

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 4437,  
BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL  
IMMIGRATION CONTROL ACT OF 2005

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DECEMBER 16 (legislative day, DECEMBER 15), 2005.—Referred to the House  
Calendar and ordered to be printed

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Mr. GINGREY, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 621]

The Committee on Rules, having had under consideration House Resolution 621, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for further consideration of H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. The rule makes in order only those amendments printed in this report. The rule also provides that no further general debate is in order, and remaining proceedings under House Resolution 610 shall be considered as subsumed by this resolution.

The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against amendments printed in this report.

Finally, the rule provides one motion to recommit with or without instructions.

## EXPLANATION OF WAIVERS

The Rules Committee is not aware of any points of order that lay against the amendments contained in this report. The waiver of all points of order is prophylactic in nature.

## COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 141*

Date: December 16, 2005 (legislative day of December 15, 2005).

Measure: H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. George Miller of California, which applies U.S. Immigration law to the Commonwealth of the Northern Mariana Islands.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

*Rules Committee record vote No. 142*

Date: December 16, 2005 (legislative day of December 15, 2005).

Measure: H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Kolbe, which maintains the enforcement and security provisions in the Border Protection, Antiterrorism, and Illegal Immigration Control Act and adds provisions of the Secure America and Orderly Immigration Act (H.R. 2330/S. 1033), including State Criminal Alien Assistance, the Essential Worker Visa Program, Family Unity and Backlog Reduction, Adjustment of Status for Undocumented Immigrants, Protection Against Immigration Fraud, and Civics Integration.

Results: Defeated 5 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Yea; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

*Rules Committee record vote No. 143*

Date: December 16, 2005 (legislative day of December 15, 2005).

Measure: H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Meek, which corrects a flaw that punishes Haitian asylum seekers for having used forged documents to flee Haiti by plane during the 1991 coup in

that country, by waiving a penalty for document fraud in certain cases. Also requires that the age of dependent children at the time that their parents applied for residency under the Haitian Refugee Immigrant Fairness Act of 1998 is the age that should be used in making determinations as to that dependent's status, since many have aged-out waiting for their hearings.

Results: Defeated 5 to 8.

Vote by Members: Diaz-Balart—Yea; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

#### SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

(Summaries of amendments derived from information provided by the sponsors.)

1. Goodlatte/Herseth—No. 37: Eliminates the visa lottery program. (10 minutes)

2. Filner—No. 45: Makes technical changes to the current statute governing the distribution of fraudulent documents. The statute does not mention "distribution" of illegal documents, which applies to the re-sale or sale of fraudulent documents. By adding distribution to the criminal code those convicted of distributing illegal documents will be held to the same penalties as those who create, alter, or falsify any immigration related document. (10 minutes)

3. Hayworth—No. 95: Increases the number of employment-based visas available through a reduction in other non-employment-based immigration categories. (10 minutes)

4. Sensenbrenner/King (NY)—No. 92: Manager's Amendment. Prohibits localities from requiring businesses to set up day labor sites as a condition for conducting or expanding a business. Requires the Attorney General to report on the status of criminal alien prosecutions, including prosecutions of smugglers. Authorizes ICE's current Forensic Document Laboratory. At the Administration's request: Sets mandatory minimums for repeated marriage fraud. Removes reference to aggravated felonies and substitutes language referring to length of sentence, for sentencing enhancements for aliens who enter illegally after convictions. Clarifies that the Board of Immigration Appeals' decisions on motions to reopen are discretionary decisions that are not subject to judicial review. Updates the law that criminalizes passport and immigration fraud by increasing penalties to facilitate effective enforcement. Also penalizes fraud against aliens applying for immigration benefits. Amends the law that provides for detention of criminal defendants to make the defendants' immigration status an express consideration in determining whether the defendant should be released on bond. Extends the statute of limitations for all immigration-related frauds to ten years. Makes passport fraud a ground of inadmissibility and deportability. Makes technical changes to the long-term detention of dangerous aliens provision in the bill. Clarifies and reaffirm existing limits on federal courts' jurisdiction to review removal orders pertaining to certain criminal aliens as well as discretionary decisions by the Attorney General and Secretary of Homeland Security. Abolishes attorneys' fee awards to removable aliens under the Equal Access to Justice Act. (10 minutes)

5. Price (GA)—No. 3: Establishes a hard deadline to achieve operational control over the entire international land and maritime borders of the United States. Operational control entails the prevention of all unlawful entries into the United States. (10 minutes)

6. Stearns—No. 100: Prohibits Department of Homeland Security, the U.S. Attorney General, and all courts from granting any kind of legal immigration status (i.e. “benefits”) to an alien until the relevant databases of criminal records and terrorist watch lists are checked. (10 minutes)

7. Sensenbrenner—No. 133: At the Administration’s request, reduces the maximum sentence for illegal entry and illegal presence to six months. (10 minutes)

8. Velázquez—No. 74: Requires the U.S. Citizenship and Immigration Services (USCIS) to reduce the immigration application processing backlog to 6 months within a period of 1 year. Authorizes the Director of USCIS to implement innovative pilot initiatives to eliminate the backlog and prevent further backlog from recurring. Encourages initiatives such as increasing or transferring personnel to areas with the greatest backlog, streamlining regulations and paperwork filing processes, upgrading information technology, and increasing the number of immigration service centers. (10 minutes)

9. Norwood—No. 65: Reaffirms state and local law enforcement’s existing inherent authority to assist in the enforcement of immigration law, provide training on this issue at no cost to the local agency, increase law enforcement’s access to vital information on illegal criminal aliens, and provide increased and additional resources (SCAAP grants, Institutional Removal Program, and a new grant program) to help assist in the enforcement of immigration laws. (10 minutes)

10. Tancredo—No. 22: Prohibits the Attorney General from allocating funds under the State Criminal Alien Assistance Program to any state or local government which maintains a “sanctuary policy” in violation of federal law (8 USC 1373). Also requires the Attorney General to report annually to Congress on which state and local governments maintain “sanctuary policies”. (10 minutes)

11. Nadler—No. 104: Strikes section 407, “expedited removal,” which grants extraordinary and unprecedented power to low-level immigration officers to remove individuals without review and without a fair hearing. (10 minutes)

12. Myrick—No. 79: Amends section 606 of the bill to require the removal of an unauthorized alien on the first conviction of drunk driving. Authorizes State and local law enforcement officers to detain and transport unauthorized alien drunk drivers and be reimbursed by the Department of Homeland Security. Information on unauthorized alien drunk drivers shall be reported to the Department of Homeland Security, the National Criminal Information Center and the Drivers License Agreement of the American Association of Motor Vehicle Administrators. (10 minutes)

13. Shadegg—No. 119: Increases penalties for document fraud and for crimes of violence and drug trafficking offenses committed by illegal aliens. (10 minutes)

14. Shadegg—No. 120: Adds human trafficking and human smuggling to the list of predicate acts under the federal money laundering statute. (10 minutes)

15. Westmoreland—No. 129: Sets caps on the monetary penalties set forth in Title VII of the bill for hiring or employing unauthorized aliens of \$7,500 for first time offenses, \$15,000 for second offenses, and \$40,000 for all subsequent offenses; Provides an exemption from penalty for initial good faith violations; and provides a safe harbor for contractors if their subcontractor employs an unauthorized alien (provided the contractor did not know the employee was an unauthorized alien). (10 minutes)

16. Gonzalez—No. 109: Increases the fines on businesses for knowingly hiring unauthorized aliens to \$50,000. Proceeds would be shared with state and local government and are restricted for use to help cover the costs associated with providing services to undocumented immigrants. (10 minutes)

17. Bradley—No. 31: Requires the Department of Homeland Security to provide a report both one and two years after implementation of the Employment Eligibility Verification System to Congress. Reports would contain information relating to problems reported by businesses during implementation as well as progress made up to the report's date. Report would contain information relating to the most efficient use of the system by small businesses. (10 minutes)

18. Sullivan—No. 01: Requires all non-citizens who enter or exit the country to be processed through the automated entry-exit control system Congress mandated in 1996. (10 minutes)

19. Ryan—No. 02: Establishes the Oath of Renunciation and Allegiance as Federal law so that it cannot be changed without an act of Congress. Also requires the Secretary of Homeland Security, in cooperation with the Secretary of State, to notify a foreign embassy of which a new citizen was a citizen or subject that the citizen has: (1) renounced allegiance to that foreign country; and (2) sworn allegiance to the United States. (10 minutes)

20. Royce—No. 91: States that no immigration benefit may be granted until, at a minimum, an FBI fingerprint check has been submitted and the results show that the alien does not have a criminal or immigration history that would render him or her ineligible for the benefit have been given to U.S. Citizenship and Immigration Services (USCIS). (10 minutes)

21. Gerlach—No. 52: Adds a new section exempting members of the Armed Forces from current naturalization requirements including demonstration of knowledge of the English language, knowledge of government and good moral character, all of which can be implied while serving honorably in the Armed Forces. Allows a member of the Armed Services to apply for citizenship at any time either while in service or after being honorably discharged. (10 minutes)

#### TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new title:

## TITLE IX—SECURITY AND FAIRNESS ENHANCEMENT

### SEC. 901. SHORT TITLE.

This title may be cited as—

- (1) the “Security and Fairness Enhancement for America Act of 2005”; or
- (2) the “SAFE for America Act”.

### SEC. 902. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) **WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.**—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

- (1) in subsection (a)—
  - (A) by inserting “and” at the end of paragraph (1);
  - (B) by striking “; and” at the end of paragraph (2) and inserting a period; and
  - (C) by striking paragraph (3); and
- (2) by striking subsection (e).

(b) **ALLOCATION OF DIVERSITY IMMIGRANT VISAS.**—Section 203 of such Act (8 U.S.C. 1153) is amended—

- (1) by striking subsection (c);
- (2) in subsection (d), by striking “(a), (b), or (c),” and inserting “(a) or (b),”;
- (3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);
- (4) in subsection (f), by striking “(a), (b), or (c)” and inserting “(a) or (b);” and
- (5) in subsection (g), by striking “(a), (b), and (c)” and inserting “(a) and (b)”.

(c) **PROCEDURE FOR GRANTING IMMIGRANT STATUS.**—Section 204 of such Act (8 U.S.C. 1154) is amended—

- (1) by striking subsection (a)(1)(I); and
- (2) in subsection (e), by striking “(a), (b), or (c)” and inserting “(a) or (b)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 2006.

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### 2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FILNER OF CALIFORNIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Section 1546(a) of title 18, United States Code, is amended in the first paragraph by inserting “distributes (or intends to distribute),” before “or falsely” the first place it appears.

Section 1546(a) of title 18, United States Code, is amended in the first paragraph by inserting “distributed,” before “or falsely” the second place it appears.

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### 3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HAYWORTH OF ARIZONA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of the bill, insert the following:

## TITLE IX—AMENDMENTS TO VISA NUMBERS

### SEC. 901. ELIMINATION OF FAMILY 4TH PREFERENCE VISA CATEGORY FOR ADULT SIBLINGS OF CITIZENS.

(a) IN GENERAL.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

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

(2) by striking paragraph (4).

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended—

(1) in section 201(c)(1)(A)(i) (8 U.S.C. 1151(c)(1)(A)(i)), by striking “480,000” and inserting “415,000”;

(2) in section 204(a)(1)(A)(i) (8 U.S.C. 1154(a)(1)(A)(i)), by striking “(1), (3), or (4)” and inserting “(1) or (3)”; and

(3) in section 212(d)(11) (8 U.S.C. 1182(d)(11)), by striking “(other than paragraph (4) thereof)”.

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

### SEC. 902. INCREASE IN EMPLOYMENT BASED VISAS.

(a) IN GENERAL.—Section 201(d)(1)(A) of the Immigration and Nationality Act is amended by striking “140,000” and inserting “205,000”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with the first fiscal year that begins after the date of the enactment of this Act.

### 4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In section 102—

(1) in subsection (b), in the matter before paragraph (1), strike “Committee on Homeland Security of the House of Representatives” and insert “appropriate congressional committees”;

(2) in subsection (b)(3), insert “, except for ports of entry and facilities subject to vulnerability assessments under section 70102 or 70103 of title 46, United States Code,” after “borders of the United States”;

(3) amend subsection (d) to read as follows:

(d) COORDINATION.— The National Strategy for Border Security described in subsection (b) shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13.

(4) in subsection (f), strike “Committee on Homeland Security of the House of Representatives, such Committee shall promptly report to the House” and insert “appropriate congressional committees, such committees shall promptly report to their respective House”;

(5) in subsection (g), insert “and section 301(b)” after “this title”; and

(6) add at the end the following new subsection:

(h) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter, impact, diminish, or in any way undermine the authority of the Administrator of the Federal Aviation Administration to oversee, regulate, and control the safe and efficient use of the airspace of the United States.

In section 111, strike “Committee on Homeland Security of the House of Representatives” and insert “appropriate congressional committees”.

At the end of title I, add the following new section:

**SEC. 118. VOLUNTARY RELOCATION PROGRAM EXTENSION.**

Section 5739(e) of title 5, United States Code, is amended by striking “7” and inserting “12”.

In section 203, amend paragraph (3) to read as follows:

(3) by amending subsection (c) to read as follows:

“(c)(1) Whoever—

“(A) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

“(B) knowingly misrepresents the existence or circumstances of a marriage—

“(i) in an application or document arising under or authorized by the immigration laws of the United States or the regulations prescribed thereunder, or

“(ii) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals);

shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

“(2) Whoever—

“(A) knowingly enters into two or more marriages for the purpose of evading any provision of the immigration laws; or

“(B) knowingly arranges, supports, or facilitates two or more marriages designed or intended to evade any provision of the immigration laws;

shall be fined under title 18, United States Code, imprisoned not less than 2 years nor more than 20 years, or both.

“(3) An offense under this subsection continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

“(4) For purposes of this section, the term ‘proceeding’ includes an adjudication, interview, hearing, or review.”

In section 275(e)(1) of the Immigration and Nationality Act, proposed to be inserted by section 203(5)—

(1) in subparagraph (A), strike “(other than an aggravated felony)”; and

(2) strike subparagraph (B) and insert the following:

(B) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 30 months or more, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

(C) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 60 months or more, shall be fined under title 18, United States Code, imprisoned not more than 20 years, or both.

In proposed section 275(e)(3) of the Immigration and Nationality Act, as inserted by section 203(5)—

- (1) strike “(A) or (B)” and insert “(A), (B), or (C)”; and
- (2) strike “an aggravated felony or other qualifying crime” and insert “a qualifying crime”.

Strike section 210, and insert the following:

**SEC. 210. ESTABLISHMENT OF THE FORENSIC DOCUMENTS LABORATORY.**

(a) **IN GENERAL.**—The Secretary of Homeland Security shall establish a Fraudulent Documents Center (to be known as the Forensic Document Laboratory) to carry out the following:

- (1) Collect information from Federal, State, and local law enforcement agencies, and foreign governments on the production, sale, distribution, and use of fraudulent documents intended to be used to enter, travel, or remain within the United States unlawfully.
- (2) Maintain the information described in paragraph (1) in a comprehensive database.
- (3) Maintain a repository of genuine and fraudulent travel and identity document exemplars.
- (4) Convert the information collected into reports that provide guidance to government officials in identifying fraudulent documents being used to enter into, travel within, or remain in the United States.
- (5) Develop a system for distributing these reports on an ongoing basis to appropriate Federal, State, and local law enforcement agencies.

(b) **DISTRIBUTION OF INFORMATION.**—The Forensic Document Laboratory shall distribute its reports to appropriate Federal, State, and local law enforcement agencies on an ongoing basis.

At the end of title II, add the following new sections:

**SEC. 211. MOTIONS TO REOPEN OR RECONSIDER.**

(a) **EXERCISE OF DISCRETION.**—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)) is amended—

- (1) by adding at the end of paragraph (5) the following new subparagraph:

“(D) **DISCRETION.**—The decision to grant or deny a motion to reconsider is committed to the Attorney General’s discretion.”; and

- (2) by adding at the end of paragraph (6) the following new subparagraph:

“(D) **DISCRETION.**—The decision to grant or deny a motion to reopen is committed to the Attorney General’s discretion.”.

(b) **PRIMA FACIE ELIGIBILITY FOR PROTECTION FROM REMOVAL TO ALTERNATIVE COUNTRY OF REMOVAL NOT PREVIOUSLY CONSIDERED.**—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229a) is further amended by adding at the end of paragraph (6) the following new subparagraph:

“(E) SPECIAL RULE FOR ALTERNATIVE COUNTRIES OF REMOVAL.—The time and numerical limitations specified in this paragraph shall not apply if—

“(i) the Secretary seeks to remove the alien to an alternative or additional country of removal under subparagraph (D) or (E) of section 241(b)(2) that had not been considered during the alien’s prior removal proceedings;

“(ii) the alien’s motion to reopen is filed within 30 days after the date the alien receives notice of the Secretary’s intention to remove the alien to that country; and

“(iii) the alien establishes a prima facie case that the alien is entitled by law to withholding of removal under section 241(b)(3) or protection under the Convention Against Torture with respect to that particular country.”.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall apply to motions to reopen and reconsider that are filed on or after the date of the enactment of this Act in removal, deportation, or exclusion proceedings, regardless of whether a final administrative order is entered before, on, or after such date.

**SEC. 212. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.**

Chapter 75 of title 18, United States Code is amended to read as follows:

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

- “1541. Trafficking in passports.
- “1542. False statement in an application for a passport.
- “1543. Forgery and unlawful production of a passport.
- “1544. Misuse of a passport.
- “1545. Schemes to defraud aliens.
- “1546. Immigration and visa fraud.
- “1547. Attempts and conspiracies.
- “1548. Increased penalties for certain offenses.
- “1549. Seizure and forfeiture.
- “1550. Additional jurisdiction.
- “1551. Additional venue.
- “1552. Definitions.
- “1553. Authorized law enforcement activities.

**“§ 1541. Trafficking in passports**

- “(a) Whoever, during any three-year period—
- “(1) knowingly and without lawful authority produces, issues, or transfers 10 or more passports; or
  - “(2) knowingly forges, counterfeits, alters, or falsely makes 10 or more passports; or
  - “(3) knowingly secures, possesses, uses, receives, buys, or sells 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, issued, or designed for the use of another, or produced or issued without lawful authority; or

“(4) knowingly completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation) knowing the applications to contain any false statement or representation; shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

“(b) Whoever knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

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

“Whoever knowingly—

“(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation); or

“(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing it to contain any false statement or representation; or

“(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), when such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports;

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

**“§ 1543. Forgery and unlawful production of a passport**

“(a) Whoever—

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

“(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority;

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

“(b) Whoever knowingly and without lawful authority—

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

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

“(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed;

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

**“§ 1544. Misuse of a passport**

“(a) Whoever—

“(1) knowingly uses any passport issued or designed for the use of another; or

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

“(3) knowingly secures, possesses, uses, receives, buys, or sells any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

“(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States;

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

“(b) Whoever knowingly uses any passport—

“(1) to enter or to attempt to enter the United States, or

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

knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another, shall be fined under this title, imprisoned not less than 6 months nor more than 15 years, or both.

#### “§ 1545. Schemes to defraud aliens

“(a) Whoever knowingly defrauds any person in connection with—

“(1) any matter that is authorized by or arises under the immigration laws of the United States, or

“(2) any matter the offender claims or represents is authorized by or arises under the immigration laws of the United States,

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

“(b) Whoever knowingly and falsely represents himself to be an attorney in any matter authorized by or arising under the immigration laws of the United States shall be fined under this title, imprisoned not more than 15 years, or both.

#### “§ 1546. Immigration and visa fraud

“(a) Whoever—

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

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

“(3) knowingly completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation; or

“(4) knowingly secures, possesses, uses, transfers, receives, buys, or sells any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, issued or designed for another, or produced or issued without lawful authority; or

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

“(6) knowingly and without lawful authority transfers or furnishes an immigration document to a person for use when such person is not the person for whom the immigration document was issued or designed;  
shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Whoever, during any three-year period—

“(1) knowingly and without lawful authority produces, issues, or transfers 10 or more immigration documents; or

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

“(3) knowingly secures, possesses, uses, buys, or sells 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or issued or designed for the use of another, or produced or issued without lawful authority; or

“(4) knowingly completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation;

shall be fined under this title, imprisoned not less than 2 years nor more than 20 years, or both.

“(c) Whoever knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make an immigration document shall be fined under this title, imprisoned not less than 2 years nor more than 20 years, or both.

#### **“§ 1547. Attempts and conspiracies**

“Whoever attempts or conspires to violate any section within this chapter shall be punished in the same manner as a completed violation of that section. An attempt offense under this chapter is a general intent crime.

#### **“§ 1548. Increased penalties for certain offenses**

“(a) Whoever violates any of the sections within this chapter with the intent to facilitate an act of international terrorism (as defined in section 2331 of this title) shall be fined under this title, imprisoned not less than 7 years nor more than 25 years, or both.

“(b) Whoever violates any section in this chapter with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year, shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

#### **“§ 1549. Seizure and forfeiture**

“(a) Any property, real or personal, that has been used to commit or facilitate the commission of a violation of any section within this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

“(b) Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of this title, relating to civil forfeit-

ures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

**“§ 1550. Additional jurisdiction**

“(a) Whoever commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided by that offense.

“(b) Whoever commits an offense under this chapter outside the United States shall be punished as provided by that offense if—

“(1) the offense involves a United States immigration document (or any document purporting to be the same) or any matter, right, or benefit arising under or authorized by the immigration laws of the United States or the regulations prescribed thereunder; or

“(2) the offense is in or affects foreign commerce; or

“(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of the immigration laws of the United States, or the national security of the United States; or

“(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331 of this title) or a drug trafficking crime (as defined in section 929(a) of this title) that affects or would affect the national security of the United States; or

“(5) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. § 1001(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. § 1001(a)(20))); or

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

**“§ 1551. Additional venue**

“An offense under section 1542 of this chapter may be prosecuted in—

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

“(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

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

Nothing in this section limits the venue otherwise available under sections 3237 and 3238 of this title.

**“§ 1552. Definitions**

“For purposes of this chapter:

“(1) The term ‘falsely make’ means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

“(A) contains a statement or representation that is false, fictitious, or fraudulent;

“(B) has no basis in fact or law; or

“(C) otherwise fails to state a fact that is material to the purpose for which the document was created, designed, or submitted.

“(2) The term a ‘false statement or representation’ includes a personation or an omission.

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

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

“(A) any passport or visa; or

“(B) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States.

Such term includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

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

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

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

“(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2) of this subsection.

“(6) A person does not exercise ‘lawful authority’ if the person abuses or improperly exercises lawful authority the person otherwise holds.

“(7) The term ‘passport’ means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

“(8) The term ‘produce’ means to make, prepare, assemble, issue, print, authenticate, or alter.

“(9) The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

### “§ 1553. Authorized law enforcement activities

“The sections in this chapter do not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).”.

**SEC. 213. CRIMINAL DETENTION OF ALIENS.**

(a) Section 3142(e) of title 18, United States Code, is amended by inserting at the end the following:

“Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person is an alien and that the person—

“(1) has no lawful immigration status in the United States;

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

“(3) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, or any section of chapters 75 and 77 of this title, or section 243, 274, 275, 276, 277, or 278, of the Immigration and Nationality Act.”.

(b) Section 3142(g)(3) of title 18, United States Code, is amended by striking “and” at the end of subparagraph (A) and by adding at the end the following new subparagraph:

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

**SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.**

Section 3291 of title 18, United States Code, is amended to read as follows:

**“SEC. 3291. IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.**

“No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons) of this title (or for attempt or conspiracy to violate any such section), or for a violation of any criminal provision of sections 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (or for attempt or conspiracy to violate any such section), unless the indictment is returned or the information filed within ten years after the commission of the offense.”.

**SEC. 215. CONFORMING AMENDMENT.**

Subparagraph (P) of section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking “(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of Title 18 or is described in section 1546(a) of such title (relating to document fraud) and (ii)” and inserting “which is described in any section of chapter 75 of title 18, United States Code,”; and

(2) by inserting after “first offense” the following: “(i) that is not described in section 1548 (relating to increased penalties), and (ii)”.

**SEC. 216. INADMISSIBILITY FOR PASSPORT AND IMMIGRATION FRAUD.**

(a) IN GENERAL.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) by striking “or” at the end of subclause (I);

(2) by inserting “or” at the end of subclause (II); and

(3) by inserting the following new subparagraph:

“(III) a violation of (or a conspiracy or attempt to violate) any section of chapter 75 of title 18, United States Code,”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to proceedings pending on or after the date of the enactment of this Act.

**SEC. 217. REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD.**

(a) IN GENERAL.—Clause (iii) of section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C.1227(a)(3)(B)) is amended to read as follows “(iii) of a violation of, or an attempt or a conspiracy to violate, any section of chapter 75 of title 18, United States Code,”.

(b) EFFECTIVE DATE.—This amendment made by subsection (a) shall apply to proceedings pending on or after the date of the enactment of this Act

In section 301—

(1) in subsection (b), in the matter preceding paragraph (1), strike “Congress” and insert “appropriate congressional committees (as defined in section 102(g))”; and

(2) in subsection (c), strike “RULE OF CONSTRUCTION” and insert “RULES OF CONSTRUCTION”, insert “(1)” before “Nothing” and add at the end the following new paragraph:

(2) Nothing in this section shall be construed to alter, impact, diminish, or in any way undermine the authority of the Administrator of the Federal Aviation Administration to oversee, regulate, and control the safe and efficient use of the airspace of the United States.

In section 305(a), in the matter before paragraph (1), strike “any activity” and insert “any terrorism prevention or deterrence activity”.

At the end of title III, add the following new section:

**SEC. 308. RED ZONE DEFENSE BORDER INTELLIGENCE PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of Homeland Security and the Director of National Intelligence shall jointly establish a pilot program to improve the coordination and management of intelligence and homeland security information provided to or utilized by the Department of Homeland Security relating to the southwest international land and maritime border of the United States.

(b) PILOT AREA.—The Secretary of Homeland Security and the Director of National Intelligence shall designate a geographic area along the southwest international land and maritime border of the United States centered on Cochise County, Arizona, to be the pilot area for the pilot program established pursuant to subsection (a).

(c) PROGRAM.—The pilot program established pursuant to subsection (a) shall—

(1) coordinate and facilitate the sharing of intelligence and homeland security information related to border security within the pilot area designated pursuant to subsection (b) among Federal, State, local, and tribal governments, including relevant intelligence and homeland security information provided to the Department of Homeland Security by the intelligence community and relevant intelligence and homeland security in-

formation gathered by the Department of Homeland Security from other sources;

(2) to the maximum extent possible, provide for persistent surveillance of such pilot area;

(3) to the maximum extent possible, utilize airships, aerostats, and existing unmanned aerial vehicles to provide for surveillance of such pilot area;

(4) to the maximum extent possible, fully utilize the capabilities of underutilized assets currently available to conduct surveillance of such pilot area;

(5) where practicable, utilize the capabilities of existing operational and analytical centers that analyze intelligence and homeland security information relating to such pilot area from multiple sources and improve the interoperability of such centers;

(6) consistent with applicable security requirements, disseminate actionable intelligence and homeland security information relating to border security within such pilot area to the appropriate Federal, State, local, tribal, and foreign governments to support operational activities relating to border security within such pilot area;

(7) provide for direct transmission of such actionable intelligence and homeland security information to operational and analytical centers included in the pilot program;

(8) provide for a representative of the Department of Homeland Security to be assigned to each operational and analytical center to facilitate the immediate utilization, where practicable, of such actionable intelligence and homeland security information; and

(9) develop metrics to assess the capability of such pilot program to improve border security.

(d) STRATEGY COORDINATION.—In establishing the pilot program under subsection (a), the Director of National Intelligence shall coordinate the intelligence activities of the pilot program with the relevant activities and programs of other elements of the intelligence community.

(e) HEADQUARTERS.—The Secretary of Homeland Security and the Director of National Intelligence may establish a headquarters for the pilot program established pursuant to subsection (a) within the area designated as the pilot area pursuant to subsection (b).

(f) DURATION.—The pilot program established pursuant to subsection (a) shall last a minimum of two years.

(g) REPORT.—Not later than one year after the establishment of the pilot program pursuant to subsection (a), the Secretary of Homeland Security and the Director of National Intelligence shall submit to Congress a report containing—

(1) the lessons learned from such pilot program based on the metrics developed pursuant to subsection (c)(9);

(2) recommendations for enhancing the provision and sharing of intelligence and homeland security information relating to border security under the National Strategy for Border Security submitted pursuant to section 102(b) and with other programs of the intelligence community relating to border security; and

(3) an identification of any provisions of law that may impede effective coordination of intelligence and homeland security information relating to the southwest international land and maritime border of the United States.

(h) DEFINITIONS.—In this section:

(1) HOMELAND SECURITY INFORMATION.—The term “homeland security information” has the meaning given the term in section 892(f)(1) of the Homeland Security Act of 2002 (6 U.S.C. 482(f)(1)).

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

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

In section 401(c), add at the end the following paragraph:

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Homeland Security, in the Secretary’s sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

In section 431(e) of the Homeland Security Act of 2002, as added by section 502(a), insert “the Department of Transportation,” after “Justice.”

Amend clause (vi) of section 601(a)(1)(B) to read as follows:

(vi) by striking the last sentence and inserting the following: “The Secretary of Homeland Security shall waive the application of clause (v) in the case of removal of an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

In section 602(a)—

(1) in section 241(a)(8) of the Immigration and Nationality Act, inserted by paragraph (8)

(A) strike “procedures described” and insert “rules set forth”; and

(B) strike the dash and “(A)” and strike “, and” and all that follows up to the period at the end; and

(2) in section 241(j) of such Act, inserted by paragraph (9)—

(A) in paragraph (1), strike “procedures described” and insert “rules set forth”;

(B) in paragraph (3)(B)(i) strike “subparagraph (A) if” and all the follows through “apply.” and insert the following:

“subparagraph (A)—

“(I) until the alien is removed if the conditions described in subparagraph (A) or (B) of paragraph (4) apply; or

“(II) pending a determination as provided in subparagraph (C) of paragraph (4).”

In section 241(j)(3)(B)(ii) of the Immigration and Nationality Act, inserted by section 602(a)(9), strike “ paragraph (4)(A)” and insert “paragraph (4)(B)”.

In section 611—

(1) strike “section 103(d)(1)” and insert “sections 103(d)(1) and 105(a)(2)(A)”; and

(2) strike “is amended” and insert “are each amended”.

Add at the end of title VI, the following new sections:

**SEC. 615. REPORT ON CRIMINAL ALIEN PROSECUTION.**

Not later than one year after the date of the enactment of this Act and annually thereafter, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the status of criminal alien prosecutions, including prosecutions of human smugglers.

**SEC. 616. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.**

(a) **RESPONSIBILITY OF UNITED STATES ATTORNEYS.**—Beginning 2 years after the date of the enactment of this Act, the office of the United States attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act; and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

The determination under paragraph (1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(b) **RESPONSIBILITIES OF FEDERAL COURTS.**—

(1) **MODIFICATIONS OF RECORDS AND CASE MANAGEMENT SYSTEMS.**—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in paragraph (2) of subsection (a).

(2) **DATA ENTRIES.**—Beginning 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with the Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2012, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

In section 274A(h)(4) of the Immigration and Nationality Act, as added by section 705—

(1) amend the heading to read: “**RECRUITMENT AND REFERRAL**”;

(2) amend the third sentence to read as follows: “However, labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of workers for any period of time by a third party are included in the definition whether or not they receive remuneration.” ; and

(3) amend the sixth sentence to read as follows: “However, labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of workers for any period of time by a third party are included in the definition whether or not they receive remuneration.”.

Redesignate section 708 as 709, and insert after section 707 the following new section:

**SEC. 708. EXTENSION OF PREEMPTION TO REQUIRED CONSTRUCTION OF DAY LABORER SHELTERS.**

Paragraph 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended—

(1) by striking “imposing”, and inserting a dash and “(A) imposing”;

(2) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(B) Requiring as a condition of conducting, continuing, or expanding a business that a business entity—

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

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

At the end of title VIII add the following:

**SEC. 807. CLARIFICATION OF JURISDICTION ON REVIEW.**

(a) REVIEW OF DISCRETIONARY DETERMINATIONS.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting before “no court” the following: “and regardless of whether the individual determination, decision, or action is made in removal proceedings,”;

(2) in clause (i), by striking “any judgment” and inserting “any individual determination”; and

(3) in clause (ii)—

(A) by inserting “discretionary” after “any other”;

(B) by striking “the authority for which is specified under this title to be in the discretion of the Attorney General or the Secretary of Homeland Security,” and inserting “under this title or the regulations promulgated hereunder.”; and

(C) by striking the period at the end and inserting the following: “, irrespective of whether such decision or action is guided or informed by standards, regulatory or otherwise.”.

(b) REVIEW OF ORDERS AGAINST CRIMINAL ALIENS.—Section 242(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(C)) is amended by inserting after “of removal” the following: “(irrespective of whether relief or protection was denied on the basis of the alien’s having committed a criminal offense)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions for review that are pending on or after the date of the enactment of this Act.

**SEC. 808. FEES AND EXPENSES IN JUDICIAL PROCEEDINGS.**

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

“(i) Notwithstanding any other provision of law, a court shall not award fees or other expenses to an alien based upon the alien’s status as a prevailing party in any proceedings relating to an order of removal issued under this Act, unless the court of appeals concludes that the Attorney General’s determination that the alien was removable under section 212 or 237 was not substantially justified.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fees or other expenses awarded on or after the date of the enactment of this Act.

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**5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PRICE OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES**

In section 101(a), in the matter preceding paragraph (1), strike “The Secretary” insert “Not later than 18 months after the date of the enactment of this Act, the Secretary”.

In section 101(b), strike “the entry into the United States of” and insert “all unlawful entries into the United States, including entries by”.

In section 101, add at the end the following new subsection:

(c) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report on the progress made toward achieving and maintaining operational control over the entire international

land and maritime borders of the United States in accordance with this section.

In section 102(b), insert after paragraph (3) the following new paragraph and redesignate subsequent paragraphs accordingly):

(4) An assessment of all legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STEARNS OF FLORIDA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title I, add the following:

**SEC. 118. COMPLETION OF BACKGROUND AND SECURITY CHECKS.**

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, and the courts may not—

“(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence,

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws, or

“(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court, until an IBIS check on the alien has been initiated at a Treasury Enforcement Communications System (TECS) access level of no less than Level 3, results from the check have been returned, and any derogatory information has been obtained and assessed, and until any other such background and security checks have been completed as the Secretary may require.

“(j) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, and the courts may not—

“(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence,

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws, or

“(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court, until any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this subsection has been fully investigated and found to be unsubstantiated.”.

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In section 203(2), add “and” at the end of subparagraph (B), strike “and” at the end of subparagraph (C), and strike subparagraph (D).

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE VELÁZQUEZ OF NEW YORK, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title II, insert the following:

**SEC. 211. REDUCTION IN IMMIGRATION BACKLOG.**

(a) IN GENERAL.—The Secretary of Homeland Security shall require that, not later than six months after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services (in this section referred to as “USCIS”) undertake maximum efforts to reduce to the greatest extent practicable the backlog in the processing and adjudicative functions of USCIS.

(b) PILOT PROGRAM INITIATIVES.—

(1) IN GENERAL.—The Director is authorized to implement a pilot program for the purposes of, to the greatest extent practicable—

(A) reducing the backlog in the processing of immigration benefit applications; and

(B) preventing such backlog from recurring.

(2) INITIATIVES.—To carry out paragraph (1), initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, streamlining paperwork processes, and increasing information technology and service centers.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NORWOOD OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title II, add the following new sections:

**SEC. 211. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.**

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by Congress.

(b) CONSTRUCTION.—Nothing in this section may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary of Homeland Security for immigration enforcement purposes; or

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

**SEC. 212. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.**

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

(1) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

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

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

(c) **APPLICABILITY.**—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established under subsection (a)(2) with them while on duty.

(d) **COSTS.**—The Secretary of Homeland Security shall be responsible for any and all costs incurred in establishing the training manual and pocket guide under subsection (a).

(e) **TRAINING FLEXIBILITY.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is sealable, survivable, and can have a portal in place within 30 days, shall be made available by the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) **FEDERAL PERSONNEL TRAINING.**—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(3) **CLARIFICATION.**—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws in the normal course of carrying out their normal law enforcement duties.

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

(1) by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

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

**SEC. 213. FINANCIAL ASSISTANCE TO STATE AND LOCAL POLICE AGENCIES THAT ASSIST IN THE ENFORCEMENT OF IMMIGRATION LAWS.**

(a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING AND PROCESSING ILLEGAL ALIENS.—From amounts made available to make grants under this section, the Secretary of Homeland Security shall make grants to States and political subdivisions of States for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting immigration law violators, including additional administrative costs incurred under this Act.

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

(c) FUNDING.—There is authorized to be appropriated for grants under this section \$250,000,000 for each fiscal year.

(d) GAO AUDIT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of funds distributed to States and political subdivisions of States under subsection (a).

**SEC. 214. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

(a) CONTINUATION AND EXPANSION.—

(1) IN GENERAL.—The Department of Homeland Security shall continue to operate and implement the program known as the Institutional Removal Program (IRP) which—

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

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

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

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

(A) cooperate with officials of the institutional removal program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition for receiving such funds.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State have the authority to—

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

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from United States Immigration and Customs Enforcement can take the alien into custody.

(c) **TECHNOLOGY USAGE.**—Technology such as video conferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program (IRP) available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

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

- (1) \$100,000,000 for fiscal year 2007;
- (2) \$115,000,000 for fiscal year 2008;
- (3) \$130,000,000 for fiscal year 2009;
- (4) \$145,000,000 for fiscal year 2010; and
- (5) \$160,000,000 for fiscal year 2011.

**SEC. 215. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).**

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

**SEC. 216. STATE AUTHORIZATION FOR ASSISTANCE IN THE ENFORCEMENT OF IMMIGRATION LAWS ENCOURAGED.**

(a) **IN GENERAL.**—Effective 2 years after the date of the enactment of this Act, a State (or political subdivision of a State) that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision within the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers' routine law enforcement duties shall not receive any of the funds that would otherwise be allocated to the State under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)).

(b) **CONSTRUCTION.**—Nothing in this section shall require law enforcement officials from States or political subdivisions of States to report or arrest victims or witnesses of a criminal offense.

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

At the end of title IV, add the following new section:

**SEC. 408. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.**

(a) **PROVISION OF INFORMATION TO THE NCIC.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on any and all aliens against

whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, any and all aliens who have overstayed their authorized period of stay, and any and all aliens whose visas have been revoked. Such information shall be provided to the National Crime Information Center, and the National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

- (1) the alien received notice of a final order of removal;
- (2) the alien has already been removed; or
- (3) sufficient identifying information is available on the alien.

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

- (1) in paragraph (3), by striking “and” at the end;
- (2) by redesignating paragraph (4) as paragraph (5); and
- (3) by inserting after paragraph (3) the following:

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

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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TANCREDO OF COLORADO, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title III, add the following:

**SEC. 308. PENALTIES FOR VIOLATIONS OF FEDERAL IMMIGRATION LAWS BY STATES AND LOCALITIES.**

Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended by adding at the end the following:

“(7) Prior to entering into a contractual arrangement with a State or political subdivision under paragraph (1), the Attorney General shall determine whether such State or political subdivision has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Attorney General shall not enter into a contractual arrangement with, or allocate any of the funds made available under this section to, any State or political subdivision with a policy that violates such section. The Attorney General shall submit to Congress an annual report on any State or political subdivision with a policy that violates such section.”.

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11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NADLER OF NEW YORK, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Strike section 407.

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12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MYRICK OF NORTH CAROLINA, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In section 606, add at the end the following:

(c) UNAUTHORIZED ALIENS CONVICTED OF DWI.—Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)(iii)) is amended by inserting “other than an unauthorized alien described in this clause” after “alien” and by inserting at the end the following: “In the case of an unauthorized alien (as defined in section 274A(h)(3)), a first drunk driving conviction shall be deemed to satisfy the definition of aggravated felony under section 101(a)(43)(F).”.

Strike section 606(a) and insert the following (and redesignate subsequent subsections accordingly):

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (c)(1)—

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

(B) in subparagraph (D), by inserting “or” at the end;

and

(C) by inserting after subparagraph (D) the following new subparagraph:

“(E) is deportable on any grounds and is apprehended for driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security) by a State or local law enforcement officer covered under an agreement under section 287(g).”;

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

“(e) DRIVING WHILE INTOXICATED.—If a State or local law enforcement officer apprehends an individual for an offense described in subsection (c)(1)(E) and the officer has reasonable ground to believe that the individual is an alien—

“(1) the officer shall verify with the databases of the Federal Government, including the National Criminal Information Center and the Law Enforcement Support Center, whether the individual is an alien and whether such alien is unlawfully present in the United States; and

“(2) if any such database—

“(A) indicates that the individual is an alien unlawfully present in the United States—

“(i) an officer covered under an agreement under section 287(g) is authorized to issue a Federal detainer to maintain the alien in custody in accordance with such agreement until the alien is convicted for such offense or the alien is transferred to Federal custody;

“(ii) the officer is authorized to transport the alien to a location where the alien can be transferred to Federal custody and shall be removed from the United States in accordance with applicable law; and

“(iii) the Secretary of Homeland Security shall reimburse the State and local law enforcement agencies in-

volved for the costs of transporting aliens when such transportation is not done in the course of their normal duties; or

“(B) indicates that the individual is an alien but is not unlawfully present in the United States, the officer shall take the alien into custody for such offense in accordance with State law and shall promptly notify the Secretary of Homeland Security of such apprehension and maintain the alien in custody pending a determination by the Secretary with respect to any action to be taken by the Secretary against such alien.”.

(b) DEPORTATION FOR DWI.—

(1) IN GENERAL.—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following new subparagraph:

“(F) DRIVING WHILE INTOXICATED.—Any alien who is convicted of driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security), or who refuses in violation of State law to submit to a Breathalyzer test or other test for the purpose of determining blood alcohol content is deportable and shall be deported.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall apply to violations or refusals occurring after the date of the enactment of this Act.

(c) SHARING OF INFORMATION BY MOTOR VEHICLE ADMINISTRATORS REGARDING DWI CONVICTIONS AND REFUSALS.—Each State motor vehicle administrator shall—

(1) share with the Secretary of Homeland Security information relating to any alien who has a conviction or refusal described in section 237(a)(2)(F) of the Immigration and Nationality Act;

(2) share such information with other State motor vehicle administrators through the Drivers License Agreement of the American Association of Motor Vehicle Administrators; and

(3) enter such information into the NCIC in a timely manner.

In section 608(b), amending section 237(a)(2) of the Immigration and Nationality Act, strike “(F) CRIMINAL” and insert “(G) CRIMINAL”.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHADEGG OF ARIZONA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title VI, add the following new section:

**SEC. 6 . INCREASED CRIMINAL PENALTIES FOR DOCUMENT FRAUD AND CRIMES OF VIOLENCE.**

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

(1) in subsection (a)—

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

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

- (C) by striking “20 years” and inserting “imprisoned not more than 40 years”;
  - (D) by striking “10 years” and inserting “imprisoned not more than 20 years”; and
  - (E) by striking “15 years” and inserting “imprisoned not more than 25 years”; and
  - (2) in subsection (b), by striking “5 years” and inserting “10 years”.
- (b) CRIMES OF VIOLENCE.—
- (1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 51 the following:

**“CHAPTER 52—ILLEGAL ALIENS**

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

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

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

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

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

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

“52. Illegal aliens ..... 1131”.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHADEGG OF ARIZONA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title VI, add the following new section:

**SEC. 6 . LAUNDERING OF MONETARY INSTRUMENTS.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting “section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” after “section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),”; and

(2) by inserting “section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),” after “section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),”.

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WEST-MORELAND OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In paragraphs (1)(A) and (2)(A) of section 706, strike “paragraph (10)” and insert “paragraphs (10) through (12)”.

In the matter inserted by section 706(1)(B), strike “not less than \$5,000” and insert “not less than \$5,000 and not more than \$7,500”.

In the matter inserted by section 706(1)(C), strike “not less than \$10,000” and insert “not less than \$10,000 and not more than \$15,000”.

In the matter inserted by section 706(1)(D), strike “not less than \$25,000” and insert “not less than \$25,000 and not more than \$40,000”.

In section 706(3), strike “the following new paragraph” and insert “the following new paragraphs”.

In section 706(3), after the paragraph (10) added by such section add the following:

“(11) EXEMPTION FROM PENALTY FOR INITIAL GOOD FAITH VIOLATION.—In the case of imposition of a civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment or recruitment or referral by person or entity and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed shall be waived if the violator establishes that it was the first such violation of such provision by the violator and the violator acted in good faith.

“(12) SAFE HARBOR FOR CONTRACTORS.—A person or other entity shall not be liable for a penalty under paragraph (4)(A) with respect to the violation of subsection (a)(1)(A), (a)(1)(B), or (a)(2) with respect to the hiring or continuation of employment of an unauthorized alien by a subcontractor of that person or entity unless the person or entity knew that the subcontractor hired or continued to employ such alien in violation of such subsection.”.

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GONZALEZ OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Strike section 706(1).

At the end of the title VII of the bill, add the following:

**SEC. 709. COMPLIANCE WITH RESPECT TO THE UNLAWFUL EMPLOYMENT OF ALIENS.**

(a) CIVIL PENALTY.—Paragraph (4) of subsection (e) of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

“(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—

“(A) IN GENERAL.—With respect to a violation by any person or other entity of subsection (a)(1)(A) or (a)(2), the Secretary of Homeland Security shall require the person or entity to cease and desist from such violations and to pay

a civil penalty in the amount specified in subparagraph (B).

“(B) AMOUNT OF CIVIL PENALTY.—A civil penalty under this paragraph shall not be less than \$50,000 for each occurrence of a violation described in subsection (a)(1)(A) or (a)(2) with respect to the alien referred to in such subsection, plus, in the event of the removal of such alien from the United States based on findings developed in connection with the assessment or collection of such penalty, the costs incurred by the Federal Government, cooperating State and local governments, and State and local law enforcement agencies, in connection with such removal.

“(C) DISTRIBUTION OF PENALTIES TO STATE AND LOCAL GOVERNMENTS.—

“(i) IN GENERAL.—Penalties collected under this paragraph from a person or entity shall be distributed as follows:

“(I) 25 percent of such amount shall be distributed to the State in which the person or entity is located.

“(II) 25 percent of such amount shall be distributed to the county in which the person or entity is located.

“(III) 25 percent of such amount shall be distributed to the municipality, if any, in which the person or entity is located, or, in the absence of such a municipality, to the county described in subclause (II).

“(D) LIMITATION ON USE OF FUNDS.—Amounts paid to a State, county, or municipality under subparagraph (C) may only be used for costs incurred by such State, county, or municipality in providing public services to aliens not lawfully present in the United States.

“(E) DISTINCT, PHYSICALLY SEPARATE SUBDIVISIONS.—In applying this subsection in the case of a person or other entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or other entity.”.

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17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BRADLEY OF NEW HAMPSHIRE, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title VII, insert the following:

**SEC. 709. REPORT ON EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.**

Not later than one year after the implementation of the employment eligibility verification system and one year thereafter, the Secretary of Homeland Security shall submit to Congress a report on the progress and problems associated with implementation of

the system, including information relating to the most efficient use of the system by small businesses.

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SULLIVAN OF OKLAHOMA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Add at the end the following new title:

**TITLE IX—SECURE OUR NATION’S  
INTERIOR**

**SEC. 901. EXPEDITED REMOVAL.**

Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

“(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 1-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless—

“(I) the alien has been charged with a crime, is in criminal proceedings, or is serving a criminal sentence; or

“(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the officer determines that the alien has been physically present in the United States for less than 1 year.

“(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who is described in clause (i), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.”.

**SEC. 902. CLARIFICATION OF INHERENT AUTHORITY OF STATE AND LOCAL LAW ENFORCEMENT.**

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the

transportation of such aliens across State lines to detention centers), in the enforcement of the immigration laws of the United States. This State authority has never been displaced or preempted by Congress.

**SEC. 903. DEPARTMENT OF HOMELAND SECURITY RESPONSE TO REQUESTS FOR ASSISTANCE FROM STATE AND LOCAL LAW ENFORCEMENT.**

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

“CUSTODY OF ILLEGAL ALIENS

“SEC. 240D. (a) **IN GENERAL.**—If the Governor of a State (or, if appropriate, a political subdivision of the State), exercising authority with respect to the apprehension of an illegal alien, submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary

“(1) shall—

“(A) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

“(B) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

“(2) shall designate a Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of the criminal or illegal aliens to the Department of Homeland Security. The Secretary of Homeland Security may enter into contracts with appropriate State and local law enforcement, private entities, and detention officials to implement this subsection.

“(b) **REIMBURSEMENT TO STATES AND LOCALITIES.**—The Secretary of Homeland Security shall reimburse States and localities for all reasonable expenses, as determined by the Secretary, incurred by a State or locality in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of subsection (a)(1). Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (a)(1) shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State) plus the cost of transporting the criminal or illegal alien from the point of apprehension, to the place of detention, and to the custody transfer point if the place of detention and place of custody are different.

“(c) **INCARCERATION OF ILLEGAL ALIENS.**—The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide an appropriate level of security.

“(d) **TRANSFER OF ILLEGAL ALIENS.**—

“(1) **IN GENERAL.**—In carrying out this section, the Secretary of Homeland Security may establish a regular circuit and

schedule for the prompt transfer of apprehended illegal aliens from the custody of States and political subdivisions of States to Federal custody.

“(2) AGREEMENTS.—The Secretary of Homeland Security may enter into contracts with appropriate State and local law enforcement, private entities, and detention officials to implement this subsection.

“(e) DEFINITION.—For purposes of this section, the term ‘illegal alien’ means an alien who entered the United States without inspection or at any time or place other than that designated by the Secretary of Homeland Security.”.

**SEC. 904. UNIVERSAL PROCESSING THROUGH THE AUTOMATED ENTRY-EXIT CONTROL SYSTEM.**

(a) RECORD OF ENTRY AND EXIT.—Not later than January 1, 2008, the Secretary of Homeland Security shall develop a program to collect and maintain a record of each admission for every alien arriving in the United States.

(b) PURPOSE.—The program established in subsection (a) shall verify the identify of every arriving and departing alien by comparing in real time the biometric identifier on such alien’s travel or entry document or passport with the arriving or departing alien.

(c) COORDINATION.—The program established under subsection (a) shall be coordinated with the system established under section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)).

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress detailing the additional resources, including machine readers and personnel, that are needed at each port of entry, based on recent and anticipated volumes of admissions at such ports of entry, to fully implement subsection (a).

19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RYUN OF KANSAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Add at the end the following new title:

**TITLE IX—OATH OF RENUNCIATION AND ALLEGIANCE**

**SEC. 901. OATH OF RENUNCIATION AND ALLEGIANCE.**

(a) IN GENERAL.—Section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a)) is amended by inserting after the fourth sentence the following: “The oath referred to in this section shall be the oath provided for in paragraph (a) or (b) of section 337.1 of title 8, Code of Federal Regulations, as in effect on April 1, 2005.”.

(b) NOTICE TO FOREIGN EMBASSIES .—Upon the naturalization of a new citizen, the Secretary of Homeland Security, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

- (1) renounced allegiance to that foreign country; and
- (2) sworn allegiance to the United States.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 6 months after the date of the enactment of this Act.

20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROYCE OF CALIFORNIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following:

## **TITLE IX—ELIMINATION OF CORRUPTION AND PREVENTION OF ACQUISITION OF IMMIGRATION BENEFITS THROUGH FRAUD**

### **SEC. 901. SHORT TITLE.**

This title may be cited as the “Taking Action to Keep Employees Accountable in Immigration Matters Act of 2005” or the “TAKE AIM Act of 2005”.

### **SEC. 902. FINDINGS.**

Congress finds the following:

(1) The mission of United States Citizenship and Immigration Services (USCIS) is to faithfully execute the immigration laws enacted by Congress and to ensure that only those aliens who are eligible under such laws and who do not pose a risk to the United States or its citizens or lawful residents are able to obtain permission to remain in the United States.

(2) Only United States citizens have an absolute right to be in the United States; for all others, permission to enter and reside here, either as nonimmigrants or immigrants, is a privilege that is conditioned on following the rules of one’s admission and stay.

(3) It is important that United States Citizenship and Immigration Services, like all other Federal agencies that come into close contact with the public their customers.

(4) Immigration benefits fraud has become endemic. It undermines the rule of law and threatens national security, and so must be addressed aggressively and consistently.

(5) Internal corruption also threatens national security and erodes the integrity of the immigration system. In order to restore integrity and credibility to the system, the backlog of complaints against United States Citizenship and Immigration Services employees must be cleared by experienced investigators as expeditiously as possible without compromising the quality of investigations.

(6) In separating customs and border protection and immigration and customs enforcement from United States Citizenship and Immigration Services, Congress did not intend to wholly eliminate all law enforcement functions within the latter, nor is it possible for United States citizenship and immigration services to achieve its mission without a law enforcement function. the attempt to do so has produced the current abysmal results. Thus, it is imperative that United States Citi-

zenship and Immigration Services embrace the critical law enforcement function especially the internal audit function.

**SEC. 903. STRUCTURE OF THE OFFICE OF SECURITY AND INVESTIGATIONS.**

The Director of the Office of Security and Investigations shall report directly to the Director of United States Citizenship and Immigration Services.

**SEC. 904. AUTHORITY OF THE OFFICE OF SECURITY AND INVESTIGATIONS TO INVESTIGATE INTERNAL CORRUPTION.**

(a) **AUTHORITY.**—In addition to the authority otherwise provided by this title, the Director of the Office of Security and Investigations, in carrying out the duties of the Office, has sole authority—

(1) to receive, process, dispose of administratively, and investigate any criminal or noncriminal violations of the Immigration and Nationality Act or title 18, United States Code, that are alleged to have been committed by any officer, agent, employee, or contract worker of United States Citizenship and Immigration Services, and that are referred to United States Citizenship and Immigration Services by the Office of the Inspector General of the Department of Homeland Security;

(2) to ensure that all complaints alleging such violations are handled and stored in the same manner as sensitive but unclassified materials;

(3) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to United States Citizenship and Immigration Services which relate to programs and operations with respect to which the Director has responsibilities under this title;

(4) to request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Office from any Federal, State, or local governmental agency or unit thereof;

(5) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned to the Office of Security and Investigations, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court (except that procedures other than subpoenas shall be used by the Director to obtain documents and information from Federal agencies);

(6) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned to the Office of Security and Investigations, which oath, affirmation, or affidavit when administered or taken by or before an agent of the Office of Security and Investigations designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal;

(7) to have direct and prompt access to the head of United States Citizenship and Immigration Services when necessary for any purpose pertaining to the performance of functions and responsibilities of the Office of Security and Investigations;

(8) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers,

and duties of the Office of Security and Investigations subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(9) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of title 5, United States Code; and

(10) to the extent and in such amounts as may be provided in advance by immigration fee accounts or appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this title.

(b)(1) Upon request of the Director for information or assistance under subsection (a)(4), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Director, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(3) or (a)(4) is, in the judgment of the Director, unreasonably refused or not provided, the Director shall report the circumstances to the Director of United States Citizenship and Immigration Services without delay.

(c) The Director of United States Citizenship and Immigration Services shall provide the Office of Security and Investigations with appropriate and adequate office space at central and field office locations of United States Citizenship and Immigration Services, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d)(1) In addition to the authority otherwise provided by this title, the Director, the Deputy Director, the Assistant Director of Security Operations, the Assistant Director of Special Investigations, all 1811-series criminal investigators, certain 1801-series investigative management specialists, and security specialists supervised by such assistant directors may be authorized by the Secretary of Homeland Security to—

(A) carry a firearm while engaged in official duties as authorized under this title or other statute, or as expressly authorized by the Secretary;

(B) make an arrest without a warrant while engaged in official duties as authorized under this title or other statute, or as expressly authorized by the Secretary, for any offense against the United States committed in the presence of such Director, Assistant Director, or designee, or for any felony cognizable under the laws of the United States if such Director, Assistant Director, or designee has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the

United States upon probable cause to believe that a violation has been committed.

(2) The Secretary shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

(3)(A) Powers authorized for the Director under paragraph (1) may be rescinded or suspended upon a determination by the Secretary that the exercise of authorized powers by that Director has not complied with the guidelines promulgated by the Secretary under paragraph (2).

(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Secretary that such individual has not complied with guidelines promulgated by the Secretary under paragraph (2).

(4) A determination by the Secretary under paragraph (3) shall not be reviewable in or by court.

(5) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority.

**SEC. 905. AUTHORITY OF THE OFFICE OF SECURITY AND INVESTIGATIONS TO DETECT AND INVESTIGATE IMMIGRATION BENEFITS FRAUD.**

The Office of Security and Investigations of United States Citizenship and Immigration Services shall have authority—

(1) to conduct fraud detection operations, including data mining and analysis;

(2) to investigate any criminal or noncriminal allegations of violations of the Immigration and Nationality Act or title 18, United States Code, that Immigration and Customs Enforcement declines to investigate;

(3) to turn over to a United States Attorney for prosecution evidence that tends to establish such violations; and

(4) to engage in information sharing, partnerships, and other collaborative efforts with any—

(A) Federal, State, or local law enforcement entity;

(B) foreign partners; or

(C) entity within the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 906. INCREASE IN FULL-TIME OFFICE OF SECURITY AND INVESTIGATIONS PERSONNEL.**

(a) INCREASE IN GS-1811 SERIES CRIMINAL INVESTIGATORS.—(1) In each of fiscal years 2007 through 2010, the Director of the Office of Security and Investigations shall, subject to the availability of security fees described in section 910 of this title, increase by not less than 100 the number of full-time, active-duty GS-1811 series criminal Discussion draft 10 investigators, along with support personnel and equipment, within the Office of Security and Investigations above the number of such positions for which funds were made available during the preceding fiscal year.

(2) DIVISION OF DUTIES.—

(A) INTERNAL AFFAIRS.—No fewer than one-third of the criminal investigators, and support personnel, hired under

paragraph (1) shall be assigned to investigate allegations described in paragraph (1) of section 904(a) of this title;

(B) **BENEFITS FRAUD.**—The remaining criminal investigators, and support personnel, hired under paragraph (1) shall be assigned to investigate allegations described in section 905 of this title.

(b) **INCREASE IN GS-1801 SERIES INVESTIGATION AND COMPLIANCE OFFICERS.**—(1) Subject to the availability of security fees described in section 910 of this title, the Director of the Office of Security and Investigations shall by fiscal year 2008 increase by not less than 150 the number of full-time, active-duty GS-1801 series investigation and compliance officers, along with support personnel and equipment, within the Office of Security and Investigations above the number of such positions for which funds were made available during fiscal year 2006.

(2) **DIVISION OF DUTIES.**—

(A) **INTERNAL AFFAIRS.**—No fewer than one-third of the investigation and compliance officers, and support personnel, hired under paragraph (1) shall be assigned to investigate allegations described in paragraph (1) of section 904(a) of this title;

(B) **BENEFITS FRAUD.**—The remaining investigation and compliance officers, and support personnel, hired under paragraph (1) shall be assigned to investigate allegations described in section 905 of this title.

(c) **INCREASE IN GS-0132 SERIES INTELLIGENCE RESEARCH SPECIALISTS.**—(1) Subject to the availability of security fees described in section 910 of this title, the Director of the Office of Security and Investigations shall by fiscal year 2008 increase by not less than 150 the number of full-time, active-duty GS-0132 series intelligence research specialists, along with support personnel and equipment, within the Office of Security and Investigations above the number of such positions for which funds were made available during fiscal year 2006.

(2) **DIVISION OF DUTIES.**—

(A) **INTERNAL AFFAIRS.**—No fewer than one-third of the investigation and compliance officers, and support personnel, hired under paragraph (1) shall be assigned to investigate allegations described in paragraph (1) of section 904(a) of this title;

(B) **BENEFITS FRAUD.**—The remaining investigation and compliance officers, and support personnel, hired under paragraph (1) shall be assigned to investigate allegations described in section 905 of this title.

**SEC. 907. ANNUAL REPORT.**

The Director of the Office of Security and Investigations shall annually submit to Congress a report detailing the activities of the Office. The report shall include data on the following:

(1) The number of investigations the Office of Security and Investigations began, completed, and turned over to a United States Attorney for prosecution during the past 12 months.

(2) The types of allegations investigated by the Office of Security and Investigations during the past 12 months, including both the allegations of misconduct by employees of United States Citizenship and Immigration Services and allegations of immigration benefits fraud.

(3) The disposition of all investigations conducted by the Office of Security and Investigations during the past 12 months.

(4) The number, if any, of allegations pending at the end of the 12-month period according to the type of allegation, the grade level of the employee, if applicable, along with an assessment of the resources the Office of Security and Investigations would need, if any, to remain current with new allegations received.

**SEC. 908. INVESTIGATIONS OF FRAUD TO PRECEDE IMMIGRATION BENEFITS GRANT.**

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

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

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence,

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws, or

“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court, until any suspected or alleged fraud relating to the benefit application has been fully investigated and found to be unsubstantiated.”.

**SEC. 909. ELIMINATION OF THE FRAUD DETECTION AND NATIONAL SECURITY OFFICE.**

Not later than 30 days following the date of enactment of this title, the Secretary of Homeland Security shall eliminate the Fraud Detection and National Security Office of United States Citizenship and Immigration Services and transfer all authority of such office to the Office of Security and Investigations.

**SEC. 910. SECURITY FEE.**

Section 286(d) of the Immigration and Nationality Act (8 U.S.C. 1356(d)) is amended by inserting “(1) ” before “monies” and adding at the end the following:

“(2) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge each alien who files an application for adjustment of status or an extension of stay a security fee of \$10, which shall be made available to the Office of Security and Investigations to conduct investigations into allegations of internal corruption and benefits fraud.

“(3) In addition to any other fee authorized by law, the Secretary of State shall charge each alien who files an application for an immigrant or nonimmigrant visa a security fee of \$10, which shall be made available to the Office of Security and Investigations to conduct investigations into allegations of internal corruption and benefits fraud.

“(4) Any fees collected under paragraphs (2) and (3) that are in excess of the operating budget of the Office of Security and Investigations shall be made available to Immigration and Customs Enforcement for the sole purpose of investigating immigration benefits fraud referred to it by United States Citizenship and Immigration Services.”.

21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GERLACH OF PENNSYLVANIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . EXEMPTION OF MEMBERS OF THE ARMED FORCES FROM CERTAIN NATURALIZATION REQUIREMENTS.**

(a) ENGLISH LANGUAGE, KNOWLEDGE OF GOVERNMENT, AND GOOD MORAL CHARACTER.—Section 328(b) of the Immigration and Nationality Act (8 U.S.C. 1439(b)) is amended—

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

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(5) the requirements of sections 312(a) and 316(a)(3) shall not apply.”.

(b) PERIOD OF SERVICE.—Section 328(a) of such Act (8 U.S.C. 1439) is amended—

(1) by striking “for a period or periods aggregating one year,”; and

(2) by striking “within six months” and inserting “at any time”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and apply to applications for naturalization filed on, before, or after such date.