
23 ignated or established by the Secretary of Homeland  
24 Security by regulation, that the employer has com-  
25 plied with such procedures.”; and

1 (C) by striking paragraph (6);  
2 (3) by striking subsection (d); and  
3 (4) by amending subsection (h)(3) to read as  
4 follows:

5 “(3) DEFINITIONS.—For purposed of this sec-  
6 tion:

7 “(A) The term ‘authorized to work in the  
8 United States’, when applied to an individual,  
9 means that the individual is not an unauthor-  
10 ized alien.

11 “(B) The term ‘employer’ means—

12 “(i) any person or entity who hires an  
13 individual; or

14 “(ii) any individual earning self-em-  
15 ployment income (as defined in section  
16 211(b) of the Social Security Act (42  
17 U.S.C. 411(b))).

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

21 “(D) The term ‘hire’ means to hire an in-  
22 dividual, or to recruit or refer for a fee an indi-  
23 vidual, for employment in the United States.

24 “(E) The term ‘unauthorized alien’ means,  
25 with respect to the employment of an alien at

1 a particular time, that the alien is not at that  
2 time—

3 “(i) an alien lawfully admitted for  
4 permanent residence; or

5 “(ii) authorized to be so employed by  
6 this Act or by the Secretary of Homeland  
7 Security.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect 2 years after the date of the  
10 enactment of this title and shall apply to employment of  
11 any individual in any capacity commencing on or after  
12 such effective date.

13 **SEC. 405. COMPLIANCE.**

14 (a) IN GENERAL.—Section 274A(e) of the Immigra-  
15 tion and Nationality Act (8 U.S.C. 1324a(e)) is amended  
16 to read as follows:

17 “(e) COMPLIANCE.—

18 “(1) CIVIL PENALTY.—

19 “(A) IN GENERAL.—The Secretary of  
20 Homeland Security may assess a penalty, pay-  
21 able to the Secretary, against any employer  
22 who—

23 “(i) hires an individual for employ-  
24 ment in the United States in any capacity  
25 who is known by the employer not to be

1 authorized to work in the United States in  
2 such capacity; or

3 “(ii) fails to comply with the proce-  
4 dures prescribed by the Secretary pursuant  
5 to this section in connection with the em-  
6 ployment of any individual.

7 “(B) AMOUNT.—Such penalty shall not ex-  
8 ceed \$50,000 for each occurrence of a violation  
9 described in subparagraph (A) with respect to  
10 the individual, plus, in the event of the removal  
11 of such individual from the United States based  
12 on findings developed in connection with the as-  
13 sessment or collection of such penalty, the costs  
14 incurred by the Federal Government, cooper-  
15 ating State and local governments, and State  
16 and local law enforcement agencies, in connec-  
17 tion with such removal.

18 “(2) ACTIONS BY SECRETARY.—If any person is  
19 assessed under paragraph (1) and fails to pay the  
20 assessment when due, or any person otherwise fails  
21 to meet any requirement of this section, the Sec-  
22 retary may bring a civil action in any district court  
23 of the United States within the jurisdiction of which  
24 such person’s assets are located or in which such  
25 person resides or is found for the recovery of the

1 amount of the assessment or for appropriate equi-  
2 table relief to redress the violation or enforce the  
3 provisions of this section, and process may be served  
4 in any other district. The district courts of the  
5 United States shall have jurisdiction over actions  
6 brought under this section by the Secretary without  
7 regard to the amount in controversy.

8 “(3) CRIMINAL PENALTY.—Any person who—

9 “(A) hires for employment any individual  
10 in the United States in any capacity who such  
11 person knows not to be authorized to work in  
12 the United States in such capacity; or

13 “(B) hires for employment any individual  
14 in the United States and fails to comply with  
15 the procedures prescribed by the Secretary pur-  
16 suant to section 5(b) in connection with the hir-  
17 ing of such individual;

18 shall upon conviction be fined in accordance with  
19 title 18, United States Code, or imprisoned for not  
20 more than 1 year for each such offense (not to ex-  
21 ceed 5 years for all such offenses), or both.”.

22 (b) CONFORMING AMENDMENTS.—Section 274A of  
23 the Immigration and Nationality Act (8 U.S.C. 1324a) is  
24 amended—

1 (1) in subsection (g)(2), by striking “hearing  
2 under subsection (e),” and inserting “hearing,”;

3 (2) by striking subsection (f); and

4 (3) by redesignating subsections (e), (g), and  
5 (h) as subsections (d), (e), and (f), respectively.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall take effect 2 years after the date of the  
8 enactment of this title and shall apply to employment of  
9 any individual in any capacity commencing on or after  
10 such effective date.

11 **SEC. 406. INCREASE IN PERSONNEL ENSURING COMPLI-**  
12 **ANCE WITH PROHIBITIONS ON UNLAWFUL**  
13 **EMPLOYMENT OF ALIENS .**

14 Beginning with first fiscal year that begins after the  
15 date of the enactment of this Act, the Secretary of Home-  
16 land Security shall, subject to the availability of appropria-  
17 tions for such purpose, increase by not less than 10,000  
18 the number of positions within the Department of Home-  
19 land Security for full-time personnel charged with carrying  
20 out section 274A(d) of the Immigration and Nationality  
21 Act (8 U.S.C. 1324a(d)), as amended by section 405 of  
22 this title, above the number of such positions for which  
23 funds were made available for fiscal year 2004.

1 **SEC. 407. INTEGRATION OF FINGERPRINTING DATABASES.**

2       The Secretary of Homeland Security and the Attor-  
3 ney General of the United States shall jointly undertake  
4 to integrate the fingerprint database maintained by the  
5 Department of Homeland Security with the fingerprint  
6 database maintained by the Federal Bureau of Investiga-  
7 tion. The integration of databases pursuant to this section  
8 shall be completed not later than 2 years after the date  
9 of the enactment of this title.

10 **SEC. 408. AUTHORIZATIONS OF APPROPRIATIONS.**

11       (a) DEPARTMENT OF HOMELAND SECURITY.—Ex-  
12 cept as otherwise provided in this title, there are author-  
13 ized to be appropriated to the Department of Homeland  
14 Security for each fiscal year beginning with the first fiscal  
15 year that begins after the date of the enactment of this  
16 Act, such sums as may be necessary to carry out this title  
17 and the amendments made by this title, of which not less  
18 than \$100,000,000 shall be for the purpose of carrying  
19 out section 274A(d) of the Immigration and Nationality  
20 Act (8 U.S.C. 1324a(d)), as amended by section 406 of  
21 this title.

22       (b) SOCIAL SECURITY ADMINISTRATION.—There are  
23 authorized to be appropriated to the Social Security Ad-  
24 ministration for each fiscal year beginning with the first  
25 fiscal year that begins after the date of the enactment of

1 this Act, such sums as are necessary to carry out the  
2 amendments made by section 403.

3 **SEC. 409. RULES OF CONSTRUCTION.**

4 (a) IN GENERAL.—Nothing in this title shall be con-  
5 strued—

6 (1) to require the presentation of a Social Secu-  
7 rity card for any purpose other than—

8 (A) for the administration and enforce-  
9 ment of the Social Security laws of the United  
10 States; or

11 (B) for the purpose of implementing and  
12 enforcing this title and the amendments made  
13 by this title; or

14 (2) to require the Social Security card to be  
15 carried by an individual.

16 (b) NO NATIONAL IDENTIFICATION CARD.—It is the  
17 policy of the United States that the Social Security card  
18 shall not be used as a national identification card.

19 **TITLE V—SECURE**  
20 **IDENTIFICATION STANDARDS**

21 **SEC. 501. PROHIBITION ON ACCEPTANCE OF IDENTIFICA-**  
22 **TION ISSUED BY FOREIGN GOVERNMENTS.**

23 (a) IN GENERAL.—A Federal agency may not accept,  
24 for any official purpose, an identification document for an

1 individual if the identification document is issued by a for-  
2 eign government.

3 (b) EXCEPTION.—If a passport issued by a foreign  
4 government is authorized by Federal law to be accepted  
5 for a specific official purpose on the date of the enactment  
6 of this title, subsection (a) shall not be construed to affect  
7 such authorization.

8 (c) DEFINITION.—For purposes of this section, the  
9 term “Federal agency” means—

10 (1) an Executive agency (as defined in section  
11 105 of title 5, United States Code);

12 (2) a military department (as defined in section  
13 102 of title 5, United States Code);

14 (3) an office, agency, or other establishment in  
15 the legislative branch of the Government of the  
16 United States;

17 (4) an office, agency, or other establishment in  
18 the judicial branch of the Government of the United  
19 States; and

20 (5) the government of the District of Columbia.

1 **SEC. 502. FOREIGN-ISSUED FORMS OF IDENTIFICATION**  
2 **PROHIBITED AS PROOF OF IDENTITY TO**  
3 **OPEN ACCOUNTS AT FINANCIAL INSTITU-**  
4 **TIONS.**

5 Section 5318(l) of title 31, United States Code (relat-  
6 ing to identification and verification of accountholders) is  
7 amended—

8 (1) by redesignating paragraph (6) as para-  
9 graph (7); and

10 (2) by inserting after paragraph (5) the fol-  
11 lowing new paragraph:

12 “(6) PROHIBITION ON USE OF IDENTIFICATION  
13 ISSUED BY A FOREIGN GOVERNMENT.—A financial  
14 institution may not accept any form of identification  
15 that was issued by a foreign government, other than  
16 a passport, for use in verifying the identity of a per-  
17 son in connection with the opening of an account by  
18 such person at the financial institution, including a  
19 matricula consular issued in the United States by a  
20 duly authorized consular officer of the Government  
21 of Mexico.”.

22 **SEC. 503. IDENTIFICATION STANDARD FOR FEDERAL BENE-**  
23 **FITS.**

24 (a) FEDERAL AGENCIES.—No department, agency,  
25 commission, other entity, or employee of the Federal Gov-  
26 ernment may accept, recognize, or rely on (or authorize

1 the acceptance or recognition of or reliance on) for the  
2 purpose of establishing identity any document except those  
3 described in subsection (c).

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

12 (c) DOCUMENTS DESCRIBED.—Documents described  
13 in this subsection are limited to—

14 (1)(A) Valid, unexpired United States pass-  
15 ports, immigration documents, and other identity  
16 documents issued by a Federal authority.

17 (B) Individual taxpayer identification numbers  
18 issued by the Internal Revenue Service shall not be  
19 considered identity documents for purposes of sub-  
20 paragraph (A).

21 (2) Valid, unexpired identity documents issued  
22 by a State or local authority if—

23 (A) the State or local authority statutorily  
24 bars issuance of such identity documents to

1           aliens unlawfully present in the United States;  
2           and

3                   (B) the State or local authority requires  
4           independent verification of records provided by  
5           the applicant in support of the application for  
6           such identity documents.

7           (3) Valid, unexpired foreign passports, if such  
8           passports include or are accompanied by proof of  
9           lawful presence in the United States.

10 **SEC. 504. CHANGE IN FORMAT OF INDIVIDUAL TAXPAYER**  
11 **IDENTIFICATION NUMBERS (ITINS).**

12           Notwithstanding any other provision of law, the Sec-  
13 retary of the Treasury shall, not later than one year after  
14 the date of the enactment of this Act, modify the format  
15 of Individual Taxpayer Identification Numbers (ITINs) in  
16 a manner so that they no longer resemble social security  
17 account numbers.

18 **SEC. 505. SHARING ITIN-RELATED INFORMATION.**

19           Notwithstanding any other provision of law, the Com-  
20 missioner of Internal Revenue is authorized to, and shall,  
21 share with the Secretary of Homeland Security the names  
22 and addresses of individuals with assigned Individual Tax-  
23 payer Identification Numbers as the Secretary may certify  
24 as necessary for the enforcement of Federal immigration  
25 laws.

1 **SEC. 506. BIRTH CERTIFICATES.**

2 (a) APPLICABILITY OF MINIMUM STANDARDS TO  
3 LOCAL GOVERNMENTS.—The minimum standards in this  
4 section applicable to birth certificates issued by a State  
5 shall also apply to birth certificates issued by a local gov-  
6 ernment in the State. It shall be the responsibility of the  
7 State to ensure that local governments in the State comply  
8 with the minimum standards.

9 (b) MINIMUM STANDARDS FOR FEDERAL RECOGNI-  
10 TION.—

11 (1) MINIMUM STANDARDS FOR FEDERAL  
12 USE.—

13 (A) IN GENERAL.—Beginning 3 years after  
14 the date of the enactment of this Act, a Federal  
15 agency may not accept, for any official purpose,  
16 a birth certificate issued by a State to any per-  
17 son unless the State is meeting the require-  
18 ments of this section.

19 (B) STATE CERTIFICATIONS.—The Sec-  
20 retary of Homeland Security shall determine  
21 whether a State is meeting the requirements of  
22 this section based on certifications made by the  
23 State to the Secretary. Such certifications shall  
24 be made at such times and in such manner as  
25 the Secretary, in consultation with the Sec-

1           retary of Health and Human Services, may pre-  
2           scribe by regulation.

3           (2) MINIMUM DOCUMENT STANDARDS.—To  
4           meet the requirements of this section, a State shall  
5           include, on each birth certificate issued to a person  
6           by the State, the use of safety paper, the seal of the  
7           issuing custodian of record, and such other features  
8           as the Secretary of Homeland Security may deter-  
9           mine necessary to prevent tampering, counterfeiting,  
10          and otherwise duplicating the birth certificate for  
11          fraudulent purposes. The Secretary may not require  
12          a single design to which birth certificates issued by  
13          all States must conform.

14          (3) MINIMUM ISSUANCE STANDARDS.—

15                (A) IN GENERAL.—To meet the require-  
16                ments of this section, a State shall require and  
17                verify the following information from the re-  
18                questor before issuing an authenticated copy of  
19                a birth certificate:

- 20                       (i) The name on the birth certificate.  
21                       (ii) The date and location of the birth.  
22                       (iii) The mother's maiden name.  
23                       (iv) Substantial proof of the reques-  
24                       tor's identity.

1           (B) ISSUANCE TO PERSONS NOT NAMED  
2           ON BIRTH CERTIFICATE.—To meet the require-  
3           ments of this section, in the case of a request  
4           by a person who is not named on the birth cer-  
5           tificate, a State must require the presentation  
6           of legal authorization to request the birth cer-  
7           tificate before issuance.

8           (C) ISSUANCE TO FAMILY MEMBERS.—Not  
9           later than one year after the date of the enact-  
10          ment of this Act, the Secretary of Homeland  
11          Security, in consultation with the Secretary of  
12          Health and Human Services and the States,  
13          shall establish minimum standards for issuance  
14          of a birth certificate to specific family members,  
15          their authorized representatives, and others who  
16          demonstrate that the certificate is needed for  
17          the protection of the requestor’s personal or  
18          property rights.

19          (D) WAIVERS.—A State may waive the re-  
20          quirements set forth in clauses (i) through (iii)  
21          of subparagraph (A) in exceptional cir-  
22          cumstances, such as the incapacitation of the  
23          registrant.

24          (E) APPLICATIONS BY ELECTRONIC  
25          MEANS.—To meet the requirements of this sec-

1           tion, for applications by electronic means,  
2           through the mail or by phone or fax, a State  
3           shall employ third party verification, or equiva-  
4           lent verification, of the identity of the re-  
5           questor.

6           (F) VERIFICATION OF DOCUMENTS.—To  
7           meet the requirements of this section, a State  
8           shall verify the documents used to provide proof  
9           of identity of the requestor.

10          (4) OTHER REQUIREMENTS.—To meet the re-  
11         quirements of this section, a State shall adopt, at a  
12         minimum, the following practices in the issuance  
13         and administration of birth certificates:

14                 (A) Establish and implement minimum  
15                 building security standards for State and local  
16                 vital record offices.

17                 (B) Restrict public access to birth certifi-  
18                 cates and information gathered in the issuance  
19                 process to ensure that access is restricted to en-  
20                 tities with which the State has a binding pri-  
21                 vacy protection agreement.

22                 (C) Subject all persons with access to vital  
23                 records to appropriate security clearance re-  
24                 quirements.

1           (D) Establish fraudulent document rec-  
2           ognition training programs for appropriate em-  
3           ployees engaged in the issuance process.

4           (E) Establish and implement internal oper-  
5           ating system standards for paper and for elec-  
6           tronic systems.

7           (F) Establish a central database that can  
8           provide interoperative data exchange with other  
9           States and with Federal agencies, subject to  
10          privacy restrictions and confirmation of the au-  
11          thority and identity of the requestor.

12          (G) Ensure that birth and death records  
13          are matched in a comprehensive and timely  
14          manner, and that all electronic birth records  
15          and paper birth certificates of decedents are  
16          marked “deceased”.

17          (H) Cooperate with the Secretary of  
18          Homeland Security in the implementation of  
19          electronic verification of vital events under sub-  
20          section (d).

21          (c) ESTABLISHMENT OF ELECTRONIC BIRTH AND  
22          DEATH REGISTRATION SYSTEMS.—In consultation with  
23          the Secretary of Health and Human Services and the  
24          Commissioner of Social Security, the Secretary of Home-  
25          land Security shall take the following actions:

1           (1) Work with the States to establish a common  
2 data set and common data exchange protocol for  
3 electronic birth registration systems and death reg-  
4 istration systems.

5           (2) Coordinate requirements for such systems  
6 to align with a national model.

7           (3) Ensure that fraud prevention is built into  
8 the design of electronic vital registration systems in  
9 the collection of vital event data, the issuance of  
10 birth certificates, and the exchange of data among  
11 government agencies.

12          (4) Ensure that electronic systems for issuing  
13 birth certificates, in the form of printed abstracts of  
14 birth records or digitized images, employ a common  
15 format of the certified copy, so that those requiring  
16 such documents can quickly confirm their validity.

17          (5) Establish uniform field requirements for  
18 State birth registries.

19          (6) Not later than 1 year after the date of the  
20 enactment of this Act, establish a process with the  
21 Department of Defense that will result in the shar-  
22 ing of data, with the States and the Social Security  
23 Administration, regarding deaths of United States  
24 military personnel and the birth and death of their  
25 dependents.

1           (7) Not later than 1 year after the date of the  
2           enactment of this Act, establish a process with the  
3           Department of State to improve registration, notifi-  
4           cation, and the sharing of data with the States and  
5           the Social Security Administration, regarding births  
6           and deaths of United States citizens abroad.

7           (8) Not later than 3 years after the date of es-  
8           tablishment of databases provided for under this sec-  
9           tion, require States to record and retain electronic  
10          records of pertinent identification information col-  
11          lected from requestors who are not the registrants.

12          (9) Not later than 6 months after the date of  
13          the enactment of this Act, submit to Congress, a re-  
14          port on whether there is a need for Federal laws to  
15          address penalties for fraud and misuse of vital  
16          records and whether violations are sufficiently en-  
17          forced.

18          (d) ELECTRONIC VERIFICATION OF VITAL  
19          EVENTS.—

20                (1) LEAD AGENCY.—The Secretary of Home-  
21                land Security shall lead the implementation of elec-  
22                tronic verification of a person's birth and death.

23                (2) REGULATIONS.—In carrying out paragraph  
24                (1), the Secretary shall issue regulations to establish  
25                a means by which authorized Federal and State

1 agency users with a single interface will be able to  
2 generate an electronic query to any participating  
3 vital records jurisdiction throughout the United  
4 States to verify the contents of a paper birth certifi-  
5 cate. Pursuant to the regulations, an electronic re-  
6 sponse from the participating vital records jurisdic-  
7 tion as to whether there is a birth record in their  
8 database that matches the paper birth certificate will  
9 be returned to the user, along with an indication if  
10 the matching birth record has been flagged “de-  
11 ceased”. The regulations shall take effect not later  
12 than 5 years after the date of the enactment of this  
13 Act.

14 (e) GRANTS TO STATES.—

15 (1) IN GENERAL.—The Secretary of Homeland  
16 Security may make grants to States to assist the  
17 States in conforming to the minimum standards set  
18 forth in this section.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—

20 There are authorized to be appropriated to the Sec-  
21 retary of Homeland Security for each of the fiscal  
22 years 2006 through 2009 such sums as may be nec-  
23 essary to carry out this section.

24 (f) AUTHORITY.—

1           (1) PARTICIPATION WITH FEDERAL AGENCIES  
2           AND 25 STATES.—All authority to issue regulations,  
3           certify standards, and issue grants under this sec-  
4           tion shall be carried out by the Secretary of Home-  
5           land Security, with the concurrence of the Secretary  
6           of Health and Human Services and in consultation  
7           with State vital statistics offices and appropriate  
8           Federal agencies.

9           (2) EXTENSIONS OF DEADLINES.—The Sec-  
10          retary of Homeland Security may grant to a State  
11          an extension of time to meet the requirements of  
12          subsection (b)(1)(A) if the State provides adequate  
13          justification for noncompliance.

14          (g) REPEAL.—Section 7211 of the Intelligence Re-  
15          form and Terrorism Prevention Act of 2004 (Public Law  
16          108–458) is repealed.

## 17           **TITLE VI—REFORM OF LEGAL** 18           **IMMIGRATION**

### 19           **SEC. 601. INCREASE IN EMPLOYMENT BASED VISAS.**

20           Notwithstanding any other provision of law, the num-  
21           ber of employment-based visas made available under sec-  
22           tions 201(d) and 203(b) of the Immigration and Nation-  
23           ality Act (8 U.S.C. 1151(d), 1153(b)) for each fiscal year  
24           (beginning with the first fiscal year beginning after the

1 date of the enactment of this Act) is hereby increased by  
2 120,000.

3 **SEC. 602. INCREASE IN CAP ON UNSKILLED WORKERS.**

4 (a) IN GENERAL.—Section 203(b)(3)(B) of the Im-  
5 migration and Nationality Act (8 U.S.C. 1153(b)(3)(B))  
6 is amended by striking “10,000” and inserting “20,000”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 subsection (a) shall apply for visa numbers for fiscal years  
9 beginning with the first fiscal year beginning after the  
10 date of the enactment of this Act.

11 **SEC. 603. ELIMINATION OF FAMILY 4TH PREFERENCE VISA**  
12 **CATEGORY FOR ADULT SIBLINGS OF CITI-**  
13 **ZENS.**

14 (a) IN GENERAL.—Section 203(a) of the Immigra-  
15 tion and Nationality Act (8 U.S.C. 1153(a)) is amended—

16 (1) in paragraph (1), by striking “paragraph  
17 (4)” and inserting “paragraph (3)”; and

18 (2) by striking paragraph (4).

19 (b) CONFORMING AMENDMENTS.—(1) Section  
20 201(c)(1)(A)(i) of such Act (8 U.S.C. 1151(c)(1)(A)(i))  
21 is amended by striking “480,000” and inserting  
22 “415,000”.

23 (2) Section 204(a)(1)(A)(i) of such Act (8 U.S.C.  
24 1154(a)(1)(A)(i)) is amended by striking “(1), (3), or (4)”  
25 and inserting “(1) or (3)”.



1 **SEC. 606. ELIMINATION OF DIVERSITY LOTTERY VISA CAT-**  
2 **EGORY.**

3 (a) IN GENERAL.—Section 203 of the Immigration  
4 and Nationality Act (8 U.S.C. 1153) is amended by strik-  
5 ing subsection (c).

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 201 of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1151) is amended—

9 (A) in subsection (a)—

10 (i) by adding “and” at the end of  
11 paragraph (1);

12 (ii) by striking “; and” at the end of  
13 paragraph (2) and inserting a period; and

14 (iii) by striking paragraph (3); and

15 (B) by striking subsection (e).

16 (2) Section 203 of such Act (8 U.S.C. 1153) is  
17 amended—

18 (A) in subsections (d) and (h)(2)(B), by  
19 striking “subsection (a), (b), or (c)” and insert-  
20 ing “subsection (a) or (b)”; and

21 (B) in subsection (g), by striking “sub-  
22 sections (a), (b), and (c)” and inserting “sub-  
23 sections (a) and (b)”.

24 (3) Section 204(a)(1) of such Act (8 U.S.C.  
25 1154(a)(1)) is amended by striking subparagraph  
26 (I).

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply for visa numbers for fiscal years  
3 beginning with the first fiscal year beginning after the  
4 date of the enactment of this Act.

5 **SEC. 607. ANNUAL REPORT ON PROJECTED JOB CREATION**  
6 **AND FOREIGN LABOR DEMAND.**

7 The Secretary of Labor shall submit to Congress, not  
8 later than April 1 of each year (beginning with 2006), a  
9 report on projected job creation in the United States and  
10 the demand for both immigrant and nonimmigrant foreign  
11 laborers over each of the succeeding five fiscal years.

12 **SEC. 608. VISA TERM COMPLIANCE BONDS.**

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

14 (1) VISA TERM COMPLIANCE BOND.—The term  
15 “visa term compliance bond” means a written  
16 suretyship undertaking entered into by an alien indi-  
17 vidual seeking admission to the United States of  
18 America on a nonimmigrant visa whose performance  
19 is guaranteed by a bail agent.

20 (2) SURETYSHIP UNDERTAKING.—The term  
21 “suretyship undertaking” means a written agree-  
22 ment, executed by a bail agent, which binds all par-  
23 ties to its certain terms and conditions and which  
24 provides obligations for the visa applicant while

1 under the bond and penalties for forfeiture to ensure  
2 the obligations of the principal under the agreement.

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

8 (4) SURETY.—The term “surety” means an en-  
9 tity, as defined by, and that is in compliance with,  
10 sections 9304 through 9308 of title 31, United  
11 States Code, that agrees—

12 (A) to guarantee the performance, where  
13 appropriate, of the principal under a visa term  
14 compliance bond;

15 (B) to perform as required in the event of  
16 a forfeiture; and

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

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

23 (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-  
24 CELLATION OF BONDS.—

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

3                   (A) states the full, correct, and proper  
4                   name of the alien principal;

5                   (B) states the amount of the bond;

6                   (C) is guaranteed by a surety and  
7                   countersigned by an attorney-in-fact who is  
8                   properly appointed;

9                   (D) is an original signed document;

10                  (E) is filed with the Secretary of Home-  
11                  land Security along with the original application  
12                  for a visa; and

13                  (F) is not executed by electronic means.

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

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

17                   (B) at the expiration, cancellation, or sur-  
18                   render of the visa; or

19                   (C) immediately upon nonpayment of the  
20                   premium.

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

22                   (A) annually with payment of proper pre-  
23                   mium at the option of the bail agent or surety;  
24                   and

1 (B) provided there has been no breach of  
2 conditions, default, claim, or forfeiture of the  
3 bond.

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

6 (A) for nonrenewal;

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

10 (C) upon termination of the visa;

11 (D) upon death, incarceration of the prin-  
12 cipal, or the inability of the surety to produce  
13 the principal for medical reasons;

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

16 (F) if the principal departs from the  
17 United States of America for any reason with-  
18 out permission of the Secretary of Homeland  
19 Security and the surety or bail agent; or

20 (G) if the principal is surrendered by the  
21 surety.

22 (5) EFFECT OF EXPIRATION OR CANCELLA-  
23 TION.—When a visa term compliance bond expires  
24 without being immediately renewed, or is canceled,

1 the nonimmigrant status of the alien shall be re-  
2 voked immediately.

3 (6) SURRENDER OF PRINCIPAL; FORFEITURE  
4 OF BOND PREMIUM.—

5 (A) SURRENDER.—At any time before a  
6 breach of any of the conditions of the bond, the  
7 surety or bail agent may surrender the prin-  
8 cipal, or the principal may surrender, to any of-  
9 fice or facility of the Department of Homeland  
10 Security charged with immigration enforcement  
11 or border protection.

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

15 (i) changes address without notifying  
16 the surety or bail agent and the Secretary  
17 of Homeland Security in writing at least  
18 60 days prior to such change;

19 (ii) changes schools, jobs, or occupa-  
20 tions without written permission of the  
21 surety, bail agent, and the Secretary;

22 (iii) conceals himself or herself;

23 (iv) fails to report to the Secretary as  
24 required at least annually; or

1 (v) violates the contract with the bail  
2 agent or surety, commits any act that may  
3 lead to a breach of the bond, or otherwise  
4 violates any other obligation or condition  
5 of the visa established by the Secretary.

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

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

10 (i) shall have the right to petition any  
11 Federal court for an arrest warrant for the  
12 arrest of the visa holder;

13 (ii) shall forthwith be provided a cer-  
14 tified copy of the arrest warrant and the  
15 undertaking; and

16 (iii) shall have the right to pursue, ap-  
17 prehend, detain, and deliver the visa hold-  
18 er, together with the certified copy of the  
19 arrest warrant and the undertaking, to any  
20 official or facility of the Department of  
21 Homeland Security charged with immigra-  
22 tion enforcement or border protection or  
23 any detention facility authorized to hold  
24 Federal detainees.

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

3 (i) the official to whom the delivery is  
4 made shall detain the visa holder in cus-  
5 tody and issue a written certificate of sur-  
6 render; and

7 (ii) the court issuing the warrant de-  
8 scribed in subparagraph (A)(i) and the  
9 Secretary of Homeland Security shall im-  
10 mediately exonerate the surety and bail  
11 agent from any further liability on the  
12 bond.

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

16 (A) BREACH OF BOND; PROCEDURE, FOR-  
17 FEITURE, NOTICE.—

18 (i) If a visa holder violates any condi-  
19 tions of the visa or the visa bond the Sec-  
20 retary of Homeland Security shall—

21 (I) order the visa canceled;

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

24 (III) order the bail agent and  
25 surety to take the visa holder into

1 custody and surrender the visa holder  
2 to the Secretary; and

3 (IV) mail notice to the bail agent  
4 and surety via certified mail return  
5 receipt at each of the addresses in the  
6 bond.

7 (ii) A bail agent or surety shall have  
8 full and complete access to any and all in-  
9 formation, electronic or otherwise, in the  
10 care, custody, and control of the United  
11 States Government or any State or local  
12 government or any subsidiary or police  
13 agency thereof regarding the visa holder  
14 needed to comply with section 304 of the  
15 Securing America's Future through En-  
16 forcement Reform Act of 2005 that the  
17 court issuing the warrant believes is crucial  
18 in locating the visa holder.

19 (iii) If the visa holder is later ar-  
20 rested, detained, or otherwise located out-  
21 side the United States and the outlying  
22 possessions of the United States (as de-  
23 fined in section 101(a) of the Immigration  
24 and Nationality Act), the Secretary of  
25 Homeland Security shall—

1 (I) order that the bail agent and  
2 surety are completely exonerated, and  
3 the bond canceled and terminated;  
4 and

5 (II) if the Secretary has issued  
6 an order under clause (i), the surety  
7 may request, by written, properly filed  
8 motion, reinstatement of the bond.  
9 This subclause may not be construed  
10 to prevent the Secretary from revok-  
11 ing or resetting a higher bond.

12 (iv) The bail agent or surety must—

13 (I) produce the visa bond holder;  
14 or

15 (II)(aa) prove within 180 days  
16 that producing the bond holder was  
17 prevented—

18 (bb) by the bond holder's ill-  
19 ness or death;

20 (cc) because the bond holder  
21 is detained in custody in any city,  
22 State, country, or political sub-  
23 division thereof;

24 (dd) because the bond holder  
25 has left the United States or its

1 outlying possessions (as defined  
2 in section 101(a) of the Immigra-  
3 tion and Nationality Act (8  
4 U.S.C. 1101(a)); or

5 (ee) because required notice  
6 was not given to the bail agent or  
7 surety; and

8 (ff) prove within 180 days that  
9 the inability to produce the bond hold-  
10 er was not with the consent or conniv-  
11 ance of the bail agent or sureties.

12 (v) If the bail agent or surety does  
13 not comply with the terms of this bond  
14 within 60 days after the mailing of the no-  
15 tice required under subparagraph  
16 (A)(i)(IV), a portion of the face value of  
17 the bond shall be assessed as a penalty  
18 against the surety.

19 (vi) If compliance occurs more than  
20 60 days but no more than 90 days after  
21 the mailing of the notice, the amount as-  
22 sessed shall be one-third of the face value  
23 of the bond.

24 (vii) If compliance occurs more than  
25 90 days, but no more than 180 days, after

1 the mailing of the notice, the amount as-  
2 sessed shall be two-thirds of the face value  
3 of the bond.

4 (viii) If compliance does not occur  
5 within 180 days after the mailing of the  
6 notice, the amount assessed shall be 100  
7 percent of the face value of the bond.

8 (ix) All penalty fees shall be paid by  
9 the surety within 45 days after the end of  
10 such 180-day period.

11 (B) The Secretary of Homeland Security  
12 may waive the penalty fees or extend the period  
13 for payment or both, if—

14 (i) a written request is filed with the  
15 Secretary; and

16 (ii) the bail agent or surety provides  
17 evidence satisfactory to the Secretary that  
18 diligent efforts were made to effect compli-  
19 ance of the visa holder.

20 (C) COMPLIANCE; EXONERATION; LIMITA-  
21 TION OF LIABILITY.—

22 (i) COMPLIANCE.—The bail agent or  
23 surety shall have the absolute right to lo-  
24 cate, apprehend, arrest, detain, and sur-  
25 render any visa holder, wherever he or she

1           may be found, who violates any of the  
2           terms and conditions of the visa or bond.

3           (ii) EXONERATION.—Upon satisfying  
4           any of the requirements of the bond, the  
5           surety shall be completely exonerated.

6           (iii) LIMITATION OF LIABILITY.—The  
7           total liability on any undertaking shall not  
8           exceed the face amount of the bond.

9   **SEC. 609. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

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

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

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

1 **SEC. 610. DETENTION OF ALIENS DELIVERED BY BONDS-**  
2 **MEN.**

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

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

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

1                   **TITLE VII—CITIZENSHIP**  
2                   **REFORM**

3 **SEC. 701. CITIZENSHIP AT BIRTH FOR CHILDREN OF NON-**  
4                   **CITIZEN,       NON-PERMANENT       RESIDENT**  
5                   **ALIENS.**

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

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

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

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

23 For purposes of this subsection, a child is considered to  
24 be ‘born in wedlock’ only if both parents are married to

1 each other and parents are not considered to be married  
2 if such marriage is only a common law marriage.”.

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

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

10 **SEC. 702. SANCTIONS FOR ACTS VIOLATING THE OATH OF**  
11 **RENUNCIATION AND ALLEGIANCE..**

12 (a) IN GENERAL.—Subject to subsection (b), each of  
13 the following acts performed by a naturalized citizen of  
14 the United States is deemed a violation of the Oath of  
15 Renunciation and Allegiance that was taken voluntarily by  
16 the citizen and are subject to a fine of \$10,000, imprison-  
17 ment for one year, or both:

18 (1) Voting in an election of the foreign state in  
19 which the persons were previously a subject or cit-  
20 izen.

21 (2) Running for elective office of the foreign  
22 state in which the persons were previously a subject  
23 or citizen.

24 (3) Serving in any government body (executive,  
25 legislative, or judicial, national, provincial, or local)

1 of the foreign state in which the persons were pre-  
2 viously a subject or citizen.

3 (4) Using the passport of the foreign state in  
4 which the persons were previously a subject or cit-  
5 izen.

6 (5) Taking an oath of allegiance to the foreign  
7 state in which the persons were previously a subject  
8 or citizen.

9 (6) Serving in the armed forces of the foreign  
10 state in which the persons were previously a subject  
11 or citizen.

12 (b) EXCEPTION AUTHORITY.—In exceptional cases a  
13 naturalized citizen may obtain a waiver and exemption  
14 from the sanction imposed by subsection (a) with respect  
15 to an act if the Secretary of State (or in the case of an  
16 act described in subsection (a)(6), the Secretary of De-  
17 fense) determines that the act is in the national interest  
18 of the United States. Such waivers shall be granted in ad-  
19 vance on a case-by-case basis by the Secretary involved.

20 (c) INFORMING APPLICANTS FOR CITIZENSHIP THAT  
21 THE UNITED STATES CONCERNING SANCTIONS.—The  
22 Secretary of Homeland Security shall inform applicants  
23 for United States citizenship of the provisions of this sec-  
24 tion and shall incorporate knowledge and understanding

1 of these provisions into the history and government test  
2 that applicants are required to complete for citizenship.

3 (d) EFFECTIVE DATE.—Subsection (a) shall apply to  
4 acts performed on or after the date of the enactment of  
5 this Act.

6 **SEC. 703. POLICY OF DISCOURAGEMENT OF DUAL/MUL-**  
7 **TIPLE CITIZENSHIP.**

8 The Secretary of State shall revise the 1990 memo-  
9 randa and directives on dual citizenship and dual nation-  
10 ality and return to the traditional policy of the Depart-  
11 ment of State of viewing dual/multiple citizenship as prob-  
12 lematic and as something to be discouraged not encour-  
13 aged.

14 **SEC. 704. INFORMING BIRTH NATIONS OF THEIR PREVIOUS**  
15 **CITIZENS' NEW STATUS AS AMERICAN CITI-**  
16 **ZENS.**

17 (a) IN GENERAL.—In the case of an individual who  
18 formerly a native of a foreign state and who is naturalized  
19 as a citizen of the United States, the Secretary of State  
20 shall provide for notice to consular officials of such foreign  
21 state—

22 (1) of the fact of such naturalization and that  
23 such individual is no longer subject to that states's  
24 jurisdiction; and

1           (2) that the United State rejects the doctrine  
2           “perpetual allegiance”.

3           (b) EFFECTIVE DATE.—Subsection (a) applies to in-  
4           dividuals naturalized on or after the date of the enactment  
5           of this Act.

6           **TITLE VIII—WAGES PAID TO**  
7           **UNAUTHORIZED ALIENS**

8           **SEC. 801. CLARIFICATION THAT WAGES PAID TO UNAU-**  
9           **THORIZED ALIENS MAY NOT BE DEDUCTED**  
10           **FROM GROSS INCOME.**

11           (a) IN GENERAL.—Subsection (c) of section 162 of  
12           the Internal Revenue Code of 1986 (relating to illegal  
13           bribes, kickbacks, and other payments) is amended by  
14           adding at the end the following new paragraph:

15           “(4) WAGES PAID TO OR ON BEHALF OF UNAU-

16           THORIZED ALIENS.—

17           “(A) IN GENERAL.—No deduction shall be  
18           allowed under subsection (a) for any wage paid  
19           to or on behalf of an unauthorized alien, as de-  
20           fined under section 274A(h)(3) of the Immigra-  
21           tion and Nationality Act (8 U.S.C.  
22           1324a(h)(3)).

23           “(B) WAGES.—For the purposes of this  
24           paragraph, the term ‘wages’ means all remu-  
25           neration for employment, including the cash

1 value of all remuneration (including benefits)  
2 paid in any medium other than cash.

3 “(C) SAFE HARBOR.—If a person or other  
4 entity is participating in the basic pilot program  
5 described in section 403 of the Illegal Immigra-  
6 tion Reform and Immigrant Responsibility Act  
7 of 1996 (8 U.S.C. 1324a note) and obtains con-  
8 firmation of identity and employment eligibility  
9 in compliance with the terms and conditions of  
10 the program with respect to the hiring (or re-  
11 cruitment or referral) of an employee, subpara-  
12 graph (A) shall not apply with respect to wages  
13 paid to such employee.”.

14 (b) 6-YEAR LIMITATION ON ASSESSMENT AND COL-  
15 LECTION.—Subsection (c) of section 6501 of such Code  
16 (relating to exceptions) is amended by adding at the end  
17 the following new paragraph:

18 “(10) DEDUCTION CLAIMED FOR WAGES PAID  
19 TO UNAUTHORIZED ALIENS.—In the case of a return  
20 of tax on which a deduction is shown in violation of  
21 section 162(c)(4), any tax under chapter 1 may be  
22 assessed, or a proceeding in court for the collection  
23 of such tax may be begun without assessment, at  
24 any time within 6 years after the return was filed.”.

1 (c) USE OF DOCUMENTATION FOR ENFORCEMENT  
2 PURPOSES.—Section 274A of the Illegal Immigration Re-  
3 form and Immigrant Responsibility Act of 1996 is amend-  
4 ed—

5 (1) in subparagraph (b)(5), by inserting “, sec-  
6 tion 162(c)(4) of the Internal Revenue Code of  
7 1986,” after “enforcement of this chapter”;

8 (2) in subparagraph (d)(2)(F), by inserting “,  
9 section 162(c)(4) of the Internal Revenue Code of  
10 1986,” after “enforcement of this chapter”; and

11 (3) in subparagraph (d)(2)(G), by inserting  
12 “section 162(c)(4) of the Internal Revenue Code of  
13 1986 or” after “or enforcement of”.

14 (d) AVAILABILITY OF INFORMATION.—The Commis-  
15 sioner of Social Security shall make available to the Com-  
16 missioner of Internal Revenue any information related to  
17 the investigation and enforcement of section 162(c)(4) of  
18 the Internal Revenue Code of 1986, including any no-  
19 match letter and any information in the suspense earnings  
20 file.

21 (e) EFFECTIVE DATE.—

22 (1) Except as provided in paragraph (2), this  
23 section and the amendments made by this section  
24 shall take effect on the date of the enactment of this  
25 Act.

1           (2) The amendments made by subsections (a)  
2           and (b) shall apply to taxable years beginning after  
3           December 31, 2005.

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