

109TH CONGRESS  
1ST SESSION

# S. 1438

To provide for immigration reform.

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IN THE SENATE OF THE UNITED STATES

JULY 20, 2005

Mr. CORNYN (for himself and Mr. KYL) introduced the following bill; which  
was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for 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 “Comprehensive Enforcement and Immigration Reform  
6 Act of 2005”.

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

Sec. 1. Short title; table of contents.

### TITLE I—BORDER ENFORCEMENT AND VISA SECURITY

Sec. 101. Necessary assets for controlling United States borders.

Sec. 102. Expedited removal between ports of entry.

Sec. 103. Document fraud detection.

Sec. 104. Improved document integrity.

- Sec. 105. Cancellation of visas.
- Sec. 106. Biometric entry-exit system.
- Sec. 107. Release of aliens from noncontiguous countries.
- Sec. 108. Reducing illegal immigration and alien smuggling on tribal lands.

## TITLE II—INTERIOR ENFORCEMENT

### Subtitle A—General Enforcement

- Sec. 201. Detention space and removal capacity.
- Sec. 202. Detention of dangerous aliens.
- Sec. 203. Increased criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.
- Sec. 204. Penalty for countries that do not accept return of nationals.
- Sec. 205. No judicial review of visa revocation.
- Sec. 206. Alternatives to detention.
- Sec. 207. Removal of aliens.
- Sec. 208. Additional immigration personnel.
- Sec. 209. Completion of background and security checks.
- Sec. 210. Denial of benefits to terrorists and criminals.
- Sec. 211. Reinstatement of previous removal orders.
- Sec. 212. Automated alien records.

### Subtitle B—State and Local Law Enforcement

- Sec. 221. Immigration law enforcement by States and political subdivisions of States.
- Sec. 222. State and local law enforcement provision of information regarding aliens
- Sec. 223. Listing of immigration violators in the National Crime Information Center database.
- Sec. 224. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
- Sec. 225. Federal custody of illegal aliens apprehended by State or local law enforcement.
- Sec. 226. Immunity.
- Sec. 227. State criminal alien assistance program.
- Sec. 228. Construction.
- Sec. 229. State Defined.

## TITLE III—WORKSITE ENFORCEMENT AND EMPLOYMENT VERIFICATION SYSTEM

### Subtitle A—Increased Enforcement Resources and Penalties

- Sec. 301. Additional worksite enforcement and fraud detection agents.
- Sec. 302. Penalties for unauthorized employment and false claims of citizenship.
- Sec. 303. Penalties for misusing social security numbers or filing false information with Social Security Administration.

### Subtitle B—Increased Document Integrity

- Sec. 311. Social Security cards.
- Sec. 312. Birth certificates.

Subtitle C—Mandatory Electronic Employment Verification of All Workers in  
the United States

Sec. 321. Employment eligibility verification program.

Subtitle D—Reduction in Employer Burdens

Sec. 331. Reduction in documents that establish identity and employment au-  
thorization.

Sec. 332. Good faith compliance.

TITLE IV—REQUIREMENTS FOR PARTICIPATING COUNTRIES

Sec. 401. Requirements for participating countries.

TITLE V—NONIMMIGRANT TEMPORARY WORKER PROGRAM

Sec. 501. Nonimmigrant temporary worker category.

Sec. 502. Temporary worker program.

Sec. 503. Statutory construction.

Sec. 504. Authorization of appropriations.

TITLE VI—MANDATORY DEPARTURE AND REENTRY IN LEGAL  
STATUS

Sec. 601. Mandatory departure and reentry in legal status.

Sec. 602. Statutory construction.

Sec. 603. Authorization of appropriations.

TITLE VII—ALIEN EMPLOYMENT MANAGEMENT SYSTEM

Sec. 701. Alien employment management system.

Sec. 702. Labor investigations.

TITLE VIII—PROTECTION AGAINST IMMIGRATION FRAUD

Sec. 801. Grants to support public education and training.

TITLE IX—CIRCULAR MIGRATION

Sec. 901. Investment accounts.

TITLE X—BACKLOG REDUCTION

Sec. 1001. Employment based immigrants.

Sec. 1002. Country limits.

Sec. 1003. Allocation of immigrant visas.

TITLE XI—TEMPORARY AGRICULTURAL WORKERS

Sec. 1101. Sense of the Senate on temporary agricultural workers.

1 **TITLE I—BORDER ENFORCE-**  
2 **MENT AND VISA SECURITY**

3 **SEC. 101. NECESSARY ASSETS FOR CONTROLLING UNITED**  
4 **STATES BORDERS.**

5 (a) PERSONNEL.—

6 (1) CUSTOMS AND BORDER PROTECTION OFFI-  
7 CERS.—In each of the fiscal years 2006 through  
8 2010, the Secretary of Homeland Security shall in-  
9 crease by not less than 250 the number of positions  
10 for full-time active duty Customs and Border Pro-  
11 tection officers.

12 (2) AUTHORIZATION OF APPROPRIATIONS.—

13 (A) CUSTOMS AND BORDER PROTECTION  
14 OFFICERS.—There are authorized to be appro-  
15 priated such sums as may be necessary for each  
16 of fiscal years 2006 through 2010 to carry out  
17 paragraph (1).

18 (B) BORDER PATROL AGENTS.—There are  
19 authorized to be appropriated such sums as  
20 may be necessary for each of fiscal years 2006  
21 through 2010 to carry out section 5202 of the  
22 Intelligence Reform and Terrorism Prevention  
23 Act of 2004 (118 Stat. 3734).

24 (C) TRANSPORTATION OF ALIENS.—There  
25 are authorized to be appropriated \$25,000,000

1           for each of fiscal years 2006 through 2010 for  
2           the transportation of aliens.

3       (b) TECHNOLOGICAL ASSETS.—

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

9           (2) AUTHORIZATION OF APPROPRIATIONS.—

10       There are authorized to be appropriated  
11       \$500,000,000 for each of fiscal years 2006 through  
12       2010 to carry out paragraph (1).

13       (c) INFRASTRUCTURE.—

14           (1) CONSTRUCTION OF BORDER CONTROL FA-  
15       CILITIES.—The Secretary of Homeland Security  
16       shall construct all-weather roads and shall acquire  
17       vehicle barriers and necessary facilities to support  
18       its mission of achieving operational control of the  
19       borders of the United States.

20           (2) AUTHORIZATION OF APPROPRIATIONS.—

21       There are authorized to be appropriated  
22       \$500,000,000 for each of fiscal years 2006 through  
23       2010 to carry out paragraph (1).

24       (d) BORDER PATROL CHECKPOINTS.—Temporary or  
25       permanent checkpoints may be maintained on roadways

1 in border patrol sectors close to the border between the  
2 United States and Mexico.

3 **SEC. 102. EXPEDITED REMOVAL BETWEEN PORTS OF**  
4 **ENTRY.**

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

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

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

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

16 “(5) TRAINING.—The Secretary of Homeland  
17 Security shall provide employees of the Department  
18 of Homeland Security with comprehensive training  
19 of the procedures authorized under this subsection.”.

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

1 **SEC. 103. DOCUMENT FRAUD DETECTION.**

2 (a) TRAINING.—The Secretary of Homeland Security  
3 shall provide all customs and border protection officers  
4 with training in identifying and detecting fraudulent travel  
5 documents. Such training shall be developed in consulta-  
6 tion with the Forensic Document Laboratory of the Immi-  
7 gration and Customs Enforcement

8 (b) FORENSIC DOCUMENT LABORATORY.—The Sec-  
9 retary of Homeland Security shall provide all customs and  
10 border protection officers with access to the Forensic Doc-  
11 ument Laboratory.

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

15 **SEC. 104. IMPROVED DOCUMENT INTEGRITY.**

16 Section 303 of Public Law 107–173 (8 U.S.C. 1732)  
17 is amended—

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

22 (2) in subsection (b)(1)—

23 (A) by striking “Not later than October  
24 26, 2004, the Attorney General” and inserting  
25 “The Secretary of Homeland Security”; and

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

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

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

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

17 **SEC. 105. CANCELLATION OF VISAS.**

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

20 (1) in paragraph (1), by inserting “and any  
21 other nonimmigrant visa issued by the United States  
22 that is in the possession of the alien” after “such  
23 visa”; and

24 (2) in paragraph (2)(A), by striking “(other  
25 than the visa described in paragraph (1)) issued in



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

6 **SEC. 106. BIOMETRIC ENTRY-EXIT SYSTEM.**

7 (a) **GROUND OF INADMISSIBILITY.**—Section 212 of  
8 the Immigration and Nationality Act (8 U.S.C. 1182) is  
9 amended—

10 (1) in subsection (a)(7), by adding at the end  
11 the following:

12 “(C) **WITHHOLDERS OF BIOMETRIC**  
13 **DATA.**—Any alien who fails to comply with a  
14 lawful request for biometric data under section  
15 215(c) or 235(d) is inadmissible.”; and

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

18 “(2) The Secretary of Homeland Security shall deter-  
19 mine whether a ground for inadmissibility exists with re-  
20 spect to an alien described in subparagraph (C) subsection  
21 (a)(7) and may waive the application of such subpara-  
22 graph, for an individual alien or a class of aliens, at the  
23 discretion of the Secretary.”.

24 (b) **COLLECTION OF BIOMETRIC DATA FROM ALIENS**  
25 **DEPARTING THE UNITED STATES.**—Section 215 of the

1 Immigration and Nationality Act (8 U.S.C. 1185) is  
2 amended—

3 (1) by redesignating subsection (c) as sub-  
4 section (g); and

5 (2) by inserting after subsection (b) the fol-  
6 lowing:

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

11 (c) INSPECTION OF APPLICANTS FOR ADMISSION.—  
12 Section 235(d) of the Immigration and Nationality Act (8  
13 U.S.C. 1185(d)) is amended by adding at the end the fol-  
14 lowing:

15 “(5) AUTHORITY TO COLLECT BIOMETRIC  
16 DATA.—In conducting inspections under subsection  
17 (b), immigration officers are authorized to collect bi-  
18 ometric data from—

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

21 “(B) any lawful permanent resident who is  
22 entering the United States, but is not regarded  
23 as seeking admission under section  
24 101(a)(13)(C).”.

1 (d) COLLECTION OF BIOMETRIC DATA FROM ALIEN  
2 CREWMAN.—Section 252 of the Immigration and Nation-  
3 ality Act (8 U.S.C. 1282) is amended by inserting “Immi-  
4 gration officers are authorized to collect biometric data  
5 from any alien crewman seeking permission to land tempo-  
6 rarily in the United States.” after “this title.”.

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

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

12 “(3) IMPLEMENTATION.—In fully implementing  
13 the automated biometric entry and exit data system  
14 under this section, the Secretary is not required to  
15 comply with the requirements of chapter 5 of title 5,  
16 United States Code (commonly referred to as the  
17 ‘Administrative Procedures Act’) or any other law  
18 relating to rulemaking, information collection, or  
19 publication in the Federal Register.”; and

20 (2) in subsection (l)—

21 (A) by striking “There are authorized”  
22 and inserting the following:

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

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

1           “(2) IMPLEMENTATION AT ALL LAND BORDER  
2           PORTS OF ENTRY.—There are authorized to be ap-  
3           propriated such sums as may be necessary for each  
4           of fiscal years 2006 and 2007 to implement the  
5           automated biometric entry and exit data system at  
6           all land border ports of entry.”.

7   **SEC. 107. RELEASE OF ALIENS FROM NONCONTIGUOUS**  
8                           **COUNTRIES.**

9           (a) MINIMUM BOND.—Section 236(a)(2) of the Im-  
10 migration and Nationality Act (8 U.S.C. 1226(a)(2)) is  
11 amended—

12                   (1) by striking “on”;

13                   (2) in subparagraph (A)—

14                           (A) by inserting “except as provided under  
15                           subparagraph (B), upon the giving of a”; and

16                           (B) by striking “or” at the end;

17                   (3) by redesignating subparagraph (B) as sub-  
18                   paragraph (C); and

19                   (4) by inserting after subparagraph (A) the fol-  
20                   lowing:

21                           “(B) if the alien is a national of a non-  
22                           contiguous country, has not been admitted or  
23                           paroled into the United States, and was appre-  
24                           hended within 100 miles of the international  
25                           border of the United States or presents a flight

1 risk, as determined by the Secretary of Home-  
2 land Security, upon the giving of a bond of at  
3 least \$5,000 with security approved by, and  
4 containing conditions prescribed by, the Sec-  
5 retary of Homeland Security or the Attorney  
6 General; or”.

7 (b) REPORT.—Not later than 2 years after the effec-  
8 tive date of this Act, the Secretary of Homeland Security  
9 shall submit a report to Congress on the number of aliens  
10 from noncontiguous countries who are apprehended be-  
11 tween land border ports of entry.

12 **SEC. 108. REDUCING ILLEGAL IMMIGRATION AND ALIEN**  
13 **SMUGGLING ON TRIBAL LANDS.**

14 (a) GRANTS AUTHORIZED.—The Secretary of Home-  
15 land Security may award grants to Indian tribes with  
16 lands adjacent to an international border of the United  
17 States that have been adversely affected by illegal immi-  
18 gration.

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

- 21 (1) law enforcement activities;
- 22 (2) health care services;
- 23 (3) environmental restoration; and
- 24 (4) the preservation of cultural resources.

1       (c) REPORT.—Not later than 180 days after the date  
2 of enactment of this Act, the Secretary of Homeland Secu-  
3 rity shall submit a report to the Committee on the Judici-  
4 ary of the Senate and the Committee on the Judiciary of  
5 the House of Representatives that—

6           (1) describes the level of access of Border Pa-  
7 trol agents on tribal lands;

8           (2) describes the extent to which enforcement of  
9 immigration laws may be improved by enhanced ac-  
10 cess to tribal lands;

11          (3) contains a strategy for improving such ac-  
12 cess through cooperation with tribal authorities; and

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

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

1                   **TITLE II—INTERIOR**  
2                   **ENFORCEMENT**  
3           **Subtitle A—General Enforcement**

4   **SEC. 201. DETENTION SPACE AND REMOVAL CAPACITY.**

5           Section 5204 of the Intelligence Reform and Ter-  
6   rorism Protection Act of 2004 (118 Stat. 3734) is amend-  
7   ed—

8                   (1) in subsection (a), by striking “8,000” and  
9                   inserting “10,000”; and

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

11           “(c) **AUTHORIZATION OF APPROPRIATIONS.**—In ad-  
12   dition to amounts otherwise authorized to be appropriated,  
13   there are authorized to be appropriated such sums as may  
14   be necessary for each of fiscal years 2006 through 2010  
15   to carry out subsection (a).”.

16   **SEC. 202. DETENTION OF DANGEROUS ALIENS.**

17           (a) **REMOVAL OF TERRORIST ALIENS.**—

18                   (1) **IN GENERAL.**—Title II of the Immigration  
19                   and Nationality Act (8 U.S.C. 1151 et seq.) is  
20                   amended—

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

23                                   “(v) the alien is described in section  
24                                   212(a)(3)(B),           212(a)(3)(F),           or  
25                                   237(a)(4)(B) unless, in the case only of an

1 alien described in section  
2 212(a)(3)(B)(i)(IV), the Secretary of  
3 Homeland Security or the Attorney Gen-  
4 eral determines that there are not reason-  
5 able grounds for regarding the alien as a  
6 danger to the security of the United  
7 States; or”;

8 (B) in section 240A(e), by amending para-  
9 graph (4) to read as follows:

10 “(4) An alien described in section 212(a)(3) or  
11 237(a)(4).”;

12 (C) in section 240B(b)(1)(C), by striking  
13 “deportable under” and inserting “described  
14 in”;

15 (D) in section 241(b)(3)(B)—

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

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

20 (iii) by inserting after clause (iv) the  
21 following:

22 “(v) the alien is described in section  
23 212(a)(3)(B), 212(a)(3)(F), or  
24 237(a)(4)(B), unless, in the case only of  
25 an alien described in section



1           212(a)(3)(B)(i)(IV), the Secretary of  
2           Homeland Security or the Attorney Gen-  
3           eral determines that there are not reason-  
4           able grounds for regarding the alien as a  
5           danger to the security of the United  
6           States.”; and

7           (iv) by striking “For purposes of  
8           clause (iv)” and all that follows; and  
9           (E) in section 249—

10          (i) by striking “inadmissible under  
11          section 212(a)(3)(E) or under section” and  
12          inserting “described in section  
13          212(a)(3)(E) or”; and

14          (ii) in subsection (d), by striking “to  
15          citizenship and is not deportable under”  
16          and inserting “for citizenship and is not  
17          described in”.

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

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

23               (B) acts and conditions constituting a  
24               ground for inadmissibility, excludability, depor-

1           tation, or removal occurring or existing before,  
2           on, or after such effective date.

3           (b) DETENTION OF DANGEROUS ALIENS.—

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

7           (A) by striking “Attorney General” each  
8           place it appears and inserting “Secretary of  
9           Homeland Security”;

10          (B) in paragraph (2), by inserting “If a  
11          court orders a stay of removal of an alien who  
12          is subject to an order of removal that is admin-  
13          istratively final, the Secretary of Homeland Se-  
14          curity, in the exercise of the Secretary’s discre-  
15          tion, may detain the alien during the pendency  
16          of such stay of removal, before the beginning of  
17          the removal period, as provided in paragraph  
18          (1)(B)(ii).” after “detain the alien.”; and

19          (C) in paragraph (6), by striking “removal  
20          period and, if released,” and inserting “removal  
21          period, in the discretion of the Secretary, with-  
22          out any limitations other than those specified  
23          by the Secretary of Homeland Security by regu-  
24          lation, until the alien is removed. If an alien is  
25          released, the alien”.

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

6 **SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN**  
 7                                   **SMUGGLING, DOCUMENT FRAUD, GANG VIO-**  
 8                                   **LENCE, AND DRUG TRAFFICKING.**

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

12                           (1) in paragraph (1)(B)—

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

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

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

19                           (2) in paragraph (2)—

20                                   (A) in subparagraph (A), by striking “one  
 21                                   year, or both; or” and inserting “3 years, or  
 22                                   both”;

23                                   (B) in subparagraph (B)—

24   (i) in clause (i), by adding at the end  
 25                                   the following: “be fined under title 18,

1 United States Code, and imprisoned not  
2 less than 5 years nor more than 25  
3 years;”;

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

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

13 (C) by striking the matter following clause  
14 (iii) and inserting the following:

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

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

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

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

1 (1) in subsection (a)—

2 (A) by striking “not more than 25 years”  
3 and inserting “not less than 25 years”

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

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

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

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

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

16 (c) CRIMES OF VIOLENCE.—

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

20 **“CHAPTER 52—ILLEGAL ALIENS**

“Sec.

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

21 **“§ 1131. Enhanced penalties for certain crimes com-**  
22 **mitted by illegal aliens**

23 “(a) Any alien unlawfully present in the United  
24 States, who commits, or conspires or attempts to commit,

1 a crime of violence or a drug trafficking offense (as de-  
 2 fined in section 924), shall be fined under this title and  
 3 sentenced to not less than 5 years in prison.

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

9 “(c) A sentence of imprisonment imposed under this  
 10 section shall run consecutively to any other sentence of  
 11 imprisonment imposed for any other crime.”.

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

**“52. Illegal aliens ..... 1131”.**

16 (d) CRIMINAL STREET GANGS.—

17 (1) INADMISSIBILITY.—Section 212(a)(2) of the  
 18 Immigration and Nationality Act (8 U.S.C.  
 19 1182(a)(2)) is amended—

20 (A) by redesignating subparagraph (F) as  
 21 subparagraph (J); and

22 (B) by inserting after subparagraph (E)  
 23 the following:

24 “(F) ALIENS WHO ARE MEMBERS OF  
 25 CRIMINAL STREET GANGS.—Any alien who is a

1 member of a criminal street gang (as defined in  
2 section 521(a) of title 18, United States Code)  
3 is inadmissible.”.

4 (2) DEPORTABILITY.—Section 237(a)(2) of the  
5 Immigration and Nationality Act (8 U.S.C.  
6 1227(a)(2)) is amended by adding at the end the  
7 following:

8 “(F) ALIENS WHO ARE MEMBERS OF  
9 CRIMINAL STREET GANGS.—Any alien who is a  
10 member of a criminal street gang (as defined in  
11 section 521(a) of title 18, United States Code)  
12 is deportable.”.

13 (3) TEMPORARY PROTECTED STATUS.—Section  
14 244(c)(2)(B) of the Immigration and Nationality  
15 Act (8 U.S.C. 1254a(c)(2)(B)) is amended—

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

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

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

21 “(iii) the alien is a member of a crimi-  
22 nal street gang (as defined in section  
23 521(a) of title 18, United States Code).”.

1 **SEC. 204. PENALTY FOR COUNTRIES THAT DO NOT ACCEPT**  
2 **RETURN OF NATIONALS.**

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

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

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

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

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

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

22 **SEC. 205. NO JUDICIAL REVIEW OF VISA REVOCATION.**

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



1 **SEC. 206. ALTERNATIVES TO DETENTION.**

2       The Secretary of Homeland Security shall implement  
3 pilot programs in all States to study the effectiveness of  
4 alternatives to detention, including electronic monitoring  
5 devices and intensive supervision programs, in ensuring  
6 alien appearance at court and compliance with removal or-  
7 ders.

8 **SEC. 207. REMOVAL OF ALIENS.**

9       (a) INSTITUTIONAL REMOVAL PROGRAM.—

10           (1) CONTINUATION.—The Secretary of Home-  
11 land Security shall continue to operate the Institu-  
12 tional Removal Program or develop and implement  
13 any other program to—

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

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

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

20           (2) EXPANSION.—The Secretary of Homeland  
21 Security shall extend the Institutional Removal Pro-  
22 gram to all States. Each State should—

23                   (A) cooperate with officials of the Federal  
24 Institutional Removal Program;

1 (B) expeditiously and systematically iden-  
2 tify criminal aliens in its prison and jail popu-  
3 lations; and

4 (C) promptly convey the information col-  
5 lected under subparagraph (B) to officials of  
6 the Institutional Removal Program.

7 (b) AUTHORIZATION FOR DETENTION AFTER COM-  
8 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
9 enforcement officers of a State or political subdivision of  
10 a State are authorized to—

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

17 (2) issue a detainer that would allow aliens who  
18 have served a State prison sentence to be detained  
19 by the State prison until personnel from the Bureau  
20 of Immigration and Customs Enforcement can take  
21 the alien into custody.

22 (c) TECHNOLOGY USAGE.—Technology such as  
23 videoconferencing shall be used to the maximum extent  
24 possible in order to make the Institutional Removal Pro-  
25 gram (IRP) available in remote locations. Mobile access

1 to Federal databases of aliens, such as IDENT, and live  
2 scan technology shall be used to the maximum extent prac-  
3 ticable in order to make these resources available to State  
4 and local law enforcement agencies in remote locations.

5 (d) REPORT TO CONGRESS.—The Secretary of  
6 Homeland Security shall submit a report to Congress on  
7 the participation of States in the Institutional Removal  
8 Program and in any other program under subsection (a).

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to carry out the Institu-  
11 tional Removal Program—

- 12 (1) \$30,000,000 for fiscal year 2006;
- 13 (2) \$40,000,000 for fiscal year 2007;
- 14 (3) \$50,000,000 for fiscal year 2008;
- 15 (4) \$60,000,000 for fiscal year 2009; and
- 16 (5) \$70,000,000 for fiscal year 2010.

17 **SEC. 208. ADDITIONAL IMMIGRATION PERSONNEL.**

18 (a) DEPARTMENT OF HOMELAND SECURITY.—

19 (1) INVESTIGATIVE PERSONNEL.—In addition  
20 to the positions authorized under section 5203 of the  
21 Intelligence Reform and Terrorism Prevention Act  
22 of 2004, for each of fiscal years 2006 through 2010,  
23 the Secretary of Homeland Security shall, subject to  
24 the availability of appropriations for such purpose,  
25 increase by not less than 200 the number of posi-

1 tions for investigative personnel within the Depart-  
2 ment of Homeland Security investigating alien  
3 smuggling and immigration status violations above  
4 the number of such positions for which funds were  
5 made available during the preceding fiscal year.

6 (2) TRIAL ATTORNEYS.—In each of fiscal years  
7 2006 through 2010, the Secretary of Homeland Se-  
8 curity shall, subject to the availability of appropria-  
9 tions for such purpose, increase the number of posi-  
10 tions for attorneys in the Office of General Counsel  
11 of the Department of Homeland Security who rep-  
12 resent the Department in immigration matters by  
13 not less than 100 above the number of such posi-  
14 tions for which funds were made available during  
15 each preceding fiscal year.

16 (3) AUTHORIZATION OF APPROPRIATIONS.—  
17 There are authorized to be appropriated to the De-  
18 partment of Homeland Security for each of fiscal  
19 years 2006 through 2010 such sums as may be nec-  
20 essary to carry out this subsection.

21 (b) DEPARTMENT OF JUSTICE.—

22 (1) ASSISTANT ATTORNEY GENERAL FOR IMMI-  
23 GRATION ENFORCEMENT.—

24 (A) ESTABLISHMENT.—There is estab-  
25 lished within the Department of Justice the po-

1           sition of Assistant Attorney General for Immi-  
2           gration Enforcement, which shall coordinate  
3           and prioritize immigration litigation and en-  
4           forcement in the Federal courts, including—

5                   (i) removal and deportation;

6                   (ii) employer sanctions; and

7                   (iii) alien smuggling and human traf-  
8           ficking.

9           (B) CONFORMING AMENDMENT.—Section  
10          506 of title 28, United States Code, is amended  
11          by striking “ten” and inserting “11”.

12          (2) LITIGATION ATTORNEYS.—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 positions for attorneys in the Office of Immi-  
17          gration Litigation of the Department of Justice.

18          (3) UNITED STATES ATTORNEYS.—In each of  
19          fiscal years 2006 through 2010, the Attorney Gen-  
20          eral shall, subject to the availability of appropria-  
21          tions for such purpose, increase by not less than 50  
22          the number of attorneys in the United States Attor-  
23          neys’ office to litigate immigration cases in the Fed-  
24          eral courts.

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

6           (5) AUTHORIZATION OF APPROPRIATIONS.—  
7 There are authorized to be appropriated to the De-  
8 partment of Justice for each of fiscal years 2006  
9 through 2010 such sums as may be necessary to  
10 carry out this subsection, including the hiring of  
11 necessary support staff.

12 **SEC. 209. COMPLETION OF BACKGROUND AND SECURITY**  
13 **CHECKS.**

14           Section 103 of the Immigration and Nationality Act  
15 (8 U.S.C. 1103) is amended by adding at the end the fol-  
16 lowing:

17           “(i) Notwithstanding any other provision of law, the  
18 Secretary of Homeland Security, the Attorney General, or  
19 any court may not—

20                   “(1) grant or order the grant of adjustment of  
21 status to that of an alien lawfully admitted for per-  
22 manent residence;

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

1           “(3) issue any documentation evidencing or re-  
2           lated to such grant by the Attorney General, the  
3           Secretary, or any court,  
4           until such background and security checks as the Sec-  
5           retary may in his discretion require have been completed  
6           to the satisfaction of the Secretary.”.

7   **SEC. 210. DENIAL OF BENEFITS TO TERRORISTS AND**  
8                                   **CRIMINALS.**

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

12                                   “CONSTRUCTION

13          “SEC. 362. (a) Nothing in this Act or any other pro-  
14          vision of law shall be construed to require the Secretary  
15          of Homeland Security, the Attorney General, the Sec-  
16          retary of State, the Secretary of Labor, or any other au-  
17          thorized head of any agency to grant any application, ap-  
18          prove any petition, or grant or continue any status or ben-  
19          efit under the immigration laws by, to, or on behalf of—

20                   “(1) any alien described in subparagraphs  
21                   (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or  
22                   subparagraphs (A)(i), (A)(iii), or (B) of section  
23                   237(a)(4);

24                   “(2) any alien with respect to whom a criminal  
25                   or other investigation or case is pending that is ma-

1       terial to the alien’s inadmissibility, deportability, or  
2       eligibility for the status or benefit sought; or

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

6       “(b) An official described in subsection (a) may deny  
7       or withhold (with respect to an alien described in sub-  
8       section (a)(1)) or withhold pending resolution of the inves-  
9       tigation, case, or law enforcement checks (with respect to  
10      an alien described in paragraph (2) or (3) of subsection  
11      (a)) any such application, petition, status or benefit on  
12      such basis.”.

13      **SEC. 211. REINSTATEMENT OF PREVIOUS REMOVAL OR-**  
14                                      **DERS.**

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

18                   “(5) REINSTATEMENT OF PREVIOUS REMOVAL  
19      ORDERS.—

20                           “(A) REMOVAL.—The Secretary of Home-  
21      land Security shall remove an alien who is an  
22      applicant for admission (other than an admis-  
23      sible alien presenting himself or herself for in-  
24      spection at a port of entry or an alien paroled  
25      into the United States under section



1           212(d)(5)), after having been, on or after Sep-  
2           tember 30, 1996, excluded, deported, or re-  
3           moved, or having departed voluntarily under an  
4           order of exclusion, deportation, or removal.

5           “(B) JUDICIAL REVIEW.—The removal de-  
6           scribed in subparagraph (A) shall not require  
7           any proceeding before an immigration judge,  
8           and shall be under the prior order of exclusion,  
9           deportation, or removal, which is not subject to  
10          reopening or review. The alien is not eligible  
11          and may not apply for or receive any immigra-  
12          tion relief or benefit under this Act or any other  
13          law, with the exception of sections 208 or  
14          241(b)(3) or the United Nations Convention  
15          Against Torture and Other Cruel, Inhuman, or  
16          Degrading Treatment or Punishment in the  
17          case of an alien who indicates either an inten-  
18          tion to apply for asylum under section 208 or  
19          a fear of persecution or torture.”.

20          (b) EFFECTIVE DATE.—The amendment made by  
21          subsection (a)(1) shall take effect as if enacted on March  
22          1, 2003.

23          **SEC. 212. AUTOMATED ALIEN RECORDS.**

24          (a) IN GENERAL.—Not later than 5 years after the  
25          date of enactment of this Act, the Secretary of Homeland

1 Security shall automate the storage of alien records in an  
2 electronic format that is interoperable with the alien  
3 record keeping systems of the Department of Justice and  
4 accessible by other Federal agencies for the purposes of  
5 administering the immigration laws of the United States.

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

10 (c) OVERSIGHT.—The Chief Information Officer of  
11 the Department of Homeland Security shall be responsible  
12 for oversight and management of automating the storage  
13 of alien records in an electronic format.

14 (d) OFFICIAL RECORD.—The automated alien record  
15 created under this section shall constitute the official  
16 record for purposes of the National Archives and Records  
17 Administration.

18 (e) REPORTS.—The Secretary of Homeland Security  
19 shall report to the appropriate committees in Congress in  
20 2008 and 2010 on the progress made in automating alien  
21 records under this section.

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

1     **Subtitle B—State and Local Law**  
2                     **Enforcement**

3     **SEC. 221. IMMIGRATION LAW ENFORCEMENT BY STATES**  
4                     **AND POLITICAL SUBDIVISIONS OF STATES.**

5             Notwithstanding any other provision of law and re-  
6 affirming the existing inherent authority of States, law en-  
7 forcement personnel of a State or a political subdivision  
8 of a State have the inherent authority of a sovereign entity  
9 to investigate, identify, apprehend, arrest, detain, or  
10 transfer to Federal custody aliens in the United States  
11 (including the transportation of such aliens across State  
12 lines to detention centers), for the purpose of assisting in  
13 the enforcement of the immigration laws of the United  
14 States in the normal course of carrying out the law en-  
15 forcement duties of such personnel. This State authority  
16 has never been displaced or preempted by a Federal law.

17     **SEC. 222. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
18                     **SION OF INFORMATION REGARDING ALIENS.**

19             (a) VIOLATIONS OF FEDERAL LAW.—A statute, pol-  
20 icy, or practice that prohibits a law enforcement officer  
21 of a State, or of a political subdivision of a State, from  
22 enforcing Federal immigration laws or from assisting or  
23 cooperating with Federal immigration law enforcement in  
24 the course of carrying out the law enforcement duties of  
25 the officer or from providing information to an official of

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

8 (b) PROVISION OF INFORMATION REGARDING AP-  
9 PREHENDED ILLEGAL ALIENS.—

10 (1) IN GENERAL.—In compliance with section  
11 642(a) of the Illegal Immigration Reform and Immi-  
12 grant Responsibility Act of 1996 (8 U.S.C. 1373(a))  
13 and section 434 of the Personal Responsibility and  
14 Work Opportunity Reconciliation Act of 1996 (8  
15 U.S.C. 1644), States and localities should provide to  
16 the Secretary of Homeland Security the information  
17 listed in subsection (c) on each alien apprehended or  
18 arrested in the jurisdiction of the State or locality  
19 who is believed to be in violation of an immigration  
20 law of the United States. Such information should  
21 be provided regardless of the reason for the appre-  
22 hension or arrest of the alien.

23 (2) TIME LIMITATION.—Not later than 10 days  
24 after an alien described in paragraph (1) is appre-  
25 hended, information requested to be provided under

1 paragraph (1) should be provided in such form and  
2 in such manner as the Secretary of Homeland Secu-  
3 rity may, by regulation or guideline, require.

4 (c) INFORMATION REQUIRED.—The information list-  
5 ed in this subsection is as follows:

6 (1) The name of the alien.

7 (2) The address or place of residence of the  
8 alien.

9 (3) A physical description of the alien.

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

13 (5) If applicable, the driver's license number  
14 issued to the alien and the State of issuance of such  
15 license.

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

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

24 (8) A photo of the alien, if available or readily  
25 obtainable.

1           (9) The fingerprints of the alien, if available or  
2 readily obtainable, including a full set of 10 rolled  
3 fingerprints if available or readily obtainable.

4           (d) REIMBURSEMENT.—The Secretary of Homeland  
5 Security shall reimburse States and localities for all rea-  
6 sonable costs, as determined by the Secretary of Home-  
7 land Security, incurred by that State or locality as a result  
8 of providing information required by this section.

9           (e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

12           (A) TECHNICAL AMENDMENT.—Section  
13 642 of the Illegal Immigration Reform and Im-  
14 migrant Responsibility Act of 1996 (8 U.S.C.  
15 1373) is amended—

16           (i) in subsections (a), (b)(1), and (c)  
17 by striking “Immigration and Naturaliza-  
18 tion Service” and inserting “Department  
19 of Homeland Security”; and

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

24           (B) CONFORMING AMENDMENT.—Section  
25 1(d) of the Illegal Immigration Reform and Im-

1 migrant Responsibility Act of 1996 (division C  
 2 of Public Law 104–208; 110 Stat. 3009–546)  
 3 is amended by striking the item related to sec-  
 4 tion 642 and inserting the following:

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

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

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

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

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

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

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

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated such sums as are necessary  
3 to provide the reimbursements required by subsection (d).

4 **SEC. 223. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
5 **TIONAL CRIME INFORMATION CENTER DATA-**  
6 **BASE.**

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

9 (1) IN GENERAL.—Not later than 180 days  
10 after the date of enactment of this Act, the Under  
11 Secretary for Border and Transportation Security of  
12 the Department of Homeland Security shall provide  
13 the National Crime Information Center of the De-  
14 partment of Justice with such information as the  
15 Director may have related to—

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

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

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

23 (2) REQUIREMENT TO PROVIDE AND USE IN-  
24 FORMATION.—The information described in para-  
25 graph (1) shall be provided to the National Crime



1 Information Center, and the Center shall enter the  
2 information into the Immigration Violators File of  
3 the National Crime Information Center database as  
4 long as a name and date of birth are available for  
5 the individual, regardless of whether the alien re-  
6 ceived notice of a final order of removal or the alien  
7 has already been removed.

8 (3) REMOVAL OF INFORMATION.—Should an in-  
9 dividual be granted cancellation of removal under  
10 section 240A of the Immigration and Nationality  
11 Act (8 U.S.C. 1229b), or granted permission to le-  
12 gally enter the United States pursuant to the Immi-  
13 gration and Nationality Act after a voluntary depar-  
14 ture under section 240B of the Immigration Nation-  
15 ality Act (8 U.S.C. 1229c) , information entered into  
16 the National Crime Information Center in accord-  
17 ance with paragraph (1) of this section shall be  
18 promptly removed.

19 (b) INCLUSION OF INFORMATION IN THE NATIONAL  
20 CRIME INFORMATION CENTER DATABASE.—Section  
21 534(a) of title 28, United States Code, is amended—

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

24 (2) by redesignating paragraph (4) as para-  
25 graph (5); and

1           (3) by inserting after paragraph (3) the fol-  
2           lowing:

3           “(4) acquire, collect, classify, and preserve  
4           records of violations of the immigration laws of the  
5           United States, regardless of whether the alien has  
6           received notice of the violation or the alien has al-  
7           ready been removed; and”.

8           (c) PERMISSION TO DEPART VOLUNTARILY.—Section  
9           240B of the Immigration and Nationality Act (8 U.S.C.  
10          1229c) is amended—

11           (1) by striking “Attorney General” each place  
12          that term appears and inserting “Secretary of  
13          Homeland Security”; and

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

16   **SEC. 224. INCREASE OF FEDERAL DETENTION SPACE AND**  
17                           **THE UTILIZATION OF FACILITIES IDENTIFIED**  
18                           **FOR CLOSURES AS A RESULT OF THE DE-**  
19                           **FENSE BASE CLOSURE REALIGNMENT ACT**  
20                           **OF 1990.**

21          (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
22          FACILITIES.—

23           (1) IN GENERAL.—The Secretary of Homeland  
24          Security shall construct or acquire additional deten-  
25          tion facilities in the United States.

1           (2) DETERMINATION OF LOCATION.—The loca-  
2           tion of any detention facility built or acquired in ac-  
3           cordance with this subsection shall be determined by  
4           the Deputy Assistant Director of the Office of De-  
5           tention and Removal Operations within the Bureau  
6           of Immigration and Customs Enforcement.

7           (3) USE OF INSTALLATIONS UNDER BASE CLO-  
8           SURE LAWS.—In acquiring detention facilities under  
9           this subsection, the Secretary of Homeland Security  
10          shall, to the maximum extent practical, request the  
11          transfer of appropriate portions of military installa-  
12          tions approved for closure or realignment under the  
13          Defense Base Closure and Realignment Act of 1990  
14          (part A of title XXIX of Public Law 101–510; 10  
15          U.S.C. 2687 note) for use in accordance with para-  
16          graph (1).

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

20   **SEC. 225. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**  
21                           **HENDED BY STATE OR LOCAL LAW ENFORCE-**  
22                           **MENT.**

23          Title II of the Immigration and Nationality Act (8  
24          U.S.C. 1151 et seq.) is amended by adding after section  
25          240C the following:



1 facility for that State to transfer custody of criminal  
2 or illegal aliens to the Department of Homeland Se-  
3 curity.

4 “(b) REIMBURSEMENT.—

5 “(1) IN GENERAL.—The Department of Home-  
6 land Security shall reimburse a State or a political  
7 subdivision of a State for all reasonable expenses, as  
8 determined by the Secretary of Homeland Security,  
9 incurred by the State or political subdivision in the  
10 detention and transportation of a criminal or illegal  
11 alien as described in subparagraphs (A) and (B) of  
12 subsection (a)(1).

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

16 “(A) the product of—

17 “(i) the average cost of incarceration  
18 of a prisoner in the relevant State, as de-  
19 termined by the chief executive officer of a  
20 State (or, as appropriate, a political sub-  
21 division of the State); multiplied by

22 “(ii) the number of days that the alien  
23 was in the custody of the State or political  
24 subdivision; added to

1           “(B) the cost of transporting the criminal  
2           or illegal alien from the point of apprehension  
3           or arrest to the location of detention, and if the  
4           location of detention and of custody transfer  
5           are different, to the custody transfer point.

6           “(c) REQUIREMENT FOR APPROPRIATE SECURITY.—  
7           The Secretary of Homeland Security shall ensure that ille-  
8           gal aliens incarcerated in Federal facilities pursuant to  
9           this subsection are held in facilities which provide an ap-  
10          propriate level of security.

11          “(d) REQUIREMENT FOR SCHEDULE.—

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

18           “(2) AUTHORITY FOR CONTRACTS.—The Sec-  
19          retary of Homeland Security may enter into con-  
20          tracts with appropriate State and local law enforce-  
21          ment and detention officials to implement this sub-  
22          section.

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

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

4           “(2) was admitted as a nonimmigrant and who,  
5           at the time the alien was taken into custody by the  
6           State or a political subdivision of the State, had  
7           failed to—

8                   “(A) maintain the nonimmigrant status in  
9                   which the alien was admitted or to which it was  
10                  changed under section 248; or

11                   “(B) comply with the conditions of any  
12                  such status;

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

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

19 **SEC. 226. IMMUNITY.**

20           (a) **PERSONAL IMMUNITY.**—Notwithstanding any  
21 other provision of law, a law enforcement officer of a  
22 State, or of a political subdivision of a State, shall be im-  
23 mune, to the same extent as a Federal law enforcement  
24 officer, from personal liability arising out of the enforce-  
25 ment of any immigration law. The immunity provided in

1 this subsection shall only apply to an officer of a State,  
2 or of a political subdivision of a State, who is acting within  
3 the scope of such officer's official duties.

4 (b) AGENCY IMMUNITY.—Notwithstanding any other  
5 provision of law, a law enforcement agency of a State, or  
6 of a political subdivision of a State, shall be immune from  
7 any claim for money damages based on Federal, State,  
8 or local civil rights law for an incident arising out of the  
9 enforcement of any immigration law, except to the extent  
10 that the law enforcement officer of that agency, whose ac-  
11 tion the claim involves, committed a violation of Federal,  
12 State, or local criminal law in the course of enforcing such  
13 immigration law

14 **SEC. 227. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

15 (a) TRANSFER OF PROGRAM.—

16 (1) IN GENERAL.—Section 501 of the Immigra-  
17 tion Reform and Control Act of 1986 (8 U.S.C.  
18 1365) is amended by striking “Attorney General”  
19 each place it appears and inserting “Secretary of  
20 Homeland Security”.

21 (2) CONTRACTS.—Section 241(i) of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1231(i)) is  
23 amended by striking “Attorney General” each place  
24 it appears and inserting “Secretary of Homeland Se-  
25 curity”.



1 (b) REIMBURSEMENT FOR COSTS ASSOCIATED WITH  
2 PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary  
3 of Homeland Security shall reimburse States and units of  
4 local government for costs associated with processing ille-  
5 gal aliens through the criminal justice system, including—

- 6 (1) indigent defense;  
7 (2) criminal prosecution;  
8 (3) autopsies;  
9 (4) translators and interpreters; and  
10 (5) courts costs.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) REIMBURSEMENT FOR INCARCERATION  
13 COSTS.—Section 241(i)(5) of the Immigration and  
14 Nationality Act (8 U.S.C. 1231(i)(5)) is amended to  
15 read as follows:

16 “(5) There are authorized to be appropriated to  
17 carry out this subsection—

18 “(A) \$750,000,000 for fiscal year 2006;

19 “(B) \$850,000,000 for fiscal year 2007;

20 and

21 “(C) \$950,000,000 for each of the fiscal  
22 years 2008 through 2010.”.

23 (2) REIMBURSEMENT FOR OTHER COSTS.—

24 There are authorized to be appropriated

1       \$400,000,000 for each of fiscal years 2006 through  
2       2010 to carry out subsection (b).

3 **SEC. 228. CONSTRUCTION.**

4       Nothing in this subtitle may be construed to require  
5 law enforcement personnel of a State or political subdivi-  
6 sion of a State to—

7           (1) report the identity of a victim of, or a wit-  
8       ness to, a criminal offense to the Secretary of Home-  
9       land Security for immigration enforcement purposes;

10          (2) arrest such victim or witness for a violation  
11       of the immigration laws of the United States; or

12          (3) enforce the immigration laws of the United  
13       States.

14 **SEC. 229. STATE DEFINED.**

15       In this subtitle, the term “State” has the meaning  
16 given that term in section 101(a)(36) of the Immigration  
17 and Nationality Act (8 U.S.C. 1101 (a)(36)).

1 **TITLE III—WORKSITE ENFORCE-**  
2 **MENT AND EMPLOYMENT**  
3 **VERIFICATION SYSTEM**

4 **Subtitle A—Increased Enforcement**  
5 **Resources and Penalties**

6 **SEC. 301. ADDITIONAL WORKSITE ENFORCEMENT AND**  
7 **FRAUD DETECTION AGENTS.**

8 (a) WORKSITE ENFORCEMENT.—The Secretary of  
9 Homeland Security shall, subject to the availability of ap-  
10 propriations for such purpose, annually increase, by not  
11 less than 2,000, the number of positions for investigators  
12 dedicated to enforcing compliance with sections 274 and  
13 274A of the Immigration and Nationality Act (8 U.S.C.  
14 1324, 1324a) during the 5-year period beginning on Octo-  
15 ber 1, 2005.

16 (b) FRAUD DETECTION.—The Secretary of Home-  
17 land Security shall, subject to the availability of appropria-  
18 tions for such purpose, increase by not less than 1,000  
19 the number of positions for Immigration Enforcement  
20 Agents dedicated to immigration fraud detection during  
21 the 5-year period beginning on October 1, 2005.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated during each of fiscal  
24 years 2006 through 2010 such sums as may be necessary  
25 to carry out this section.

1 **SEC. 302. PENALTIES FOR UNAUTHORIZED EMPLOYMENT**  
2 **AND FALSE CLAIMS OF CITIZENSHIP.**

3 Section 274A of the Immigration and Nationality Act  
4 (8 U.S.C. 1324a) is amended—

5 (1) in subsection (b)(2)—

6 (A) by striking “The individual” and in-  
7 serting the following:

8 “(A) IN GENERAL.—The individual”; and

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

10 “(B) PENALTIES.—Any individual who  
11 falsely represents that the individual is a citizen  
12 for purposes of obtaining employment shall, for  
13 each such violation, be subject to a fine of not  
14 more than \$5,000 and a term of imprisonment  
15 not to exceed 3 years.”;

16 (2) in subsection (e)—

17 (A) in paragraph (4)(A)—

18 (i) in clause (i), by striking “\$250  
19 and not more than \$2,000” and inserting  
20 “\$500 and not more than \$4,000”;

21 (ii) in clause (ii), by striking “\$2,000  
22 and not more than \$5,000” and inserting  
23 “\$4,000 and not more than \$10,000”; and

24 (iii) in clause (iii), by striking  
25 “\$3,000 and not more than \$10,000” and

1 inserting “\$6,000 and not more than  
2 \$20,000”; and

3 (B) in paragraph (5), by striking “\$100  
4 and not more than \$1,000” and inserting  
5 “\$200 and not more than \$2,000”; and

6 (3) in subsection (f), by striking “\$3,000” and  
7 inserting “\$6,000”.

8 **SEC. 303. PENALTIES FOR MISUSING SOCIAL SECURITY**  
9 **NUMBERS OR FILING FALSE INFORMATION**  
10 **WITH SOCIAL SECURITY ADMINISTRATION.**

11 (a) MISUSE OF SOCIAL SECURITY NUMBERS.—

12 (1) IN GENERAL.—Section 208(a) of the Social  
13 Security Act (42 U.S.C. 408(a)) is amended—

14 (A) in paragraph (7), by adding after sub-  
15 paragraph (C) the following:

16 “(D) with intent to deceive, discloses, sells,  
17 or transfers his own social security account  
18 number, assigned to him by the Commissioner  
19 of Social Security (in the exercise of the Com-  
20 missioner’s authority under section 205(c)(2) to  
21 establish and maintain records), to any person;  
22 or”;

23 (B) in paragraph (8), by adding “or” at  
24 the end; and

1 (C) by inserting after paragraph (8) the  
2 following:

3 “(9) without lawful authority, offers, for a fee,  
4 to acquire for any individual, or to assist in acquiring  
5 for any individual, an additional social security  
6 account number or a number that purports to be a  
7 social security account number; or

8 “(10) willfully acts or fails to act so as to cause  
9 a violation of section 205(c)(2)(C)(xii); or

10 “(11) being an officer or employee of any execu-  
11 tive, legislative, or judicial agency or instrumen-  
12 tality of the Federal Government or of a State or  
13 political subdivision thereof (or a person acting as  
14 an agent of such an agency or instrumentality) in  
15 possession of any individual’s social security account  
16 number (or an officer or employee thereof or a per-  
17 son acting as an agent thereof), willfully acts or fails  
18 to act so as to cause a violation of clause (vi)(II),  
19 (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C);  
20 or

21 “(12) being a trustee appointed in a case under  
22 title 11, United States Code (or an officer or em-  
23 ployee thereof or a person acting as an agent there-  
24 of), willfully acts or fails to act so as to cause a vio-  
25 lation of clause (x) or (xi) of section 205(c)(2)(C),”.



1           begin work to administer and issue machine-  
2           readable, tamper-resistant Social Security  
3           cards.

4           (B) COMPLETION.—Not later than 1 year  
5           after the date of enactment of this Act, the So-  
6           cial Security Administration shall only issue  
7           machine-readable, tamper-resistant Social Secu-  
8           rity cards.

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

12                 (A) by inserting “(i)” after “(G)”; and

13                 (B) by striking “The social security card  
14                 shall be” and inserting the following:

15                 “(ii) The social security card shall be machine-read-  
16                 able, tamper-resistant,”.

17           (3) AUTHORIZATION OF APPROPRIATIONS.—

18           There are authorized to be appropriated such sums  
19           as may be necessary to carry out this subsection and  
20           the amendments made by this subsection.

21           (b) MULTIPLE CARDS.—

22                 (1) IN GENERAL.—Section 205(c)(2)(G) of such  
23           Act is further amended by adding at the end the fol-  
24           lowing:



1                   “(iii) The Commissioner of Social Se-  
2                   curity shall not issue a replacement Social  
3                   Security card to any individual unless the  
4                   Social Security Administration determines  
5                   that the purpose for requiring the issuance  
6                   of the replacement document is legiti-  
7                   mate.”.

8                   (2) EFFECTIVE DATE.—The amendment made  
9                   by paragraph (1) shall take effect 1 year after the  
10                  date of enactment of this Act.

11                  (c) REPORT ON INCORPORATION OF BIOMETRIC  
12 IDENTIFIERS.—Not later than 6 months after the date of  
13 enactment of this Act, the Commissioner of Social Secu-  
14 rity, in cooperation with the Secretary of Homeland Secu-  
15 rity, shall submit a report to Congress on the viability of  
16 biometric authentication through employment authoriza-  
17 tion documents.

18                  (d) EFFECTIVE DATE.—The amendments made by  
19 this subsections (a) and (b) shall take effect 1 year after  
20 the date of enactment of this Act.

21 **SEC. 312. BIRTH CERTIFICATES.**

22                  (a) MINIMUM STANDARDS FOR FEDERAL RECOGNI-  
23 TION.—

24                   (1) IN GENERAL.—A Federal agency may not  
25                  accept, for any official purpose, a birth certificate

1 issued by a State to any person unless the State is  
2 meeting the requirements of this section.

3 (2) STATE CERTIFICATIONS.—The Secretary of  
4 Homeland Security shall determine whether a State  
5 is meeting the requirements of this section based on  
6 certifications made by the State to the Secretary.  
7 Such certifications shall be made at such times and  
8 in such manner as the Secretary, in consultation  
9 with the Secretary of Health and Human Services,  
10 may prescribe by regulation.

11 (3) MINIMUM DOCUMENT STANDARDS.—

12 (A) IN GENERAL.—Each birth certificate  
13 issued to a person by the State shall be printed  
14 on safety paper and shall include the seal of the  
15 issuing custodian of record and such other fea-  
16 tures as the Secretary may determine necessary  
17 to prevent tampering, counterfeiting, or other-  
18 wise duplicating the birth certificate for fraudu-  
19 lent purposes. The Secretary may not require  
20 birth certificates issued by all States to conform  
21 to a single design.

22 (B) ELECTRONIC ISSUANCE AND TRACKING  
23 SYSTEM.—The Secretary of Homeland Security,  
24 in consultation with the Secretary of Health  
25 and Human Services and the Commissioner of

1 Social Security, shall develop an electronic sys-  
2 tem for issuing and tracking birth certificates  
3 so that those entities requiring such documents  
4 can quickly confirm their validity.

5 (4) MINIMUM ISSUANCE STANDARDS.—

6 (A) IN GENERAL.—Before issuing an au-  
7 thenticated copy of a birth certificate of any  
8 child, a State shall require the requestor to pro-  
9 vide, and shall verify—

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

12 (ii) the date and location of the child's  
13 birth;

14 (iii) the maiden name of the child's  
15 mother; and

16 (iv) substantial proof of the reques-  
17 tor's identity.

18 (B) ISSUANCE TO PERSONS NOT NAMED  
19 ON BIRTH CERTIFICATE.—A State shall not  
20 issue a birth certificate to a requestor who is  
21 not named on the birth certificate unless the re-  
22 questor presents legal authorization in support  
23 of the request.

24 (C) ISSUANCE TO FAMILY MEMBERS.—Not  
25 later than 1 year after the date of enactment of

1 this Act, the Secretary, in consultation with the  
2 Secretary of Health and Human Services and  
3 appropriate State representatives, shall estab-  
4 lish minimum standards for issuance of a birth  
5 certificate to specific family members, their au-  
6 thorized representatives, and others who dem-  
7 onstrate that the certificate is needed for the  
8 protection of the requestor's personal or prop-  
9 erty rights.

10 (D) WAIVERS.—A State may waive the re-  
11 quirements set forth in subparagraphs (A)  
12 through (C) in exceptional circumstances, such  
13 as the incapacitation of the registrant.

14 (E) APPLICATION BY ELECTRONIC  
15 MEANS.—A State shall employ third party  
16 verification, or equivalent verification, of the  
17 identity of the requestor for applications by  
18 electronic means, through the mail, or by phone  
19 or fax.

20 (F) VERIFICATION OF DOCUMENTS.—A  
21 State shall verify the documents used to provide  
22 proof of identity of the requestor.

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

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

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

10           (1) establish and implement minimum building  
11 security standards for State and local vital record  
12 offices;

13           (2) restrict public access to birth certificates  
14 and information gathered in the issuance process to  
15 ensure that access is restricted to entities with which  
16 the State has a binding privacy protection agree-  
17 ment;

18           (3) subject all persons with access to vital  
19 records to appropriate security clearance require-  
20 ments;

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

1           (5) establish and implement internal operating  
2 system standards for paper and for electronic sys-  
3 tems;

4           (6) establish a central database that can pro-  
5 vide interoperative data exchange with other States  
6 and with Federal agencies, subject to privacy restric-  
7 tions and confirmation of the authority and identity  
8 of the requestor;

9           (7) ensure that birth and death records are  
10 matched in a comprehensive and timely manner, and  
11 that all electronic birth records and paper birth cer-  
12 tificates of decedents are marked “deceased”; and

13           (8) cooperate with the Secretary in the imple-  
14 mentation of electronic verification of vital events  
15 under subsection (f).

16           (d) VERIFICATION OF BIRTH RECORDS PROVIDED IN  
17 SOCIAL SECURITY APPLICATIONS.—

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

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

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

23                   “(II) With respect to an application for a social  
24 security account number for an individual, other  
25 than for purposes of enumeration at birth, the Com-

1       missioner shall require independent verification of  
2       any birth record provided by the applicant in sup-  
3       port of the application.”.

4               (2) EFFECTIVE DATE.—The amendment made  
5       by subsection (a) shall apply with respect to applica-  
6       tions filed more than 180 days after the date of en-  
7       actment of this Act.

8               (e) ELECTRONIC BIRTH AND DEATH REGISTRATION  
9       SYSTEMS.—In consultation with the Secretary of Health  
10      and Human Services and the Commissioner of Social Se-  
11      curity, the Secretary shall—

12              (1) work with the States to establish a common  
13      data set and common data exchange protocol for  
14      electronic birth registration systems and death reg-  
15      istration systems;

16              (2) coordinate requirements for such systems to  
17      align with a national model;

18              (3) ensure that fraud prevention is built into  
19      the design of electronic vital registration systems in  
20      the collection of vital event data, the issuance of  
21      birth certificates, and the exchange of data among  
22      government agencies;

23              (4) ensure that electronic systems for issuing  
24      birth certificates, in the form of printed abstracts of  
25      birth records or digitized images, employ a common

1 format of the certified copy, so that those requiring  
2 such documents can quickly confirm their validity;

3 (5) establish uniform field requirements for  
4 State birth registries;

5 (6) not later than 6 months after the date of  
6 enactment of this Act, submit a report to Congress  
7 on whether there is a need for Federal laws to ad-  
8 dress penalties for fraud and misuse of vital records  
9 and whether violations are sufficiently enforced;

10 (7) not later than 1 year after the date of en-  
11 actment of this Act—

12 (A) establish a process with the Depart-  
13 ment of Defense that will result in the sharing  
14 of data, with the States and the Social Security  
15 Administration, regarding deaths of United  
16 States military personnel and the birth and  
17 death of their dependents; and

18 (B) establish a process with the Depart-  
19 ment of State to improve registration, notifica-  
20 tion, and the sharing of data with the States  
21 and the Social Security Administration, regard-  
22 ing births and deaths of United States citizens  
23 abroad; and

24 (8) not later than 3 years after the date of es-  
25 tablishment of databases provided for under this sec-



1 tion, require States to record and retain electronic  
2 records of pertinent identification information col-  
3 lected from requesters who are not the registrants.

4 (f) ELECTRONIC VERIFICATION OF VITAL EVENTS.—

5 (1) LEAD AGENCY.—The Secretary shall lead  
6 the implementation of electronic verification of a  
7 person’s birth and death.

8 (2) REGULATIONS.—In carrying out subsection  
9 (a), the Secretary shall issue regulations to establish  
10 a means by which authorized Federal and State  
11 agency users with a single interface will be able to  
12 generate an electronic query to any participating  
13 vital records jurisdiction throughout the Nation to  
14 verify the contents of a paper birth certificate. Pur-  
15 suant to the regulations, an electronic response from  
16 the participating vital records jurisdiction as to  
17 whether there is a birth record in their database  
18 that matches the paper birth certificate will be re-  
19 turned to the user, along with an indication if the  
20 matching birth record has been flagged “deceased”.  
21 The regulations shall take effect not later than 5  
22 years after the date of enactment of this Act.

23 (g) GRANTS TO STATES AND LOCAL GOVERN-  
24 MENTS.—

1           (1) IN GENERAL.—The Secretary may make  
2 grants to a State or a local government to assist the  
3 State in conforming to the minimum standards set  
4 forth in this chapter.

5           (2) AUTHORIZATION OF APPROPRIATIONS.—  
6 There are authorized to be appropriated to the Sec-  
7 retary for each of the fiscal years 2006 through  
8 2010 such sums as may be necessary to carry out  
9 this chapter.

10       (h) AUTHORITY.—

11           (1) PARTICIPATION WITH FEDERAL AGEN-  
12 CIES.—All authority to issue regulations, certify  
13 standards, and issue grants under this section shall  
14 be carried out by the Secretary, with the concur-  
15 rence of the Secretary of Health and Human Serv-  
16 ices and in consultation with State vital statistics of-  
17 fices and appropriate Federal agencies.

18           (2) EXTENSION OF DEADLINES.—The Sec-  
19 retary may grant to a State an extension of time to  
20 meet the requirements of subparagraph (b)(1)(A) of  
21 this section if, in the discretion of the Secretary, the  
22 State provides adequate justification for noncompli-  
23 ance.

1 (i) REPEAL.—Section 7211 of the Intelligence Re-  
 2 form and Terrorism Prevention Act of 2004 (5 U.S.C. 301  
 3 note) is repealed.

4 **Subtitle C—Mandatory Electronic**  
 5 **Employment Verification of All**  
 6 **Workers in the United States**

7 **SEC. 321. EMPLOYMENT ELIGIBILITY VERIFICATION PRO-**  
 8 **GRAM.**

9 (a) RENAMING OF BASIC PILOT PROGRAM.—Subtitle  
 10 A of title IV of the Illegal Immigration Reform and Immi-  
 11 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)  
 12 is amended—

13 (1) in section 401(c)(1), “basic pilot program”  
 14 and inserting “Employment Eligibility Verification  
 15 System”; and

16 (2) in section 403(a), by striking “(a)” and all  
 17 that follows through “agrees to conform” and insert  
 18 the following:

19 “(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-  
 20 TEM.—A person or other entity that elects to participate  
 21 in the Employment Eligibility Verification System shall  
 22 agree to conform”.

23 (b) CONFIDENTIALITY.—

24 (1) ACCESS TO DATABASE.—No officer or em-  
 25 ployee of any agency or department of the United

1 States, other than individuals responsible for the en-  
2 forcement of immigration laws or for the evaluation  
3 of the employment verification program at the Social  
4 Security Administration, the Department of Home-  
5 land Security, and the Department of Labor, may  
6 have access to any information contained in the  
7 Database.

8 (2) PROTECTION FROM UNAUTHORIZED DIS-  
9 CLOSURE.—Information in the Database shall be  
10 adequately protected against unauthorized disclosure  
11 for other purposes, as provided in regulations estab-  
12 lished by the Commissioner of Social Security, in  
13 consultation with the Secretary of Homeland Secu-  
14 rity and the Secretary of Labor.

15 (c) IMPROVEMENTS TO DATABASE INTEGRITY.—

16 (1) IN GENERAL.—The Commissioner of Social  
17 Security shall identify the sources of false, incorrect,  
18 or expired Social Security numbers and take steps to  
19 eliminate such numbers from the Social Security  
20 system

21 (2) REPORT.—Not later than 6 months after  
22 the date of enactment of this Act, the Commissioner  
23 of Social Security shall submit a report to Congress  
24 that identifies—

1 (A) the sources of false, incorrect, or ex-  
2 pired Social Security numbers;

3 (B) the steps taken by the Social Security  
4 Administration to identify and eliminate the  
5 numbers described in paragraph (1); and

6 (C) how the Social Security Administration  
7 plans to complete the removal the numbers de-  
8 scribed in paragraph (1) from the Social Secu-  
9 rity system within 1 year after the date on  
10 which the report is submitted.

11 (d) MANDATORY PARTICIPATION.—

12 (1) IN GENERAL.—Beginning not later than 12  
13 months after the date of the enactment of this Act,  
14 any person or other entity that hires any individual  
15 for employment in the United States shall partici-  
16 pate in the Employment Eligibility Verification Sys-  
17 tem.

18 (2) SANCTIONS FOR NONCOMPLIANCE; CON-  
19 TINUATION OF CURRENT COMPLIANCE AUTHOR-  
20 ITY.—The provisions of paragraph (2) of section  
21 402(e) of the Illegal Immigration Reform and Immig-  
22 rant Responsibility Act of 1996 (8 U.S.C. 1324a  
23 note) shall apply with respect to a person or entity  
24 required to participate in the Employment Eligibility  
25 Verification System in the same manner as such

1 paragraph applies to a person or entity otherwise re-  
2 quired to participate under such subsection.

3 (3) VOLUNTARY PARTICIPATION OF EMPLOYERS  
4 NOT SUBJECT TO REQUIREMENT.—Nothing in this  
5 subsection shall be construed as preventing a person  
6 or other entity that is not subject to the requirement  
7 of paragraph (1) from voluntarily participating in  
8 the Employment Eligibility Verification System.

9 (e) ELECTRONIC FILING.—Any employer partici-  
10 pating in the Employment Eligibility Verification System  
11 may complete and allow for new hires to complete employ-  
12 ment verification documents electronically.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated such sums as may be  
15 required to carry out the Employment Eligibility  
16 Verification System throughout the United States and for  
17 every employer.

## 18 **Subtitle D—Reduction in Employer** 19 **Burdens**

### 20 **SEC. 331. REDUCTION IN DOCUMENTS THAT ESTABLISH** 21 **IDENTITY AND EMPLOYMENT AUTHORIZA-** 22 **TION.**

23 (a) IN GENERAL.—Section 274A(b)(1) of the Immi-  
24 gration and Nationality Act (8 U.S.C. 1324a(b)(1)) is  
25 amended—

1           (1) by amending subparagraph (C) to read as  
2 follows:

3           “(C) DOCUMENTS EVIDENCING EMPLOY-  
4           MENT AUTHORIZATION.—The only document  
5           that may be presented to establish employment  
6           authorization under this section is a Social Se-  
7           curity card that complies with section 311(a).”.

8           (2) by amending subparagraph (D) to read as  
9 follows:

10           “(D) DOCUMENTS ESTABLISHING IDEN-  
11           TITY OF AN INDIVIDUAL.—A document de-  
12           scribed in this subparagraph is—

13                   “(i) an identification document issued  
14                   by the United States Government that con-  
15                   tains a biometric identifier; or

16                   “(ii) a driver’s license or identification  
17                   document issued by a State that complies  
18                   with section 202 of the REAL ID Act of  
19                   2005 (Division B of Public Law 109–  
20                   13).”.

21           (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on May 11, 2008.

23 **SEC. 332. GOOD FAITH COMPLIANCE.**

24           An employer that complies with the requirements  
25 under subtitle C has established an affirmative defense

1 that the employer has not violated the employment  
2 verification requirements under section 274A of the Immi-  
3 gration and Nationality Act (8 U.S.C. 1324a).

4 **TITLE IV—REQUIREMENTS FOR**  
5 **PARTICIPATING COUNTRIES**

6 **SEC. 401. REQUIREMENTS FOR PARTICIPATING COUN-**  
7 **TRIES.**

8 (a) IN GENERAL.—An alien is not eligible for status  
9 as a nonimmigrant under section 101(a)(15)(W) of the  
10 Immigration and Nationality Act, as added by section 501  
11 of this Act, or deferred mandatory departure status under  
12 section 218B of the Immigration and Nationality Act, as  
13 added by section 601 of this Act, unless the home country  
14 of the alien has entered into a bilateral agreement with  
15 the United States that conforms to the requirements  
16 under subsection (b).

17 (b) REQUIREMENTS OF BILATERAL AGREEMENTS.—  
18 Each agreement under subsection (a) shall require the  
19 home country to—

20 (1) accept, within 3 days, the return of nation-  
21 als who are ordered removed from the United  
22 States;

23 (2) cooperate with the United States Govern-  
24 ment in—



1 (A) identifying, tracking, and reducing  
2 gang membership, violence, and human traf-  
3 ficking and smuggling; and

4 (B) controlling illegal immigration;

5 (3) provide the United States Government  
6 with—

7 (A) passport information and criminal  
8 records of aliens who are seeking admission to  
9 or are present in the United States; and

10 (B) admission and entry data to facilitate  
11 United States entry-exit data systems;

12 (4) take steps to educate nationals of the home  
13 country regarding the program under title V or VI  
14 to ensure that such nationals are not exploited; and

15 (5) provide a minimum level of health coverage  
16 to its participants.

17 (c) RULEMAKING.—

18 (1) IN GENERAL.—Not later than 3 months  
19 after the date of enactment of this Act, the Sec-  
20 retary of Health and Human Services shall, by regu-  
21 lation, define the minimum level of health coverage  
22 to be provided by participating countries.

23 (2) RESPONSIBILITY TO OBTAIN COVERAGE.—If  
24 the health coverage provided by the home country  
25 falls below the minimum level defined pursuant to

1 paragraph (1), the employer of the alien shall pro-  
 2 vide or the alien shall obtain coverage that meets  
 3 such minimum level.

4 (d) HOUSING.—Participating countries shall agree to  
 5 evaluate means to provide housing incentives in the alien’s  
 6 home country for returning workers.

7 **TITLE V—NONIMMIGRANT**  
 8 **TEMPORARY WORKER PROGRAM**

9 **SEC. 501. NONIMMIGRANT TEMPORARY WORKER CAT-**  
 10 **EGORY.**

11 (a) NEW TEMPORARY WORKER CATEGORY.—Section  
 12 101(a)(15) of the Immigration and Nationality Act (8  
 13 U.S.C. 1101(a)(15)) is amended by adding at the end the  
 14 following:

15 “(W) an alien having a residence in a for-  
 16 eign country which the alien has no intention of  
 17 abandoning who is coming temporarily to the  
 18 United States to perform temporary labor or  
 19 service, other than that which would qualify an  
 20 alien for status under sections  
 21 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a),  
 22 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P),  
 23 and who meets the requirements of section  
 24 218A; or”.

1           (b) REPEAL OF H-2B CATEGORY.—Section  
2 101(a)(15)(H)(ii) is amended by striking “, or (b) having  
3 a residence in a foreign country which he has no intention  
4 of abandoning who is coming temporarily to the United  
5 States to perform other temporary service or labor if un-  
6 employed persons capable of performing such service or  
7 labor cannot be found in this country, but this clause shall  
8 not apply to graduates of medical schools coming to the  
9 United States to perform services as members of the med-  
10 ical profession”.

11           (c) TECHNICAL AMENDMENTS.—Section 101(a)(15)  
12 of the Immigration and Nationality Act (8 U.S.C.  
13 1101(a)(15)) is amended—

14                 (1) in subparagraph (U)(iii), by striking “or”  
15                 at the end; and

16                 (2) in subparagraph (V)(ii)(II), by striking the  
17                 period at the end and inserting a semicolon and  
18                 “or”.

19 **SEC. 502. TEMPORARY WORKER PROGRAM.**

20           (a) IN GENERAL.—The Immigration and Nationality  
21 Act (8 U.S.C. 1101 et seq.) is amended by inserting after  
22 section 218 the following new section:

23 **“SEC. 218A. TEMPORARY WORKER PROGRAM.**

24           “(a) IN GENERAL.—The Secretary of State may  
25 grant a temporary visa to a nonimmigrant described in

1 section 101(a)(15)(W) who demonstrates an intent to per-  
2 form labor or services in the United States (other than  
3 those occupational classifications covered under the provi-  
4 sions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H)  
5 or subparagraph (L), (O), (P), or (R)) of section  
6 101(a)(15)).

7 “(b) REQUIREMENTS FOR ADMISSION.—In order to  
8 be eligible for nonimmigrant status under section  
9 101(a)(15)(H)(W), an alien shall meet the following re-  
10 quirements:

11 “(1) ELIGIBILITY TO WORK.—The alien shall  
12 establish that the alien is capable of performing the  
13 labor or services required for an occupation under  
14 section 101(a)(15)(W).

15 “(2) EVIDENCE OF EMPLOYMENT.—The alien  
16 must establish that he has a job offer from an em-  
17 ployer authorized to hire aliens under the Alien Em-  
18 ployment Management Program.

19 “(3) FEE.—The alien shall pay a \$500 visa  
20 issuance fee in addition to the cost of processing and  
21 adjudicating such application. Nothing in this para-  
22 graph shall be construed to affect consular proce-  
23 dures for charging reciprocal fees.

24 “(4) MEDICAL EXAMINATION.—The alien shall  
25 undergo a medical examination (including a deter-

1 mination of immunization status) at the alien’s ex-  
2 pense, that conforms to generally accepted standards  
3 of medical practice.

4 “(5) APPLICATION CONTENT AND WAIVER.—

5 “(A) APPLICATION FORM.—The Secretary  
6 of Homeland Security shall create an applica-  
7 tion form that an alien shall be required to  
8 complete as a condition of being admitted as a  
9 nonimmigrant under section 101(a)(15)(W).

10 “(B) CONTENT.—In addition to any other  
11 information that the Secretary determines is re-  
12 quired to determine an alien’s eligibility for ad-  
13 mission as a nonimmigrant under section  
14 101(a)(15)(W), the Secretary shall require an  
15 alien to provide information concerning the  
16 alien’s physical and mental health, criminal his-  
17 tory and gang membership, immigration his-  
18 tory, involvement with groups or individuals  
19 that have engaged in terrorism, genocide, perse-  
20 cution, or who seek the overthrow of the United  
21 States Government, voter registration history,  
22 claims to United States citizenship, and tax his-  
23 tory.

24 “(C) WAIVER.—The Secretary of Home-  
25 land Security may require an alien to include

1 with the application a waiver of rights that ex-  
2 plains to the alien that, in exchange for the dis-  
3 cretionary benefit of admission as a non-  
4 immigrant under section 101(a)(15)(W), the  
5 alien agrees to waive any right—

6 “(i) to administrative or judicial re-  
7 view or appeal of an immigration officer’s  
8 determination as to the alien’s admissi-  
9 bility; or

10 “(ii) to contest any removal action,  
11 other than on the basis of an application  
12 for asylum pursuant to the provisions con-  
13 tained in section 208 or 241(b)(3), or  
14 under the Convention Against Torture and  
15 Other Cruel, Inhuman or Degrading Treat-  
16 ment or Punishment, done at New York  
17 December 10, 1984, if such removal action  
18 is initiated after the termination of the  
19 alien’s period of authorized admission as a  
20 nonimmigrant under section  
21 101(a)(15)(W).

22 “(D) KNOWLEDGE.—The Secretary of  
23 Homeland Security shall require an alien to in-  
24 clude with the application a signed certification  
25 in which the alien certifies that the alien has

1 read and understood all of the questions and  
2 statements on the application form, and that  
3 the alien certifies under penalty of perjury  
4 under the laws of the United States that the  
5 application, and any evidence submitted with it,  
6 are all true and correct, and that the applicant  
7 authorizes the release of any information con-  
8 tained in the application and any attached evi-  
9 dence for law enforcement purposes.

10 “(c) GROUNDS OF INADMISSIBILITY.—

11 “(1) IN GENERAL.—In determining an alien’s  
12 admissibility as a nonimmigrant under section  
13 101(a)(15)(W)—

14 “(A) paragraphs (5), (6)(A), (7), and  
15 (9)(B) or (C) of section 212(a) may be waived  
16 for conduct that occurred on a date prior to the  
17 effective date of this Act; and

18 “(B) the Secretary of Homeland Security  
19 may not waive—

20 “(i) subparagraph (A), (B), (C), (E),  
21 (G), (H), or (I) of section 212(a)(2) (relat-  
22 ing to criminals);

23 “(ii) section 212(a)(3) (relating to se-  
24 curity and related grounds); or

1                   “(iii) subparagraphs (A), (C) or (D)  
2                   of section 212(a)(10) (relating to polyg-  
3                   amists, child abductors and illegal voters);

4                   “(C) for conduct that occurred prior to the  
5                   date this Act was introduced in Congress, the  
6                   Secretary of Homeland Security may waive the  
7                   application of any provision of section 212(a)  
8                   not listed in subparagraph (B) on behalf of an  
9                   individual alien for humanitarian purposes, to  
10                  ensure family unity, or when such waiver is oth-  
11                  erwise in the public interest; and

12                  “(D) nothing in this paragraph shall be  
13                  construed as affecting the authority of the Sec-  
14                  retary of Homeland Security to waive the provi-  
15                  sions of section 212(a).

16                  “(2) WAIVER FEE.—An alien who is granted a  
17                  waiver under subparagraph (1) shall pay a \$500 fee  
18                  upon approval of the alien’s visa application.

19                  “(3) RENEWAL OF AUTHORIZED ADMISSION  
20                  AND SUBSEQUENT ADMISSIONS.—An alien seeking  
21                  renewal of authorized admission or subsequent ad-  
22                  mission as a nonimmigrant under section  
23                  101(a)(15)(W) shall establish that the alien is not  
24                  inadmissible under section 212(a).



1       “(d) BACKGROUND CHECKS AND INTERVIEW.—The  
2 Secretary of Homeland Security shall not admit, and the  
3 Secretary of State shall not issue a visa to, an alien seek-  
4 ing admission under section 101(a)(15)(W) until all ap-  
5 propriate background checks have been completed. The  
6 Secretary of State shall ensure that an employee of the  
7 Department of State conducts a personal interview of an  
8 applicant for a visa under section 101(a)(15)(W).

9       “(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLAS-  
10 SIFICATION.—An alien admitted under section  
11 101(a)(15)(W) is ineligible to change status under section  
12 248.

13       “(f) DURATION.—

14               “(1) GENERAL.—The period of authorized ad-  
15 mission as a nonimmigrant under 101(a)(15)(W)  
16 shall be 2 years, and may not be extended. An alien  
17 is ineligible to reenter as an alien under  
18 101(a)(15)(W) until the alien has resided continu-  
19 ously in the alien’s home country for a period of 1  
20 year. The total period of admission as a non-  
21 immigrant under section 101(a)(15)(W) may not ex-  
22 ceed 6 years.

23               “(2) SEASONAL WORKERS.—An alien who  
24 spends less than 6 months a year as a nonimmigrant

1 described in section 101(a)(15)(W) is not subject to  
2 the time limitations under subparagraph (1).

3 “(3) COMMUTERS.—An alien who resides out-  
4 side the United States, but who commutes to the  
5 United States to work as a nonimmigrant described  
6 in section 101(a)(15)(W), is not subject to the time  
7 limitations under paragraph (1).

8 “(4) DEFERRED MANDATORY DEPARTURE.—An  
9 alien granted Deferred Mandatory Departure status,  
10 who remains in the United States under such status  
11 for—

12 “(A) a period of 2 years, may not be  
13 granted status as a nonimmigrant under section  
14 101(a)(15)(W) for more than a total of 5 years;

15 “(B) a period of 3 years, may not be  
16 granted status as a nonimmigrant under section  
17 101(a)(15)(W) for more than a total of 4 years;

18 “(C) a period of 4 years, may not be  
19 granted status as a nonimmigrant under section  
20 101(a)(15)(W) for more than a total of 3 years;

21 or

22 “(D) a period of 5 years, may not be  
23 granted status as a nonimmigrant under section  
24 101(a)(15)(W) for more than a total of 2 years.

1       “(g) INTENT TO RETURN HOME.—In addition to  
2 other requirements in this section, an alien is not eligible  
3 for nonimmigrant status under section 101(a)(15)(W) un-  
4 less the alien—

5           “(1) maintains a residence in a foreign country  
6 which the alien has no intention of abandoning; and

7           “(2) is present in such foreign country for at  
8 least 7 consecutive days during each year that the  
9 alien is a temporary worker.

10       “(h) BIOMETRIC DOCUMENTATION.—Evidence of  
11 status under section 101(a)(15)(W) shall be machine-  
12 readable, tamper-resistant, and allow for biometric au-  
13 thentication. The Secretary of Homeland Security is au-  
14 thorized to incorporate integrated-circuit technology into  
15 the document. The Secretary of Homeland Security shall  
16 consult with the Forensic Document Laboratory in design-  
17 ing the document. The document may serve as a travel,  
18 entry, and work authorization document during the period  
19 of its validity.

20       “(i) PENALTY FOR FAILURE TO DEPART.—An alien  
21 who fails to depart the United States prior to 10 days  
22 after the date that the alien’s authorized period of admis-  
23 sion as a temporary worker ends is not eligible and may  
24 not apply for or receive any immigration relief or benefit  
25 under this Act or any other law, with the exception of sec-

1 tion 208 or 241(b)(3) or the Convention Against Torture  
2 and Other Cruel, Inhuman or Degrading Treatment or  
3 Punishment, done at New York December 10, 1984, in  
4 the case of an alien who indicates either an intention to  
5 apply for asylum under section 208 or a fear of persecu-  
6 tion or torture.

7 “(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—  
8 An alien who, after the effective date of enactment of the  
9 Comprehensive Enforcement and Immigration Reform Act  
10 of 2005, enters the United States without inspection, or  
11 violates a term or condition of admission into the United  
12 States as a nonimmigrant, including overstaying the pe-  
13 riod of authorized admission, shall be ineligible for non-  
14 immigrant status under section 101(a)(15)(W) or De-  
15 ferred Mandatory Departure status under section 218B  
16 for a period of 10 years.

17 “(k) ESTABLISHMENT OF TEMPORARY WORKER  
18 TASK FORCE.—

19 “(1) IN GENERAL.—There is established a task  
20 force to be known as the Temporary Worker Task  
21 Force (referred to in this section as the ‘Task  
22 Force’).

23 “(2) PURPOSES.—The purposes of the Task  
24 Force are—

1           “(A) to study the impact of the admission  
2 of aliens under section 101(a)(15)(W) on the  
3 wages, working conditions, and employment of  
4 United States workers; and

5           “(B) to make recommendations to the Sec-  
6 retary of Labor regarding the need for an an-  
7 nual numerical limitation on the number of  
8 aliens that may be admitted in any fiscal year  
9 under section 101(a)(15)(W).

10          “(3) MEMBERSHIP.—The Task Force shall be  
11 composed of 10 members, of whom—

12           “(A) 1 shall be appointed by the President  
13 and shall serve as chairman of the Task Force;

14           “(B) 1 shall be appointed by the leader of  
15 the minority party in the Senate, in consulta-  
16 tion with the leader of the minority party in the  
17 House of Representatives, and shall serve as  
18 vice chairman of the Task Force;

19           “(C) 2 shall be appointed by the majority  
20 leader of the Senate;

21           “(D) 2 shall be appointed by the minority  
22 leader of the Senate;

23           “(E) 2 shall be appointed by the Speaker  
24 of the House of Representatives; and

1           “(F) 2 shall be appointed by the minority  
2 leader of the House of Representatives.

3           “(4) QUALIFICATIONS.—

4           “(A) IN GENERAL.—Members of the Task  
5 Force shall be—

6           “(i) individuals with expertise in eco-  
7 nomics, demography, labor, business, or  
8 immigration or other pertinent qualifica-  
9 tions or experience; and

10           “(ii) representative of a broad cross-  
11 section of perspectives within the United  
12 States, including the public and private  
13 sectors and academia.

14           “(B) POLITICAL AFFILIATION.—Not more  
15 than 5 members of the Task Force may be  
16 members of the same political party.

17           “(C) NONGOVERNMENTAL APPOINTEES.—  
18 An individual appointed to the Task Force may  
19 not be an officer or employee of the Federal  
20 Government or of any State or local govern-  
21 ment.

22           “(5) DEADLINE FOR APPOINTMENT.—All mem-  
23 bers of the Task Force shall be appointed not later  
24 than 6 months after the date of enactment of the

1 Comprehensive Enforcement and Immigration Re-  
2 form Act of 2005.

3 “(6) VACANCIES.—Any vacancy in the Task  
4 Force shall not affect its powers, but shall be filled  
5 in the same manner in which the original appoint-  
6 ment was made.

7 “(7) MEETINGS.—

8 “(A) INITIAL MEETING.—The Task Force  
9 shall meet and begin the operations of the Task  
10 Force as soon as practicable.

11 “(B) SUBSEQUENT MEETINGS.—After its  
12 initial meeting, the Task Force shall meet upon  
13 the call of the chairman or a majority of its  
14 members.

15 “(8) QUORUM.—Six members of the Task  
16 Force shall constitute a quorum.

17 “(9) REPORT.—Not later than 18 months after  
18 the date of enactment of the Comprehensive En-  
19 forcement and Immigration Reform Act of 2005, the  
20 Task Force shall submit to Congress, the Secretary  
21 of Labor, and the Secretary of Homeland Security  
22 a report that contains—

23 “(A) findings with respect to the duties of  
24 the Task Force;

1           “(B) recommendations for imposing a nu-  
2           merical limit.

3           “(10) DETERMINATION.—Not later than 6  
4           months after the submission of the report, the Sec-  
5           retary of Labor may impose a numerical limitation  
6           on the number of aliens that may be admitted under  
7           section 101(a)(15)(W). Any numerical limit shall not  
8           become effective until 6 months after the Secretary  
9           of Labor submits a report to Congress regarding the  
10          imposition of a numerical limit.

11          “(1) FAMILY MEMBERS.—

12           “(1) FAMILY MEMBERS OF W NON-  
13          IMMIGRANTS.—

14           “(A) IN GENERAL.—The spouse or child of  
15          an alien admitted as a nonimmigrant under sec-  
16          tion 101(a)(15)(W) may be admitted to the  
17          United States—

18           “(i) as a nonimmigrant under section  
19          101(a)(15)(B) for a period of not more  
20          than 30 days, which may not be extended  
21          unless the Secretary of Homeland Security,  
22          in his sole and unreviewable discretion, de-  
23          termines that exceptional circumstances  
24          exist; or



1           “(ii) under any other provision of this  
2           Act, if such family member is otherwise eli-  
3           gible for such admission.

4           “(B) APPLICATION FEE.—

5           “(i) IN GENERAL.—The spouse or  
6           child of an alien admitted as a non-  
7           immigrant under section 101(a)(15)(W)  
8           who is seeking to be admitted as a non-  
9           immigrant under section 101(a)(15)(B)  
10          shall submit, in addition to any other fee  
11          authorized by law, an additional fee of  
12          \$100.

13          “(ii) USE OF FEE.—The fees collected  
14          under clause (i) shall be available for use  
15          by the Secretary of Homeland Security for  
16          activities to identify, locate, or remove ille-  
17          gal aliens.

18          “(m) TRAVEL OUTSIDE THE UNITED STATES.—

19                 “(1) IN GENERAL.—Under regulations estab-  
20                 lished by the Secretary of Homeland Security, a  
21                 nonimmigrant alien under section 101(a)(15)(W)—

22                         “(A) may travel outside of the United  
23                         States; and

1           “(B) may be readmitted without having to  
2           obtain a new visa if the period of authorized ad-  
3           mission has not expired.

4           “(2) EFFECT ON PERIOD OF AUTHORIZED AD-  
5           MISSION.—Time spent outside the United States  
6           under paragraph (1) shall not extend the period of  
7           authorized admission in the United States.

8           “(n) EMPLOYMENT.—

9           “(1) PORTABILITY.—An alien may be employed  
10          by any United States employer authorized by the  
11          Secretary of Homeland Security to hire aliens admit-  
12          ted under section 218C.

13          “(2) CONTINUOUS EMPLOYMENT.—An alien  
14          must be employed while in the United States. An  
15          alien who fails to be employed for 30 days is ineli-  
16          gible for hire until the alien departs the United  
17          States and reenters as a nonimmigrant under sec-  
18          tion 101(a)(15)(W). The Secretary of Homeland Se-  
19          curity may, in its sole and unreviewable discretion,  
20          reauthorize an alien for employment, without requir-  
21          ing the alien’s departure from the United States.

22          “(o) ENUMERATION OF SOCIAL SECURITY NUM-  
23          BER.—The Secretary of Homeland Security, in coordina-  
24          tion with the Commissioner of Social Security, shall imple-  
25          ment a system to allow for the enumeration of a Social

1 Security number and production of a Social Security card  
2 at time of admission of an alien under section  
3 101(a)(15)(W).

4 “(p) DENIAL OF DISCRETIONARY RELIEF.—The de-  
5 termination of whether an alien is eligible for a grant of  
6 nonimmigrant status under section 101(a)(15)(W) is sole-  
7 ly within the discretion of the Secretary of Homeland Se-  
8 curity. Notwithstanding any other provision of law, no  
9 court shall have jurisdiction to review—

10 “(1) any judgment regarding the granting of  
11 relief under this section; or

12 “(2) any other decision or action of the Sec-  
13 retary of Homeland Security the authority for which  
14 is specified under this section to be in the discretion  
15 of the Secretary, other than the granting of relief  
16 under section 1158(a).

17 “(q) JUDICIAL REVIEW.—

18 “(1) LIMITATIONS ON RELIEF.—Without regard  
19 to the nature of the action or claim and without re-  
20 gard to the identity of the party or parties bringing  
21 the action, no court may—

22 “(A) enter declaratory, injunctive, or other  
23 equitable relief in any action pertaining to—

24 “(i) an order or notice denying an  
25 alien a grant of nonimmigrant status

1 under section 101(a)(15)(W) or any other  
2 benefit arising from such status; or

3 “(ii) an order of removal, exclusion, or  
4 deportation entered against an alien if  
5 such order is entered after the termination  
6 of the alien’s period of authorized admis-  
7 sion as a nonimmigrant under section  
8 101(a)(15)(W); or

9 “(B) certify a class under Rule 23 of the  
10 Federal Rules of Civil Procedure in any action  
11 for which judicial review is authorized under a  
12 subsequent paragraph of this subsection.

13 “(2) CHALLENGES TO VALIDITY.—

14 “(A) IN GENERAL.—Any right or benefit  
15 not otherwise waived or limited pursuant this  
16 section is available in an action instituted in the  
17 United States District Court for the District of  
18 Columbia, but shall be limited to determina-  
19 tions of—

20 “(i) whether such section, or any reg-  
21 ulation issued to implement such section,  
22 violates the Constitution of the United  
23 States; or

24 “(ii) whether such a regulation, or a  
25 written policy directive, written policy

1 guideline, or written procedure issued by  
2 or under the authority the Secretary of  
3 Homeland Security to implement such sec-  
4 tion, is not consistent with applicable pro-  
5 visions of this section or is otherwise in  
6 violation of law.”.

7 (b) PROHIBITION ON CHANGE IN NONIMMIGRANT  
8 CLASSIFICATION.—Section 248(1) of the Immigration and  
9 Nationality Act (8 U.S.C. 1258(1)) is amended by striking  
10 “or (S)” and inserting “(S), or (W)”.

11 **SEC. 503. STATUTORY CONSTRUCTION.**

12 Nothing in this title, or any amendment made by this  
13 title, shall be construed to create any substantive or proce-  
14 dural right or benefit that is legally enforceable by any  
15 party against the United States or its agencies or officers  
16 or any other person.

17 **SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated  
19 \$500,000,000 for facilities, personnel (including consular  
20 officers), training, technology and processing necessary to  
21 carry out the amendments made by this title.

1 **TITLE VI—MANDATORY DEPART-**  
2 **TURE AND REENTRY IN**  
3 **LEGAL STATUS**

4 **SEC. 601. MANDATORY DEPARTURE AND REENTRY IN**  
5 **LEGAL STATUS.**

6 (a) IN GENERAL.—The Immigration and Nationality  
7 Act (8 U.S.C. 1101 et seq.) is amended by inserting after  
8 section 218A, as added by section 502, the following new  
9 section:

10 **“SEC. 218B. MANDATORY DEPARTURE AND REENTRY.**

11 “(a) IN GENERAL.—The Secretary of Homeland Se-  
12 curity may grant Deferred Mandatory Departure status  
13 to aliens who are in the United States illegally to allow  
14 such aliens time to depart the United States and to seek  
15 admission as a nonimmigrant or immigrant alien.

16 “(b) REQUIREMENTS.—

17 “(1) PRESENCE.—An alien must establish that  
18 the alien was physically present in the United States  
19 1 year prior to the date of the introduction of the  
20 Comprehensive Enforcement and Immigration Re-  
21 form Act of 2005 in Congress and has been continu-  
22 ously in the United States since such date, and was  
23 not legally present in the United States under any  
24 classification set forth in section 101(a)(15) on that  
25 date.

1           “(2) EMPLOYMENT.—An alien must establish  
2           that the alien was employed in the United States  
3           prior to the date of the introduction of the Com-  
4           prehensive Enforcement and Immigration Reform  
5           Act of 2005, and has been employed in the United  
6           States since that date.

7           “(3) ADMISSIBILITY.—

8                   “(A) IN GENERAL.—The alien must estab-  
9                   lish that he—

10                           “(i) is admissible to the united states,  
11                           except as provided as in (B); and

12                                   “(ii) has not assisted in the persecu-  
13                                   tion of any person or persons on account  
14                                   of race, religion, nationality, membership  
15                                   in a particular social group, or political  
16                                   opinion.

17                           “(B) GROUNDS NOT APPLICABLE.—The  
18                           provisions of paragraphs (5), (6)(A), and (7) of  
19                           section 212(a) shall not apply.

20                           “(C) WAIVER.—The Secretary of Home-  
21                           land Security may waive any other provision of  
22                           section 212(a), or a ground of ineligibility  
23                           under paragraph (4), in the case of individual  
24                           aliens for humanitarian purposes, to assure

1 family unity, or when it is otherwise in the pub-  
2 lic interest.

3 “(4) INELIGIBLE.—An alien is ineligible for De-  
4 ferred Mandatory Departure status if the alien—

5 “(A) is subject to a final order or removal  
6 under section 240;

7 “(B) failed to depart the United States  
8 during the period of a voluntary departure  
9 order under section 240B;

10 “(C) has been issued a Notice to Appear  
11 under section 239, unless the sole acts of con-  
12 duct alleged to be in violation of the law are  
13 that the alien is removable under section  
14 237(a)(1)(C) or is inadmissible under section  
15 212(a)(6)(A);

16 “(D) is a resident of a country for which  
17 the Secretary of State has made a determina-  
18 tion that the government of such country has  
19 repeatedly provided support for acts of inter-  
20 national terrorism under section 6(j) of the Ex-  
21 port Administration Act of 1979 (50 U.S.C.  
22 App. 2405(j)) or under section 620A of the  
23 Foreign Assistance Act of 1961 (22 U.S.C.  
24 2371); or



1           “(E) fails to comply with any request for  
2 information by the Secretary of Homeland Se-  
3 curity.

4           “(5) MEDICAL EXAMINATION.—The alien may  
5 be required, at the alien’s expense, to undergo such  
6 a medical examination (including a determination of  
7 immunization status) as is appropriate and conforms  
8 to generally accepted professional standards of med-  
9 ical practice.

10           “(6) TERMINATION.—The Secretary of Home-  
11 land Security may terminate an alien’s Deferred  
12 Mandatory Departure status—

13           “(A) if the Secretary of Homeland Secu-  
14 rity determines that the alien was not in fact el-  
15 igible for such status; or

16           “(B) if the alien commits an act that  
17 makes the alien removable from the United  
18 States.

19           “(7) APPLICATION CONTENT AND WAIVER.—

20           “(A) APPLICATION FORM.—The Secretary  
21 of Homeland Security shall create an applica-  
22 tion form that an alien shall be required to  
23 complete as a condition of obtaining Deferred  
24 Mandatory Departure status.

1           “(B) CONTENT.—In addition to any other  
2 information that the Secretary determines is re-  
3 quired to determine an alien’s eligibility for De-  
4 ferred Mandatory Departure, the Secretary  
5 shall require an alien to answer questions con-  
6 cerning the alien’s physical and mental health,  
7 criminal history and gang membership, immi-  
8 gration history, involvement with groups or in-  
9 dividuals that have engaged in terrorism, geno-  
10 cide, persecution, or who seek the overthrow of  
11 the United States government, voter registra-  
12 tion history, claims to United States citizenship,  
13 and tax history.

14           “(C) WAIVER.—The Secretary of Home-  
15 land Security shall require an alien to include  
16 with the application a waiver of rights that ex-  
17 plains to the alien that, in exchange for the dis-  
18 cretionary benefit of obtaining Deferred Manda-  
19 tory Departure status, the alien agrees to waive  
20 any right to administrative or judicial review or  
21 appeal of an immigration officer’s determina-  
22 tion as to the alien’s eligibility, or to contest  
23 any removal action, other than on the basis of  
24 an application for asylum pursuant to the provi-  
25 sions contained in section 208 or 241(b)(3), or

1 under the Convention Against Torture and  
2 Other Cruel, Inhuman or Degrading Treatment  
3 or Punishment, done at New York December  
4 10, 1984.

5 “(D) KNOWLEDGE.—The Secretary of  
6 Homeland Security shall require an alien to in-  
7 clude with the application a signed certification  
8 in which the alien certifies that the alien has  
9 read and understood all of the questions and  
10 statements on the application form, and that  
11 the alien certifies under penalty of perjury  
12 under the laws of the United States that the  
13 application, and any evidence submitted with it,  
14 are all true and correct, and that the applicant  
15 authorizes the release of any information con-  
16 tained in the application and any attached evi-  
17 dence for law enforcement purposes.

18 “(c) IMPLEMENTATION AND APPLICATION TIME PE-  
19 RIODS.—

20 “(1) IN GENERAL.—The Secretary of Homeland  
21 Security shall ensure that the application process is  
22 secure and incorporates anti-fraud protection. The  
23 Secretary of Homeland Security shall interview an  
24 alien to determine eligibility for Deferred Mandatory

1 Departure status and shall utilize biometric authentication at time of document issuance.

3 “(2) INITIAL RECEIPT OF APPLICATIONS.—The  
4 Secretary of Homeland Security shall begin accepting  
5 applications for Deferred Mandatory Departure  
6 status not later than 3 months after the date of enactment  
7 of the Comprehensive Enforcement and Immigration Reform Act of 2005.

9 “(3) APPLICATION.—An alien must submit an  
10 initial application for Deferred Mandatory Departure  
11 status not later than 6 months after the date  
12 of enactment of the Comprehensive Enforcement  
13 and Immigration Reform Act of 2005. An alien that  
14 fails to comply with this requirement is ineligible for  
15 Deferred Mandatory Departure status.

16 “(4) COMPLETION OF PROCESSING.—The Secretary  
17 of Homeland Security shall ensure that all  
18 applications for Deferred Mandatory Departure status  
19 are processed not later than 12 months after the  
20 date of enactment of the Comprehensive Enforcement  
21 and Immigration Reform Act of 2005.

22 “(d) SECURITY AND LAW ENFORCEMENT BACKGROUND  
23 CHECKS.—An alien may not be granted Deferred  
24 Mandatory Departure status unless the alien submits biometric  
25 data in accordance with procedures established by

1 the Secretary of Homeland Security. The Secretary of  
2 Homeland Security may not grant Deferred Mandatory  
3 Departure status until all appropriate background checks  
4 are completed to the satisfaction of the Secretary of  
5 Homeland Security.

6 “(e) ACKNOWLEDGMENT.—An alien who applies for  
7 Deferred Mandatory Departure status shall submit to the  
8 Secretary of Homeland Security—

9 “(1) an acknowledgment made in writing and  
10 under oath that the alien—

11 “(A) is unlawfully present in the United  
12 States and subject to removal or deportation, as  
13 appropriate, under this Act; and

14 “(B) understands the terms of the terms  
15 of Deferred Mandatory Departure;

16 “(2) any Social Security account number or  
17 card in the possession of the alien or relied upon by  
18 the alien;

19 “(3) any false or fraudulent documents in the  
20 alien’s possession.

21 “(f) MANDATORY DEPARTURE.—

22 “(1) IN GENERAL.—The Secretary of Homeland  
23 Security may, in the Secretary’s sole and  
24 unreviewable discretion, grant an alien Deferred

1 Mandatory Departure status for a period not to ex-  
2 ceed 5 years.

3 “(2) REGISTRATION AT TIME OF DEPART-  
4 TURE.—An alien granted Deferred Mandatory De-  
5 parture must depart prior to the expiration of the  
6 period of Deferred Mandatory Departure status. The  
7 alien must register with the Secretary of Homeland  
8 Security at time of departure and surrender any evi-  
9 dence of Deferred Mandatory Departure status at  
10 time of departure.

11 “(3) RETURN IN LEGAL STATUS.—An alien who  
12 complies with the terms of Deferred Mandatory De-  
13 parture status and who departs prior to the expira-  
14 tion of such status shall not be subject to section  
15 212(a)(9)(B) and, if otherwise eligible, may imme-  
16 diately seek admission as a nonimmigrant or immi-  
17 grant.

18 “(4) FAILURE TO DEPART.—An alien who fails  
19 to depart the United States prior to the expiration  
20 of Mandatory Deferred Departure status is not eligi-  
21 ble and may not apply for or receive any immigra-  
22 tion relief or benefit under this Act or any other law  
23 for a period of 10 years, with the exception of sec-  
24 tion 208 or 241(b)(3) or the Convention Against  
25 Torture and Other Cruel, Inhuman or Degrading

1 Treatment or Punishment, done at New York De-  
2 cember 10, 1984, in the case of an alien who indi-  
3 cates either an intention to apply for asylum under  
4 section 208 or a fear of persecution or torture.

5 “(5) PENALTIES FOR DELAYED DEPARTURE.—  
6 An alien who fails to depart immediately shall be  
7 subject to the following fees:

8 “(A) No fine if the alien departs within the  
9 first year after the grant of Deferred Mandat-  
10 tory Departure.

11 “(B) \$2,000 if the alien does not depart  
12 within the second year after the grant of De-  
13 ferred Mandatory Departure.

14 “(C) \$3,000 if the alien does not depart  
15 within the third year following the grant of De-  
16 ferred Mandatory Departure.

17 “(D) \$4,000 if the alien does not depart  
18 within the fourth year following the grant of  
19 Deferred Mandatory Departure.

20 “(E) \$5,000 if the alien does not depart  
21 during the fifth year following the grant of De-  
22 ferred Mandatory Departure.

23 “(g) EVIDENCE OF DEFERRED MANDATORY DEPAR-  
24 TURE STATUS.—Evidence of Deferred Mandatory Depar-  
25 ture status shall be machine-readable, tamper-resistant,

1 and allow for biometric authentication. The Secretary of  
2 Homeland Security is authorized to incorporate inte-  
3 grated-circuit technology into the document. The Sec-  
4 retary of Homeland Security shall consult with the Foren-  
5 sic Document Laboratory in designing the document. The  
6 document may serve as a travel, entry, and work author-  
7 ization document during the period of its validity. The  
8 document may be accepted by an employer as evidence of  
9 employment authorization and identity under section  
10 274A(b)(1)(B).

11 “(h) TERMS OF STATUS.—

12 “(1) REPORTING.—During the period of De-  
13 ferred Mandatory Departure, an alien shall comply  
14 with all registration requirements under section 264.

15 “(2) TRAVEL.—

16 “(A) An alien granted Deferred Mandatory  
17 Departure is not subject to section 212(a)(9)  
18 for any unlawful presence that occurred prior to  
19 the Secretary of Homeland Security granting  
20 the alien Deferred Mandatory Departure status.

21 “(B) Under regulations established by the  
22 Secretary of Homeland Security, an alien grant-  
23 ed Deferred Mandatory Departure—

24 “(i) may travel outside of the United  
25 States and may be readmitted if the period



1 of Deferred Mandatory Departure status  
2 has not expired; and

3 “(ii) must establish at the time of ap-  
4 plication for admission that the alien is ad-  
5 missible under section 212.

6 “(C) EFFECT ON PERIOD OF AUTHORIZED  
7 ADMISSION.—Time spent outside the United  
8 States under subparagraph (B) shall not extend  
9 the period of Deferred Mandatory Departure  
10 status.

11 “(3) BENEFITS.—During the period in which  
12 an alien is granted Deferred Mandatory Departure  
13 under this section—

14 “(A) the alien shall not be considered to be  
15 permanently residing in the United States  
16 under the color of law and shall be treated as  
17 a nonimmigrant admitted under section 214;  
18 and

19 “(B) the alien may be deemed ineligible for  
20 public assistance by a State (as defined in sec-  
21 tion 101(a)(36)) or any political subdivision  
22 thereof which furnishes such assistance.

23 “(i) PROHIBITION ON CHANGE OF STATUS OR AD-  
24 JUSTMENT OF STATUS.—An alien granted Deferred Man-  
25 datory Departure status is prohibited from applying to

1 change status under section 248 or, unless otherwise eligi-  
2 ble under section 245(i), from applying for adjustment of  
3 status to that of a permanent resident under section 245.

4 “(j) APPLICATION FEE.—

5 “(1) IN GENERAL.—An alien seeking a grant of  
6 Deferred Mandatory Departure status shall submit,  
7 in addition to any other fees authorized by law, an  
8 application fee of \$1,000.

9 “(2) USE OF FEE.—The fees collected under  
10 paragraph (1) shall be available for use by the Sec-  
11 retary of Homeland Security for activities to iden-  
12 tify, locate, or remove illegal aliens.

13 “(k) FAMILY MEMBERS.—

14 “(1) FAMILY MEMBERS.—

15 “(A) IN GENERAL.—The spouse or child of  
16 an alien granted Deferred Mandatory Departure  
17 status is subject to the same terms and  
18 conditions as the principal alien, but is not au-  
19 thorized to work in the United States.

20 “(B) APPLICATION FEE.—

21 “(i) IN GENERAL.—The spouse or  
22 child of an alien seeking Deferred Manda-  
23 tory Departure shall submit, in addition to  
24 any other fee authorized by law, an addi-  
25 tional fee of \$500.

1           “(ii) USE OF FEE.—The fees collected  
2           under clause (i) shall be available for use  
3           by the Secretary of Homeland Security for  
4           activities to identify, locate, or remove  
5           aliens who are removable under section  
6           237.

7           “(1) EMPLOYMENT.—

8           “(1) IN GENERAL.—An alien may be employed  
9           by any United States employer authorized by the  
10          Secretary of Homeland Security to hire aliens under  
11          section 218C.

12          “(2) CONTINUOUS EMPLOYMENT.—An alien  
13          must be employed while in the United States. An  
14          alien who fails to be employed for 30 days is ineli-  
15          gible for hire until the alien has departed the United  
16          States and reentered. The Secretary of Homeland  
17          Security may, in the Secretary’s sole and  
18          unreviewable discretion, reauthorize an alien for em-  
19          ployment without requiring the alien’s departure  
20          from the United States.

21          “(m) ENUMERATION OF SOCIAL SECURITY NUM-  
22          BER.—The Secretary of Homeland Security, in coordina-  
23          tion with the Commissioner of the Social Security System,  
24          shall implement a system to allow for the enumeration of  
25          a Social Security number and production of a Social Secu-

1 rity card at the time the Secretary of Homeland Security  
2 grants an alien Deferred Mandatory Departure status.

3 “(n) PENALTIES FOR FALSE STATEMENTS IN APPLI-  
4 CATION FOR DEFERRED MANDATORY DEPARTURE.—

5 “(1) CRIMINAL PENALTY.—

6 “(A) VIOLATION.—It shall be unlawful for  
7 any person—

8 “(i) to file or assist in filing an appli-  
9 cation for adjustment of status under this  
10 section and knowingly and willfully falsify,  
11 misrepresent, conceal, or cover up a mate-  
12 rial fact or make any false, fictitious, or  
13 fraudulent statements or representations,  
14 or make or use any false writing or docu-  
15 ment knowing the same to contain any  
16 false, fictitious, or fraudulent statement or  
17 entry; or

18 “(ii) to create or supply a false writ-  
19 ing or document for use in making such an  
20 application.

21 “(B) PENALTY.—Any person who violates  
22 subparagraph (A) shall be fined in accordance  
23 with title 18, United States Code, imprisoned  
24 not more than 5 years, or both.

1           “(2) INADMISSIBILITY.—An alien who is con-  
2           victed of a crime under paragraph (1) shall be con-  
3           sidered to be inadmissible to the United States on  
4           the ground described in section 212(a)(6)(C)(i).

5           “(o) RELATION TO CANCELLATION OF REMOVAL.—  
6           With respect to an alien granted Deferred Mandatory De-  
7           parture status under this section, the period of such status  
8           shall not be counted as a period of physical presence in  
9           the United States for purposes of section 240A(a), unless  
10          the Secretary of Homeland Security determines that ex-  
11          treme hardship exists.

12          “(p) WAIVER OF RIGHTS.—An alien is not eligible  
13          for Deferred Mandatory Departure status, unless the alien  
14          has waived any right to contest, other than on the basis  
15          of an application for asylum or protection under the Con-  
16          vention Against Torture and Other Cruel, Inhuman or De-  
17          grading Treatment or Punishment, done at New York De-  
18          cember 10, 1984, any action for deportation or removal  
19          of the alien that is instituted against the alien subsequent  
20          to a grant of Deferred Mandatory Departure status.

21          “(q) DENIAL OF DISCRETIONARY RELIEF.—The de-  
22          termination of whether an alien is eligible for a grant of  
23          Deferred Mandatory Departure status is solely within the  
24          discretion of the Secretary of Homeland Security. Not-

1 withstanding any other provision of law, no court shall  
2 have jurisdiction to review—

3 “(1) any judgment regarding the granting of  
4 relief under this section; or

5 “(2) any other decision or action of the Sec-  
6 retary of Homeland Security the authority for which  
7 is specified under this section to be in the discretion  
8 of the Secretary, other than the granting of relief  
9 under section 1158(a).

10 “(r) JUDICIAL REVIEW.—

11 “(1) LIMITATIONS ON RELIEF.—Without regard  
12 to the nature of the action or claim and without re-  
13 gard to the identity of the party or parties bringing  
14 the action, no court may—

15 “(A) enter declaratory, injunctive, or other  
16 equitable relief in any action pertaining to—

17 “(i) an order or notice denying an  
18 alien a grant of Deferred Mandatory De-  
19 parture status or any other benefit arising  
20 from such status; or

21 “(ii) an order of removal, exclusion, or  
22 deportation entered against an alien after  
23 a grant of Deferred Mandatory Departure  
24 status; or

1           “(B) certify a class under Rule 23 of the  
2 Federal Rules of Civil Procedure in any action  
3 for which judicial review is authorized under a  
4 subsequent paragraph of this subsection.

5           “(2) CHALLENGES TO VALIDITY.—

6           “(A) IN GENERAL.—Any right or benefit  
7 not otherwise waived or limited pursuant this  
8 section is available in an action instituted in the  
9 United States District Court for the District of  
10 Columbia, but shall be limited to determina-  
11 tions of—

12                   “(i) whether such section, or any reg-  
13 ulation issued to implement such section,  
14 violates the Constitution of the United  
15 States; or

16                   “(ii) whether such a regulation, or a  
17 written policy directive, written policy  
18 guideline, or written procedure issued by  
19 or under the authority the Secretary of  
20 Homeland Security to implement such sec-  
21 tion, is not consistent with applicable pro-  
22 visions of this section or is otherwise in  
23 violation of law.”.

24           (b) CONFORMING AMENDMENT.—Amend section  
25 237(a)(2)(A)(i)(II) of the Immigration and Nationality

1 Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by strik-  
2 ing the period at the end and inserting “(or 6 months in  
3 the case of an alien granted Deferred Mandatory Depart-  
4 ture status under section 218B),”.

5 **SEC. 602. STATUTORY CONSTRUCTION.**

6 Nothing in this title, or any amendment made by this  
7 title, shall be construed to create any substantive or proce-  
8 dural right or benefit that is legally enforceable by any  
9 party against the United States or its agencies or officers  
10 or any other person.

11 **SEC. 603. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated  
13 \$1,000,000,000 for facilities, personnel (including con-  
14 sular officers), training, technology, and processing nec-  
15 essary to carry out the amendments made by this title.

16 **TITLE VII—ALIEN EMPLOYMENT**  
17 **MANAGEMENT SYSTEM**

18 **SEC. 701. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.**

19 The Immigration and Nationality Act (8 U.S.C. 1101  
20 et seq.) is amended by inserting after section 218B, as  
21 added by section 601, the following new section:

22 **“SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.**

23 “(a) ESTABLISHMENT.—

24 “(1) PURPOSE.—The Secretary of Homeland  
25 Security, in consultation with the Secretary of



1 Labor, the Secretary of State, and the Commissioner  
2 of Social Security, shall develop and implement a  
3 program to authorize, manage and track the employ-  
4 ment of aliens described in section 218A or 218B.

5 “(2) DEADLINE.—The program under sub-  
6 section (a) shall commence prior to any alien being  
7 admitted under section 101(a)(15)(W) or granted  
8 Deferred Mandatory Departure under section 218B.

9 “(b) REQUIREMENTS.—The program shall—

10 “(1) enable employers who seek to hire aliens  
11 described in section 218A or 218B to apply for au-  
12 thorization to employ such aliens;

13 “(2) be interoperable with Social Security data-  
14 bases and must provide a means of immediately  
15 verifying the identity and employment authorization  
16 of an alien described in section 218A or 218B, for  
17 purposes of complying with title III of the Com-  
18 prehensive Enforcement and Immigration Reform  
19 Act of 2005;

20 “(3) require an employer to utilize readers or  
21 scanners at the location of employment or at a Fed-  
22 eral facility to transmit the biometric and biographic  
23 information contained in the alien’s evidence of sta-  
24 tus to the Secretary of Homeland Security, for pur-  
25 poses of complying with title III of the Comprehen-

1 sive Enforcement and Immigration Reform Act of  
2 2005; and

3 “(4) collect sufficient information from employ-  
4 ers to enable the Secretary of Homeland Security to  
5 identify—

6 “(A) whether an alien described in section  
7 218A or 218B is employed;

8 “(B) any employer that has hired an alien  
9 described in section 218A or 218B;

10 “(C) the number of aliens described in sec-  
11 tion 218A or 218B that an employer is author-  
12 ized to hire and is currently employing; and

13 “(D) the occupation, industry and length  
14 of time that an alien described in section 218A  
15 or 218B has been employed in the United  
16 States.

17 “(c) AUTHORIZATION TO HIRE ALIENS DESCRIBED  
18 IN SECTION 218A OR 218B.—

19 “(1) APPLICATION.—An employer must apply,  
20 through the program described in subsection (a) of  
21 this section, to obtain authorization to hire aliens  
22 described in section 218A or 218B.

23 “(2) PENALTIES.—An employer who employs  
24 an alien described in section 218A or 218B without  
25 authorization is subject to the same penalties and

1 provisions as an employer who violates section  
2 274(a)(1)(A) or (a)(2). An employer shall be subject  
3 to penalties prescribed by the Secretary of Home-  
4 land Security by regulation, which may include mon-  
5 etary penalties and debarment from eligibility to hire  
6 aliens described in section 218A or 218B.

7 “(3) ELIGIBILITY.—An employer must establish  
8 that it is a legitimate company and must attest that  
9 it will comply with the terms of the program estab-  
10 lished under subsection (a).

11 “(4) NUMBER OF ALIENS AUTHORIZED.—An  
12 employer may request authorization to multiple  
13 aliens described in section 218A or 218B.

14 “(5) ELECTRONIC FORM.—The program estab-  
15 lished under subsection (a) shall permit employers to  
16 submit applications under this subsection in an elec-  
17 tronic form.

18 “(d) NOTIFICATION UPON TERMINATION OF EM-  
19 PLOYMENT.—An employer, through the program estab-  
20 lished under subsection (a), must notify the Secretary of  
21 Homeland Security not more than 3 business days after  
22 the date of the termination of the alien’s employment. The  
23 employer is not authorized to fill the position with another  
24 alien described in section 218A or 218B until the employer

1 notifies the Secretary of Homeland Security that the alien  
2 is no longer employed by that employer.

3 “(e) PROTECTION OF UNITED STATES WORKERS.—

4 An employer may not be authorized to hire an alien de-  
5 scribed in section 218A or 218B until the employer sub-  
6 mits an attestation stating the following:

7 “(1) The employer has posted the position in a  
8 national, electronic job registry maintained by the  
9 Secretary of Labor, for not less than 30 days.

10 “(2) The employer has offered the position to  
11 any eligible United States worker who applies and is  
12 equally or better qualified for the job for which a  
13 temporary worker is sought and who will be avail-  
14 able at the time and place of need. An employer  
15 shall maintain records for not less than 1 year dem-  
16 onstrating that why United States workers who ap-  
17 plied were not hired.

18 “(3) The employer shall comply with the terms  
19 of the program established under subsection (a), in-  
20 cluding the terms of any temporary worker moni-  
21 toring program established by the Secretary.

22 “(4) The employer shall not hire more aliens  
23 than the number authorized by the Secretary of  
24 Homeland Security has authorized it to hire.

1           “(5) The worker shall be paid at least the  
2           greater of the hourly wage prescribed under section  
3           6(a)(1) of the Fair Labor Standards Act of 1938  
4           (29 U.S.C. 206(a)(1)) or the applicable State min-  
5           imum wage. All wages will be paid in a timely man-  
6           ner and all payroll records will be maintained accu-  
7           rately.

8           “(6) The employment of a temporary worker  
9           shall not adversely affect the working conditions of  
10          other similarly employed United States workers.

11          “(f) APPROVAL.—After determining that there are no  
12          United States workers who are qualified and willing to ob-  
13          tain the employment for which the employer is seeking  
14          temporary workers, the Secretary of Homeland Security  
15          may approve the application submitted by the employer  
16          under this paragraph for the number of temporary work-  
17          ers that the Secretary determines are required by the em-  
18          ployer. Such approval shall be valid for a 2-year period.”.

19          **SEC. 702. LABOR INVESTIGATIONS.**

20          (a) IN GENERAL.—The Secretary of Homeland Secu-  
21          rity and the Secretary of Labor shall conduct audits, in-  
22          cluding random audits, of employers who employ aliens de-  
23          scribed under section 218A or 218B of the Immigration  
24          and Nationality Act, as added by section 502 and 601,  
25          respectively.

1 (b) PENALTIES.—The Secretary of Homeland Secu-  
 2 rity shall establish penalties, which may include debarment  
 3 from eligibility for hire also described under section 218A,  
 4 as added by section 502 of this Act, 218B, as added by  
 5 section 601 of this Act, for employers who fail to comply  
 6 with section 218C of the Immigration and Nationality Act  
 7 as added by section 701 of this Act, and shall establish  
 8 protections for aliens who report employers who fail to  
 9 comply with such section.

10 **TITLE VIII—PROTECTION**  
 11 **AGAINST IMMIGRATION FRAUD**

12 **SEC. 801. GRANTS TO SUPPORT PUBLIC EDUCATION AND**  
 13 **TRAINING.**

14 (a) GENERAL PROGRAM PURPOSE.—The purpose of  
 15 this title is to assist qualified non-profit community orga-  
 16 nizations to educate, train, and support non-profit agen-  
 17 cies, immigrant communities, and other interested entities  
 18 regarding this Act and the amendments made by this Act.

19 (b) PURPOSES FOR WHICH GRANTS MAY BE  
 20 USED.—The grants under this part shall be used to fund  
 21 public education, training, technical assistance, govern-  
 22 ment liaison, and all related costs (including personnel and  
 23 equipment) incurred by non-profit community organiza-  
 24 tions in providing services related to this Act, and to edu-  
 25 cate, train and support non-profit organizations, immi-

1 grant communities, and other interested parties regarding  
2 this Act and the amendments made by this Act and on  
3 matters related to its implementation. In particular, fund-  
4 ing shall be provided to non-profit organizations for the  
5 purposes of—

6           (1) educating immigrant communities and other  
7 interested entities on the individuals and organiza-  
8 tions that can provide authorized legal representa-  
9 tion in immigration matters under regulations pre-  
10 scribed by the Secretary of Homeland Security, and  
11 on the dangers of securing legal advice and assist-  
12 ance from those who are not authorized to provide  
13 legal representation in immigration matters;

14           (2) educating interested entities on the require-  
15 ments for obtaining non-profit recognition and ac-  
16 creditation to represent immigrants under regula-  
17 tions prescribed by the Secretary of Homeland Secu-  
18 rity, and providing non-profit agencies with training  
19 and technical assistance on the recognition and ac-  
20 creditation process; and

21           (3) educating non-profit community organiza-  
22 tions, immigrant communities and other interested  
23 entities on the process for obtaining benefits under  
24 this Act or an amendment made by this Act, and the  
25 availability of authorized legal representation for

1 low-income persons who may qualify for benefits  
2 under this Act of an amendment made by this Act.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Office of Justice  
5 Programs at the United States Department of Justice to  
6 carry out this section—

7 (1) \$40,000,000 for fiscal year 2006;

8 (2) \$40,000,000 for fiscal year 2007; and

9 (3) \$40,000,000 for fiscal year 2008.

10 (d) IN GENERAL.—The Office of Justice Programs  
11 shall ensure, to the extent possible, that the non-profit  
12 community organizations funded under this Section shall  
13 serve geographically diverse locations and ethnically di-  
14 verse populations who may qualify for benefits under the  
15 Act.

## 16 **TITLE IX—CIRCULAR** 17 **MIGRATION**

### 18 **SEC. 901. INVESTMENT ACCOUNTS.**

19 (a) IN GENERAL.—Section 201 of the Social Security  
20 Act (42 U.S.C. 401) is amended by adding at the end the  
21 following:

22 “(o)(1) Notwithstanding any other provision of this  
23 section, the Secretary of the Treasury shall transfer at  
24 least quarterly from the Federal Old-Age and Survivors  
25 Insurance Trust Fund and the Federal Disability Insur-



1 ance Trust Fund 100 percent of the temporary worker  
 2 taxes to the Temporary Worker Investment Fund for de-  
 3 posit in a temporary worker investment account for each  
 4 temporary worker as specified in section 253.

5 “(2) For purposes of this subsection—

6 “(A) the term ‘temporary worker taxes’ means  
 7 that portion of the amounts appropriated to the  
 8 Federal Old-Age and Survivors Insurance Trust  
 9 Fund and the Federal Disability Insurance Trust  
 10 Fund under this section and properly attributable to  
 11 the wages (as defined in section 3121 of the Internal  
 12 Revenue Code of 1986) and self-employment income  
 13 (as defined in section 1402 of such Code) of tem-  
 14 porary workers as determined by the Commissioner  
 15 of Social Security; and

16 “(B) the term ‘temporary worker’ means an  
 17 alien who is admitted to the United States as a non-  
 18 immigrant under section 101(a)(15)(W) of the Im-  
 19 migration and Nationality Act.”.

20 (b) TEMPORARY WORKER INVESTMENT AC-  
 21 COUNTS.—Title II of the Social Security Act (42 U.S.C.  
 22 401 et seq.) is amended—

23 (1) by inserting before section 201 the “**PART**  
 24 **A—SOCIAL SECURITY**”; and

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

## 1 “PART II—TEMPORARY WORKER INVESTMENT

## 2 ACCOUNTS

## 3 “DEFINITIONS

4 “SEC. 251. For purposes of this part:

5 “(1) COVERED EMPLOYER.—The term ‘covered  
6 employer’ means, for any calendar year, any person  
7 on whom an excise tax is imposed under section  
8 3111 of the Internal Revenue Code of 1986 with re-  
9 spect to having an individual in the person’s employ  
10 to whom wages are paid by such person during such  
11 calendar year.

12 “(2) SECRETARY.—The term ‘Secretary’ means  
13 the Secretary of the Treasury.

14 “(3) TEMPORARY WORKER.—The term ‘tem-  
15 porary worker’ an alien who is admitted to the  
16 United States as a nonimmigrant under section  
17 101(a)(15)(W) of the Immigration and Nationality  
18 Act.

19 “(4) TEMPORARY WORKER INVESTMENT AC-  
20 COUNT.—The term ‘temporary worker investment  
21 account’ means an account for a temporary worker  
22 which is administered by the Secretary through the  
23 Temporary Worker Investment Fund.

24 “(5) TEMPORARY WORKER INVESTMENT  
25 FUND.—The term ‘Temporary Worker Investment

1 Fund' means the fund established under section  
2 253.

3 "TEMPORARY WORKER INVESTMENT ACCOUNTS

4 "SEC. 252. (a) IN GENERAL.—A temporary worker  
5 investment account shall be established by the Secretary  
6 in the Temporary Worker Investment Fund for each indi-  
7 vidual not later than 10 business days after the covered  
8 employer of such individual submits a W-4 form (or any  
9 successor form) identifying such individual as a temporary  
10 worker.

11 "(b) TIME ACCOUNT TAKES EFFECT.—A temporary  
12 worker investment account established under subsection  
13 (a) shall take effect with respect to the first pay period  
14 beginning more than 14 days after the date of such estab-  
15 lishment.

16 "(c) TEMPORARY WORKER'S PROPERTY RIGHT IN  
17 TEMPORARY WORKER INVESTMENT ACCOUNT.—The tem-  
18 porary worker investment account established for a tem-  
19 porary worker is the sole property of the worker.

20 "TEMPORARY WORKER INVESTMENT FUND

21 "SEC. 253. (a) IN GENERAL.—There is created on  
22 the books of the Treasury of the United States a trust  
23 fund to be known as the 'Temporary Worker Investment  
24 Fund' to be administered by the Secretary. Such Fund  
25 shall consist of the assets transferred under section 201(o)  
26 to each temporary worker investment account established

1 under section 252 and the income earned under subsection  
2 (e) and credited to such account.

3 “(b) NOTICE OF CONTRIBUTIONS.—The full amount  
4 of a temporary worker’s investment account transfers  
5 shall be shown on such worker’s W-2 tax statement, as  
6 provided in section 6051(a)(14) of the Internal Revenue  
7 Code of 1986.

8 “(c) INVESTMENT EARNINGS REPORT.—

9 “(1) IN GENERAL.—At least annually, the Tem-  
10 porary Worker Investment Fund shall provide to  
11 each temporary worker with a temporary worker in-  
12 vestment account managed by the Fund a temporary  
13 worker investment status report. Such report may be  
14 transmitted electronically upon the agreement of the  
15 temporary worker under the terms and conditions  
16 established by the Secretary.

17 “(2) CONTENTS OF REPORT.—The temporary  
18 worker investment status report, with respect to a  
19 temporary worker investment account, shall provide  
20 the following information:

21 “(A) The total amounts transferred under  
22 section 201(o) in the last quarter, the last year,  
23 and since the account was established.



1 under subsection (a), the balance in the worker's account  
2 shall be distributed to the worker's estate under rules es-  
3 tablished by the Secretary.”.

4 (c) TEMPORARY WORKER INVESTMENT ACCOUNT  
5 TRANSFERS SHOWN ON W-2S.—

6 (1) IN GENERAL.—Section 6051(a) of the In-  
7 ternal Revenue Code of 1986 (relating to receipts  
8 for employees) is amended—

9 (A) by striking “and” at the end of para-  
10 graph (12);

11 (B) by striking the period at the end of  
12 paragraph (13) and inserting “; and”; and

13 (C) by inserting after paragraph (13) the  
14 following:

15 “(14) in the case of a temporary worker (as de-  
16 fined in section 251(1) of the Social Security Act),  
17 of the amount shown pursuant to paragraph (6), the  
18 total amount transferred to such worker's temporary  
19 worker investment account under section 201(o) of  
20 such Act.”.

21 (2) CONFORMING AMENDMENTS.—Section 6051  
22 of the Internal Revenue Code of 1986 is amended—

23 (A) in subsection (a)(6), by inserting “and  
24 paid as tax under section 3111” after “section  
25 3101”; and

1 (B) in subsection (c), by inserting “and  
2 paid as tax under section 3111” after “section  
3 3101”.

## 4 **TITLE X—BACKLOG REDUCTION**

### 5 **SEC. 1001. EMPLOYMENT BASED IMMIGRANTS.**

6 (a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Sec-  
7 tion 201(d) of the Immigration and Nationality Act (8  
8 U.S.C. 1151(d)) is amended to read as follows:

9 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
10 IMMIGRANTS.—The worldwide level of employment-based  
11 immigrants under this subsection for a fiscal year is equal  
12 to the sum of—

13 “(1) 140,000;

14 “(2) the difference between the maximum num-  
15 ber of visas authorized to be issued under this sub-  
16 section during the previous fiscal year and the num-  
17 ber of visas issued during the previous fiscal year;

18 “(3) the difference between—

19 “(A) the maximum number of visas au-  
20 thorized to be issued under this subsection dur-  
21 ing fiscal years 2001 through 2005 and the  
22 number of visa numbers issued under this sub-  
23 section during those years; and

1           “(B) the number of visas described in sub-  
2           paragraph (A) that were issued after fiscal year  
3           2005; and

4           “(4) the number of visas previously made avail-  
5           able under section 203(e).”.

6           (b) DIVERSITY VISA TERMINATION.—The allocation  
7 of immigrant visas to aliens under section 203(e) of the  
8 Immigration and Nationality Act (8 U.S.C. 1153(e)), and  
9 the admission of such aliens to the United States as immi-  
10 grants, is terminated. This provision shall become effective  
11 on October 1st of the fiscal year following enactment of  
12 this Act.

13           (c) IMMIGRATION TASK FORCE.—

14           (1) IN GENERAL.—There is established a task  
15 force to be known as the Immigration Task Force  
16 (referred to in this section as the “Task Force”).

17           (2) PURPOSES.—The purposes of the Task  
18 Force are—

19           (A) to study the impact of the delay be-  
20 tween the date on which an application for im-  
21 migration is submitted and the date on which  
22 a determination on such application is made;

23           (B) to study the impact of immigration of  
24 workers to the United States on family unity;  
25           and



1           (C) to provide to Congress any rec-  
2           ommendations of the Task Force regarding in-  
3           creasing the number immigrant visas issued by  
4           the United States for family members and on  
5           the basis of employment.

6           (3) MEMBERSHIP.—The Task Force shall be  
7           composed of 10 members, of whom—

8           (A) 1 shall be appointed by the President  
9           and shall serve as chairman of the Task Force;

10          (B) 1 shall be appointed by the leader of  
11          the minority party in the Senate, in consulta-  
12          tion with the leader of the minority party in the  
13          House of Representatives, and shall serve as  
14          vice chairman of the Task Force;

15          (C) 2 shall be appointed by the majority  
16          leader of the Senate;

17          (D) 2 shall be appointed by the minority  
18          leader of the Senate;

19          (E) 2 shall be appointed by the Speaker of  
20          the House of Representatives; and

21          (F) 2 shall be appointed by the minority  
22          leader of the House of Representatives.

23          (4) QUALIFICATIONS.—

24          (A) IN GENERAL.—Members of the Task  
25          Force shall be—

1 (i) individuals with expertise in eco-  
2 nomics, demography, labor, business, or  
3 immigration or other pertinent qualifica-  
4 tions or experience; and

5 (ii) representative of a broad cross-  
6 section of perspectives within the United  
7 States, including the public and private  
8 sectors and academia.

9 (B) POLITICAL AFFILIATION.—Not more  
10 than 5 members of the Task Force may be  
11 members of the same political party.

12 (C) NONGOVERNMENTAL APPOINTEES.—  
13 An individual appointed to the Task Force may  
14 not be an officer or employee of the Federal  
15 Government or of any State or local govern-  
16 ment.

17 (5) DEADLINE FOR APPOINTMENT.—All mem-  
18 bers of the Task Force shall be appointed not later  
19 than 6 months after the date of enactment of this  
20 Act.

21 (6) VACANCIES.—Any vacancy in the Task  
22 Force shall not affect its powers, but shall be filled  
23 in the same manner in which the original appoint-  
24 ment was made.

25 (7) MEETINGS.—

1 (A) INITIAL MEETING.—The Task Force  
2 shall meet and begin the operations of the Task  
3 Force as soon as practicable.

4 (B) SUBSEQUENT MEETINGS.—After its  
5 initial meeting, the Task Force shall meet upon  
6 the call of the chairman or a majority of its  
7 members.

8 (8) QUORUM.—Six members of the Task Force  
9 shall constitute a quorum.

10 (9) REPORT.—Not later than 18 months after  
11 the date of enactment of this Act, the Task Force  
12 shall submit to Congress, the Secretary of Labor,  
13 and the Secretary of Homeland Security a report  
14 that contains—

15 (A) findings with respect to the duties of  
16 the Task Force; and

17 (B) recommendations for modifying the  
18 numerical limits on the number immigrant visas  
19 issued by the United States for family members  
20 of individuals in the United States and on the  
21 basis of employment.

22 **SEC. 1002. COUNTRY LIMITS.**

23 Section 202(a) of the Immigration and Nationality  
24 Act (8 U.S.C. 1152(a)) is amended—

25 (1) in paragraph (2)—

1 (A) by striking “, (4), and (5)” and insert-  
2 ing “and (4)”; and

3 (B) by striking “7 percent (in the case of  
4 a single foreign state) or 2 percent” and insert-  
5 ing “10 percent (in the case of a single foreign  
6 state) or 5 percent”; and

7 (2) by striking paragraph (5).

8 **SEC. 1003. ALLOCATION OF IMMIGRANT VISAS.**

9 (a) PREFERENCE ALLOCATION FOR EMPLOYMENT-  
10 BASED IMMIGRANTS.—Section 203(b) of the Immigration  
11 and Nationality Act (8 U.S.C. 1153(b)) is amended—

12 (1) in paragraph (1), by striking “28.6 per-  
13 cent” and inserting “10 percent”;

14 (2) in paragraph (2)(A), by striking “28.6 per-  
15 cent” and inserting “10 percent”;

16 (3) in paragraph (3)(A)—

17 (A) by striking “28.6 percent” and insert-  
18 ing “35 percent”; and

19 (B) by striking clause (iii);

20 (4) by striking paragraph (4);

21 (5) by redesignating paragraph (5) as para-  
22 graph (4);

23 (6) in paragraph (4)(A), as redesignated, by  
24 striking “7.1 percent” and inserting “4 percent”;

1           (7) by inserting after paragraph (4), as redesignated, the following:

2           “(5) OTHER WORKERS.—Visas shall be made  
3 available, in a number not to exceed 36 percent of  
4 such worldwide level, plus any visa numbers not re-  
5 quired for the classes specified in paragraphs (1)  
6 through (4), to qualified immigrants who are capa-  
7 ble, at the time of petitioning for classification under  
8 this paragraph, of performing unskilled labor that is  
9 not of a temporary or seasonal nature, for which  
10 qualified workers are determined to be unavailable in  
11 the United States”; and  
12

13           (8) by striking paragraph (6).

14           (b) CONFORMING AMENDMENTS.—

15           (1) DEFINITION OF SPECIAL IMMIGRANT.—Sec-  
16 tion 101(a)(27)(M) of the Immigration and Nation-  
17 ality Act (8 U.S.C. 1101(a)(27)(M)) is amended by  
18 striking “subject to the numerical limitations of sec-  
19 tion 203(b)(4),”.

20           (2) REPEAL OF TEMPORARY REDUCTION IN  
21 WORKERS’ VISAS.—Section 203(e) of the Nicaraguan  
22 Adjustment and Central American Relief Act (8  
23 U.S.C. 1153 note) is repealed.

1                   **TITLE XI—TEMPORARY**  
2                   **AGRICULTURAL WORKERS**

3   **SEC. 1101. SENSE OF THE SENATE ON TEMPORARY AGRI-**  
4                   **CULTURAL WORKERS.**

5           It is the sense of the Senate that consideration of  
6 any comprehensive immigration reform during the 109th  
7 Congress will include agricultural workers.

○