

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE CITY of PHILADELPHIA,

Plaintiff,

v.

JEFFERSON BEAUREGARD SESSIONS III, in his
official capacity as Attorney General of the United
States,

Defendant.

Case No. 2:17-cv-03894-MMB

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff City of Philadelphia ("the City" or "Philadelphia"), by and through its counsel, hereby moves this Honorable Court for a preliminary injunction to prevent Defendant Jefferson Beauregard Sessions III, the Attorney General of the United States, from imposing three new unauthorized and unconstitutional conditions on the City's FY 2017 Edward Byrne Memorial Justice Assistance Grant ("Byrne JAG"). Furthermore, if the Court determines that the new condition concerning certification of compliance with 8 U.S.C. § 1373 can be attached to the City's FY 2017 Byrne JAG award, Plaintiff moves for a preliminary injunction to prevent the Attorney General from rejecting the City's application or withholding any funds from the City pertaining to that condition, because Philadelphia complies with Section 1373 as lawfully and constitutionally construed.

As set forth in the accompanying memorandum of law in support of Plaintiff's motion, the City of Philadelphia satisfies each of the elements for securing a preliminary injunction. The City will show that:

1. The Attorney General's imposition of the new conditions for FY 2017 Byrne JAG awards violate the Administrative Procedure Act three times over: The conditions are "not in accordance with" the statute creating the Byrne JAG program, and instead exceed the Attorney General's authority under that statute; they are "contrary to constitutional right, power, privilege, or immunity"; and they are "arbitrary [and] capricious." 5 U.S.C. § 706(2)(A)-(C). The Attorney General wholly lacks the authority to demand that States and localities accept these new conditions in order to receive their formula grants under the Byrne JAG statute. The City is therefore likely to succeed on the merits of its claims.

2. Furthermore, had Congress delegated authority to the Attorney General to attach the new conditions to Byrne JAG awards, that delegation would have run afoul of the Spending Clause of the United States Constitution. All three conditions pertain to localities' cooperation in federal immigration enforcement. They have nothing to do with strengthening States or cities' local criminal justice systems, which is the purpose of the Byrne JAG program. In fact, the City has determined that complying with the new conditions would *undermine* public safety and the health and well-being of its residents. This is a further reason the City is likely to succeed on the merits of its claims.

3. Even though the Section 1373 condition exceeds the Attorney General's authority and violates the Constitution's Spending Clause, the City of Philadelphia should not be denied its allocated FY 2017 Byrne JAG award as a result of that condition because the City complies with it as properly construed, especially in the context of a criminal justice assistance grant.

4. The Attorney General's imposition of the new conditions will cause immediate and irreparable harm to the City and its residents. Meanwhile, Defendant cannot show that a preliminary injunction will harm its interests, and the public interest strongly favors the requested relief.

Plaintiff requests that the Court set an expedited hearing at which witness testimony and oral argument will be presented. This motion is supported by the attached Memorandum in Support of Motion Preliminary Injunction, accompanying declarations and exhibits, Plaintiff's Complaint, as well as any additional submissions and oral argument that may be considered by the Court.

DATED: September 28, 2017

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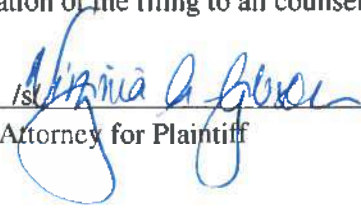

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2017, a copy of the foregoing Motion for Preliminary Injunction, together with all documents in support thereof, were electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all counsel of record.



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EASTERN DISTRICT OF PENNSYLVANIA**

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MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

The Department of Justice has backed the City of Philadelphia into a corner: It is demanding that the City either abandon policies carefully developed over time to ensure the safety and well-being of all its residents—immigrant and non-immigrant alike—or forgo nearly \$1.6 million in critical criminal justice funding. Philadelphia should not have to make this impossible choice, as a matter of law. The Attorney General lacks the authority to impose these conditions on Philadelphia, under both the relevant federal statutes and the United States Constitution. And had Congress given the Attorney General power to demand these concessions from the City—which it did not—that too would run afoul of the Constitution. While the federal government has considerable latitude to disburse grants to localities and to ask that they accept certain conditions, that power has limits. Neither Congress nor *especially* an executive official acting without delegation from Congress can mandate that localities relinquish their autonomy, be commandeered as federal agents, and agree to policy demands that will undermine police on the street, in exchange for a grant that was designed to *enhance* public safety. Whatever “respect for . . . [the] policy judgments” of Congress or the Executive is due, it “can never extend so far as to disavow restraints on federal power that the Constitution carefully constructed.” *Nat’l Fed’n of Indep. Bus. v. Sebelius* (“*NFIB*”), 567 U.S. 519, 538 (2012).

The federal actions that the City is challenging may at first blush seem banal or even supportive of law enforcement. They are not. The Attorney General has decreed that Philadelphia must accept three new conditions pertaining to federal immigration enforcement in order to receive its FY 2017 allocation of the Edward Byrne Memorial Justice Assistant Grant (“Byrne JAG” or “JAG”): (1) allow federal agents unfettered access to its prisons; (2) provide the Department of Homeland Security advance notice before releasing persons of interest; and (3) certify that it complies with a federal statute that deals with the sharing of immigration-status

information. These demands are extraordinary; if not enjoined, they will have severe consequences for the City. The new conditions are also riddled with ambiguities, and the Department of Justice (the “Department”) has failed to provide meaningful guidance as to how it will enforce them. But if they are applied in their most extreme light—a possibility that looks increasingly likely—the City will be forced to abandon policies that have reduced its crime rate by at least 17% and its violent crime rate by 20%, and are essential to its residents’ health and well-being. Meanwhile, if the City rejects the new grant terms, it must forgo formula grant funding that it has received every year since 2005 for critical crime-fighting initiatives.

The harms to the City will be significant and immediate. They can, and should, be prevented. The City respectfully requests that this Court enjoin the Department from imposing its three new conditions on the City as part of the FY 2017 Byrne JAG award, as they are unlawful, unconstitutional, and arbitrary and capricious. If the Court determines that the new condition of certification of compliance with 8 U.S.C. § 1373 can be attached to the City’s FY 2017 JAG award, the City requests that the Court enjoin the Attorney General from rejecting Philadelphia’s application or withholding any funds on account of that provision, because the City complies with it as lawfully and constitutionally construed.

BACKGROUND

A. The Byrne JAG Statute and Program.

Congress created the modern-day Byrne JAG program in 2005 as a formula grant, merging two prior criminal justice assistance grant programs. *See* Pub. L. No. 109-162, 119 Stat. 2960 (2005) (codified at 34 U.S.C. § 10151 *et seq.*, formerly codified at 42 U.S.C. § 3750 *et seq.*).¹ The formula allocates funds to States and localities according to their populations and

¹ Since the filing of Philadelphia’s Complaint on August 30, 2017, the statutory authorization for the Byrne JAG program has been recodified from Title 42 to Title 34.

rates of violent crime, 34 U.S.C. § 10156(a)-(d). The purpose of the Byrne JAG program is to give financial assistance to States and localities so that they can strengthen their criminal justice systems according to local priorities and needs—whether that means additional support for law enforcement, prosecutors and courts, or preventative and educational programs. *Id.* § 10152. Applicants must submit a plan to the Department of Justice detailing how they will use their awards in one or more of eight enumerated programmatic areas, *id.* § 10152(a)(1), and also submit a series of statutorily prescribed assurances and certifications, *see id.* § 10153(a). In the Department’s own words, the Byrne JAG program is today the “primary provider of federal criminal justice funding to state and local jurisdictions.”²

Although the Byrne JAG authorizing statute permits the Attorney General to exercise discretion over limited tasks in implementing the grant program, *i.e.*, specifying the “form” of the application or designating financial information grantees must report, *see id.* § 10153(a)(4)-(5), the statute does not authorize the Department to invent and impose new substantive conditions on grant recipients. *See* Compl. ¶¶ 63-68. As the text of the statute and its legislative history make clear, Congress’s intention was *not* to create a new vehicle for federal control over state and local law enforcement; quite to the contrary, Congress sought to give “flexibility to [States and localities to] spend money for *programs that work for them.*” *See* H.R. Rep. No. 109-233, at 89 (2005) (emphasis added). Today, Byrne JAG awards are distributed by the

² U.S. Dep’t of Justice, Bureau of Justice Assistance, *Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year (FY) 2016 Local Solicitation* (May 16, 2016), <https://goo.gl/cQuuRR>.

Bureau of Justice Assistance (“BJA”), which is part of the Office of Justice Programs (“OJP”) within the Department of Justice.³

Philadelphia has applied for and received Byrne JAG funding every year since the program’s inception. Over the past eleven years, Philadelphia’s cumulative Byrne JAG allocation totals over \$26 million, and its annual award has averaged \$2.17 million. Decl. of Julie Wertheimer ¶ 5 (“Wertheimer Decl.”) [attached hereto as Exhibit A]. The City also has previously been awarded competitive subgrants from the annual Byrne JAG award to the State of Pennsylvania. Wertheimer Decl. ¶ 6.

Philadelphia has relied on Byrne JAG funding for a range of projects that have strengthened and modernized its criminal justice system. In recent years, the Philadelphia Police Department (“PPD”) has used JAG awards to invest in new technology, enhance equipment, and train and pay overtime to officers on the street. Other City departments have relied on the funding to upgrade courtroom technology, support juvenile delinquency programs for the City’s youth, and operate rehabilitation and reentry programs. Philadelphia has even relied on JAG funds to revitalize blighted communities with Clean and Seal teams. Compl. ¶ 62; Wertheimer Decl. ¶ 7.

In FY 2017, Philadelphia has applied for almost \$1.6 million in JAG funding. If awarded, the money will be used by the Philadelphia Police Department, the Managing Director’s Office, the District Attorney’s Office, and the Defender Association of Philadelphia. Wertheimer Decl. ¶ 11. Among other things, the FY 2017 award will support Philadelphia’s Police Commissioner’s “Crime Fighting Strategy,” including overtime funding for “Quality of

³ See generally U.S. Dep’t of Justice, Bureau of Justice Assistance, *Welcome to BJA’s Edward Byrne Memorial Justice Assistance Grant (JAG) Program*, <https://www.bja.gov/jag/> (last visited Sept. 26, 2017).

Life” police initiatives; the enhancement of a Reality Based Training Unit to emphasize best practices on the use of force; and to procure supplies for a citywide collaboration to support inner-city youth. Wertheimer Decl. ¶ 11. Philadelphia also intends to use its FY 2017 funding to purchase naloxone for Philadelphia police officers responding to opioid overdoses. Wertheimer Decl. ¶ 11. Without hyperbole: These projects save lives.

Philadelphia’s anticipated FY 2017 JAG funding is marked in the Philadelphia budget under the “unanticipated grants fund.” If a grant is not awarded, no City money will be appropriated for that spending. Wertheimer Decl. ¶ 10.

B. The Department’s New Conditions for JAG Funding.

Over the past few months, the Department has stated that new conditions will affect FY 2017 Byrne JAG awards. In April 2017, the Department sent letters to Philadelphia and eight other jurisdictions “alert[ing]” each recipient that it is “required to submit documentation to [the Office of Justice Programs] that validates your jurisdiction is in compliance with 8 U.S.C. § 1373,” a statute which bars states and localities from adopting policies that restrict immigration-related communications between state and local officials and the federal government. Compl. ¶ 78. The Department threatened that “[f]ailure to comply with this condition could result in the withholding of grant funds, suspension, or termination of the grant, ineligibility for future OJP grants or subgrants, or other action, as appropriate.” Compl. ¶ 78. These letters referred to a new “certification” condition inserted into the jurisdictions’ FY 2016 Byrne JAG awards in or around September 2016. But, until April 2017, the Department had not threatened to withhold any specific Byrne JAG funding from grantees without the certification.⁴

⁴ As the City’s Complaint explains in greater detail, in the spring of 2016, the Department of Justice’s Office of Inspector General (“OIG”) conducted a brief investigation into—and submitted a report to the Assistant Attorney General of the Office of Justice Programs discussing—whether a group of State and local jurisdictions that receive funding from OJP had

Philadelphia certified its compliance with Section 1373 on June 22, 2017. *See* Compl. ¶ 79 & Ex. 14. The City explained how its policies—by their text and in operation—comply with the lawful application of Section 1373, and it raised statutory and constitutional concerns with the Department’s plans to condition JAG funding on compliance with Section 1373. Compl. ¶¶ 79-85. Several other recipients of the April 2017 letters also certified their compliance with Section 1373 in submissions to the Department by the June 30 deadline.

The Department responded with an ominous and opaque press release. It stated that it was “in the process of reviewing” the certifications and that, although several jurisdictions had made “bol[d] assert[ions]” in their letters regarding compliance, “[i]t is not enough to assert compliance, the jurisdictions must *actually be* in compliance.” Compl. ¶ 85 (emphasis added). The Department of Justice has since approved the certifications of at least two jurisdictions (Miami-Dade County, Florida and Clark County, Nevada), but not Philadelphia’s.

Without resolving the confusion over Section 1373, the Department announced two *more* conditions on July 25, 2017. *See* Compl. ¶¶ 86-91. It proclaimed that beyond certifying compliance with 8 U.S.C. § 1373 (the “Section 1373 condition”), JAG recipients must also allow officials from the Department of Homeland Security (“DHS”) access to any detention facility

policies that conflict with Section 1373. *See* Compl. ¶¶ 69-71. The OIG reported that some jurisdictions’ policies may be in tension with Section 1373, but that it was not clear whether Section 1373 was an “‘applicable federal law’ that recipients would be expected to comply with in order to satisfy relevant grant rules” for JAG funding. *See* Memorandum from Michael E. Horowitz, Inspector General, to Karol V. Mason, Assistant Attorney General for the Office of Justice Programs, at 9 & n.13 (May 31, 2016) (“Horowitz Memorandum”), <https://goo.gl/VhHrqA>. After receiving the report, Assistant Attorney General Mason issued a memorandum announcing that OJP had “determined that Section 1373 is an applicable federal law for the purposes of the [JAG] program.” Compl. ¶ 72. In a July 7, 2016 release, OJP instructed grantees that when they receive their FY 2016 awards, they must now “assure and certify compliance with . . . Section 1373.” Compl. ¶ 73. In further guidance provided on October 6, 2016, OJP clarified that the Section 1373 certifications would not affect grantees’ FY 2016 or prior JAG awards. Compl. ¶ 74.

they maintain to meet with persons of interest to DHS (the “jail access” condition); and must provide at least 48 hours’ advance notice to DHS regarding the scheduled release date and time of an inmate for whom DHS requests such notifications (the “advance notification” condition).

C. The Status Quo in Philadelphia: Policies to Welcome and Protect its Immigrant Communities.

Since its founding by William Penn in 1682, Philadelphia has been a haven for those seeking sanctuary from persecution.⁵ Indeed, its very name, Philadelphia, derives from the Greek words “philos,” meaning love or friendship, and “adelphos,” meaning brother. Today, as the sixth largest city in the United States, Philadelphia boasts a foreign-born population of 200,000, including approximately 50,000 undocumented immigrants.⁶ Immigrants contribute immensely to the City’s economy, educational institutions, and arts and culture. Of the nearly one billion dollars in earnings generated by small business owners in the City of Philadelphia each year, immigrant entrepreneurs earn \$295 million (almost a third);⁷ and, between 2000 and 2013, immigrants were responsible for 96% of the growth in Main Street small business ownership.⁸

Philadelphia believes that when any of its residents—including those who happen to be immigrants—remain in the shadows of society, too afraid to participate in public life or even report crimes, the City’s social fabric breaks down. It is not just Philadelphia’s immigrant communities that suffer; the City as a whole suffers. Accordingly, Philadelphia developed a set of policies to avoid such outcomes and to address the needs of its growing immigrant

⁵ See generally Marie Basile McDaniel, *Immigration & Migration (Colonial Era)*, The Encyclopedia of General Philadelphia, <https://goo.gl/eZXjFJ> (last visited Sept. 26, 2017).

⁶ Larry Eichel & Thomas Ginsberg, *Unauthorized Immigrants Make Up a Quarter of Philadelphia’s Foreign-Born*, Pew Charitable Trusts (Feb. 15, 2017), <http://goo.gl/6tbNeg>.

⁷ Americas Society/Council of The Americas and Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow*, p. 16 (Jan. 2015), <https://goo.gl/TJ8hG7>.

⁸ *Id.* at 7.

community. Today, Philadelphia has four policies relevant to the present suit, each of which engenders trust with the City's immigrant community and brings individuals from that community into the fold of City life.

1. Philadelphia's Police Department Policy

For many years, the Philadelphia Police Department had a longstanding practice of not asking for persons' immigration status when investigating crimes or conducting routine patrols. Compl. ¶ 23. This practice was based on the recognition that a resident's immigration status was irrelevant to effective policing and—if anything—asking about status could undermine trust and hamper investigations. In May 2001, then-Police Commissioner John F. Timoney formalized those practices by issuing Memorandum 01-06, entitled "Departmental Policy Regarding Immigrants" ("Memorandum 01-06"). Its broad instruction is that Philadelphia police officers avoid unnecessarily disclosing individuals' immigration-status information to other entities, unless the subject authorizes the disclosure, it is required by law, or the subject is suspected of criminal activity. Compl. ¶ 25. Notwithstanding that general directive to "safeguard" immigrants' confidential information, Memorandum 01-06 directs police officers to continue adhering to typical law enforcement protocols for the reporting and investigating of crimes. Compl. ¶ 26.

2. Philadelphia's Confidentiality Order

The City's hallmark policy in building trust with the immigrant community and promoting broad-based use of City services is Executive Order No. 8-09, signed by then-Mayor Michael Nutter in November 2009 ("Confidentiality Order"). Compl. ¶ 31. The Confidentiality Order has two key features. First, it directs City officers and employees—including police officers—to refrain from affirmatively collecting information about individuals' immigration statuses, unless that information is necessary for the determination of benefits or services

eligibility or for the officer's investigation, or unless the collection is otherwise required by law. Compl. ¶¶ 33-34. The Order affords specific protection to victims of and witnesses to crimes, instructing law enforcement officers categorically never to elicit information about their immigration statuses. Compl. ¶ 34. Second, the Order requires City officers and employees to avoid making unnecessary disclosures of any immigration-status information that inadvertently comes into their possession. Compl. ¶ 35. There are some exceptions—the Order permits disclosure when it “is required by law” as well as when the subject individual “is suspected . . . of engaging in criminal activity.” Compl. ¶ 35. And like Police Memorandum 06-01, the Confidentiality Order instructs law enforcement officers to “continue to cooperate with state and federal authorities in investigating and apprehending individuals who are suspected of criminal activity.” Confidentiality Order § 2(C).

3. Policies on Detainer and Notification Requests

The City's mayors have issued multiple executive orders bearing on the City's responses to detainer and notification requests by U.S. Immigration and Customs Enforcement (“ICE”). In April 2014, then-Mayor Nutter issued the first executive order covering detainees (“Detainer Order I”), and in January 2016, Mayor Kenney issued a revised order (“Detainer Order II”). *See* Compl. ¶¶ 38-43. Detainer Orders I and II place the burden of federal immigration enforcement where it belongs: on the federal government. Detainer Order II, which is currently in effect, directs Philadelphia police officers and prison officials “not [to] comply with detainer requests unless they are supported by a judicial warrant and they pertain to an individual being released after conviction for a first or second degree felony involving violence.” Compl. ¶ 42. As a result of Detainer Orders I and II, from April 2014 through the present date, Philadelphia prison authorities have stopped notifying ICE of the forthcoming release of inmates unless ICE

provides a notification request that is accompanied by a judicially authorized, criminal warrant. Compl. ¶¶ 44-45.

4. Philadelphia Prisons' Interview Request Protocol

The City of Philadelphia's Department of Prisons operates six facilities whose inmate population is roughly 6,700. Approximately 83 percent are in either a pre-trial posture (78 percent), pre-sentencing posture (about 2 percent), or some other form of temporary detention (about 3 percent). Comp. ¶ 49. Of the remaining 17 percent who are serving sentences, all are serving sentences of 23 months or less. *Id.* In May 2017, the Department of Prisons implemented a new protocol providing that ICE may only interview an inmate in one of the City's facilities if the inmate consents in writing to that interview. To implement this protocol, the Department of Prisons created a "consent form" to be provided to any inmate whom ICE seeks to interview. The consent form informs the individual that "[ICE] wants to interview you" and that "[y]ou have the right to agree or to refuse this interview." Compl. ¶ 50.

* * *

Philadelphia's policies have been remarkably successful. The City's confidentiality practices have led immigrants to feel that by applying for City services, enrolling their children in school, or seeking necessary healthcare services, they are not subjecting themselves or their families to adverse immigration consequences. Decl. of Eva Gladstein ¶¶ 5-8 ("Gladstein Decl.") [attached hereto as Exhibit B]. Its law enforcement protocols, together with its policies on ICE notification and interview requests, have led the City's immigration population to trust Philadelphia's police officers, to believe that reporting a crime will not result in that individual or his family being turned over to ICE, and to view Philadelphia's law enforcement personnel not as extensions of ICE, but as persons whose primary jobs is to keep their own families and communities safe from crime. Decl. of Brian Abernathy ¶¶ 7-9 ("Abernathy Decl.") [attached

hereto as Exhibit C]. Overall, the policies have forged greater trust with the City's immigrant population, encouraged persons of all backgrounds to access the City services to which they are entitled, and fostered effective community policing.

The proof is in the data: Since the enactment of the Confidentiality Order in 2009, crime has decreased across the City by 17%, with violent crime decreasing by 20%. Compl. ¶ 37; Abernathy Decl. ¶ 5. Property crimes are at their lowest since 1971, robberies are at their lowest since 1969, and violent crime is at its lowest since 1979. Compl. ¶ 3. Philadelphia's experience is not unique; it has been the experience of law enforcement across the country that reporting on the immigration status of residents, or even asking about status, deters persons of foreign backgrounds from reporting crimes or cooperating with law enforcement while declining to do so strengthens community policing. Compl. ¶¶ 28-29. Philadelphia has also seen continued, robust access among its immigrant populations to basic services such as education, healthcare, housing support, and assistance for persons with mental health and addiction needs since the enactment of its policies. Gladstein Decl. ¶¶ 5-8, 10. The City is proud of the relationship its agencies have built, particularly the Philadelphia Police Department, with its immigrant communities. It is a relationship of mutual respect, understanding, and communication. Abernathy Decl. ¶ 5.

D. Procedural History

Philadelphia filed its Complaint in this action on August 30, 2017, challenging the Department's authority to impose the Section 1373, jail access, and advance notification conditions, and seeking a declaratory judgment that the City complies with Section 1373 if it can lawfully be imposed as a condition of JAG funding. Dkt. 1. On September 5, 2017, the City submitted its application with the Office of Justice Programs for its FY 2017 Local Byrne JAG allocation of roughly \$1.6 million. Along with the application, City Solicitor Sozi Pedro Tulante

submitted a declaration again certifying that the City complies with Section 1373, as lawfully construed, and attaching the City's June 22, 2017 submission. A week later, this Court held a status conference, during which time the City informed the Court that it would likely seek a preliminary injunction at the end of the month—if and when the new funding conditions are, in fact, included in the City's FY 2017 Local Byrne JAG award. *See* Dkt. 17.

Three other lawsuits challenging the Department's new funding conditions are currently pending. The City of Chicago filed suit in the U.S. District Court for the North District of Illinois in early August, challenging the new conditions and seeking declaratory relief that the city complies with Section 1373. *See* Complaint, *City of Chicago v. Sessions* ("Chicago"), No. 1:17-cv-05720 (N.D. Ill. Aug. 7, 2017), ECF No. 1. It then moved for a preliminary injunction against the imposition of all three conditions, requesting as-applied and facial relief. *See* Mot. for Prelim. Inj., *Chicago*, (N.D. Ill. Aug. 10, 2017), ECF No. 21. On September 15, 2017, the court granted Chicago's motion with respect to the jail access and advance notification conditions, finding that Chicago has established a likelihood of success on the merits and enjoining the Department from imposing those conditions nationwide. *See City of Chicago v. Sessions*, --- F. Supp. 3d ----, 2017 WL 4081821, at *14 (N.D. Ill. Sept. 15, 2017). On September 26, the Department of Justice filed an appeal and motion for a stay of the nationwide scope of the preliminary injunction pending appeal to the Seventh Circuit. *See Chicago* (N.D. Ill. Sept. 26, 2017), ECF Nos. 79-85.

The State of California and the City and County of San Francisco have sued the Department of Justice in the U.S. District Court for the Northern District of California. Both are challenging the jail access and notification conditions, and California seeks a declaratory judgment that it complies with Section 1373. *See* Complaint, *California ex rel. Becerra v.*

Sessions, No. 3:17-cv-04701-WHO (N.D. Cal. Aug. 14, 2017), ECF No. 1; Complaint, *City & County of San Francisco v. Sessions*, No. 3:17-cv-04642-WHO (N.D. Cal. Aug. 11, 2017) (“*San Francisco*”), ECF No. 1.⁹ Neither plaintiff has sought injunctive relief at the time of this filing.

In the Chicago litigation, the Department of Justice made several representations that—combined with other recent developments—have convinced the City that the appropriate time to seek preliminary relief is now. First, the Department stated that “OJP’s aim is to issue [FY 2017 JAG] award notifications by September 30, 2017,” and that “the actual language and detailed contours of the [new] conditions” will be contained within those “award document[s].” Def.’s Opp. to Mot. to Expedite at 2-3 & n.2, *Chicago*, (N.D. Ill. Aug. 14, 2017), ECF No. 28. Second, the Department informed the court that “OJP [had already] issued Byrne JAG Program grant award documents to certain local units of government, and those documents contain the precise text of the conditions” that Chicago was challenging. Def.’s Opp. to Mot. for Prelim. Inj. at 9, *Chicago*, (N.D. Ill. Aug. 24, 2017), ECF No. 32. The Department filed copies of the FY 2017 JAG award letters to the County of Greenville, South Carolina and the City of Binghamton, New York, and submitted an affidavit by Acting Assistant Attorney General Alan Hanson stating that the conditions in those awards “are identical” to one another “and are being included in each award document being generated within OJP for awards under the FY 2017 Byrne JAG – Local Solicitation.” Decl. of Alan Hanson ¶ 6, *Chicago*, (N.D. Ill. Aug. 24, 2017), ECF No. 32-1. Notably, the jail access and advance notification conditions in the Greenville and Binghamton award documents are somewhat different from what had been announced in the Department’s July 25 press release. For jail access, the Department is requiring that recipients have in place a

⁹ The City of Los Angeles moved to intervene in the San Francisco suit, but the district court denied the motion. See Order Denying Mot. to Intervene, *San Francisco* (N.D. Cal. Sept. 11, 2017), ECF No. 39.

“local ordinance, -rule, -regulation, -policy, or -practice . . . that is designed to ensure that [any, not just DHS] agents of the United States . . . are given access [to] a local-government . . . correctional facility” to meet with individuals believed to be aliens and question them. *Id.*, Ex. A, at 19 (Special Condition 56.1.A).¹⁰ For advance notification, recipients must have in place a “local ordinance, -rule, -regulation, -policy, or -practice . . . that is designed to ensure that, when a local-government . . . correctional facility receives from DHS a formal written request . . . [for] advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and—as early as practicable . . . provide the requested notice to DHS.” *Id.* (Special Condition 56.1.B).

As a result of these representations, the City’s understanding is that it is likely to receive its FY 2017 Byrne JAG award letter in the very near future; that its letter will include the same text that appears in Greenville and Binghamton’s awards; and that it will then have 45 days either to accept the new conditions or to forgo its allocation. Meanwhile, Philadelphia still has not received a response from the Department about its Section 1373 certification, and it could be conceivably denied an award at any time if the Department rejects its Section 1373 submission. To protect its legal rights and to give this Court an adequate opportunity to confront the weighty statutory and constitutional claims at issue, the City has determined it must seek relief now. The preliminary injunction issued in the Chicago litigation will not protect the City because it does not cover all of Philadelphia’s claims, because Philadelphia’s arguments and factual specifics are not identical to those in Chicago, and because the Department is currently seeking a stay and filing an appeal of that ruling. Philadelphia must pursue its own case.

¹⁰ The text of the Greenville award, filed in the *Chicago* docket, is attached hereto as Exhibit D.

ARGUMENT

To obtain a preliminary injunction, a plaintiff must demonstrate that (1) it is likely to succeed on the merits; (2) it is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities, considering the harm to be suffered by the other party if relief is granted, tips in its favor; and (4) preliminary relief is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). In the Third Circuit, “[a] movant for preliminary equitable relief must meet the threshold for the first two ‘most critical’ factors”—that is, “it must demonstrate that it can win on the merits” and “that it is more likely than not to suffer irreparable harm in the absence of preliminary relief”—before the court moves on to the final two. *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). If both of “these gateway factors are met,” the court will “consider the remaining two . . . and determin[e] in its sound discretion if all four factors, taken together, balance in favor of granting the requested preliminary relief.” *Id.* Each factor weighs in favor of granting relief here.

I. PHILADELPHIA IS LIKELY TO SUCCEED ON THE MERITS OF ITS CLAIMS.

Philadelphia asserts that the Attorney General acted unlawfully in imposing the three new conditions on the City’s FY 2017 Byrne JAG award, but that, even if the Section 1373 condition is permitted to stand, the City is in compliance with the Section 1373 condition. Philadelphia is likely to succeed on the merits of its claims for three reasons.

First, Philadelphia is likely to show that the Attorney General’s imposition of the FY 2017 Byrne JAG conditions violates the Administrative Procedure Act: The Attorney General acted “in excess of [his] statutory . . . authority” as well as “contrary to” the authorizing federal statute, 5 U.S.C. § 706(2)(A), (C); he violated the Constitution’s separation of powers, *id.* § 706(A); and he deviated from past agency practice with no reasoned explanation, therefore

epitomizing “arbitrary” and “capricious” agency action, *id* § 706(2)(A). This unlawful, unconstitutional, and irrational agency conduct threatens critical programming in the City, affronts Philadelphia’s autonomy, and asks the City to abandon policies that enhance public safety and well-being. It can and must be enjoined.

Second, Philadelphia is likely to show that the Attorney General’s imposition of its new conditions on Byrne JAG funds—even if Congress *had* intended to authorize such conduct—runs afoul of a separate constitutional provision: the Spending Clause.

Third, Philadelphia is likely to succeed in its request for injunctive relief from any denial of funds pursuant to the Section 1373 condition, because, under clear legal principles and incontrovertible (even undisputed) facts, Philadelphia’s policies are consistent with Section 1373 as constitutionally and lawfully construed.

A. The Department’s Imposition Of The Conditions Is Unlawful.

1. The Imposition of the Conditions Is “Contrary to” the JAG Statute.

In creating the Byrne JAG program, Congress had a clear objective: to create a reliable, dedicated stream of funding that States and localities can draw upon each year to support and enhance their criminal justice systems. *See* 34 U.S.C. § 10152(a)(1); H.R. Rep. No. 109-233, at 89. Congress chose to structure Byrne JAG funding as a formula grant, allocating money among jurisdictions according to settled formulas that depend on population counts and crime levels. *See* 34 U.S.C. § 10156 (a), (d). Congress opted *not* to use a discretionary grant model for Byrne JAG funding, which might have given the administering entity more authority in selecting grantees. *See City of Los Angeles v. McLaughlin*, 865 F.2d 1084, 1088 (9th Cir. 1989) (“formula grants,” unlike discretionary ones, “are not awarded at the discretion of a state or federal agency, but are awarded pursuant to a statutory formula”); *U.S. ex rel. Bauchwitz v. Holloman*, 671 F. Supp. 2d 674, n.16 (E.D. Pa. 2009) (“Unlike discretionary grants that are awarded on a

competitive basis, mandatory grants are given to all who qualify for them.” (citations omitted)). As a result, States and local governments are entitled to their share of the Byrne JAG allocation each year, as long as their proposed programs fall within the statute’s eight broadly defined areas, each of which pertain to aspects of a locality’s criminal justice system. *See* 34 U.S.C. §§ 10152(a)(1)(A)-(H).

The statute’s text and purpose, its legislative history, and its implementation history all confirm that Congress did not intend to vest in the Attorney General the authority he now claims.

a. **Text.** The statute creating the Byrne JAG program contemplates the role that the Attorney General will play in administering the program and prescribes to him a narrow one. Namely, it authorizes the Attorney General only to collect applications for and then disburse annual Byrne JAG awards, and to impose a limited set of statutorily enumerated conditions on applicants. Those conditions fall into three buckets. *First*, the Attorney General can require that applicants supply information about their intended use of the grant funding, and demonstrate that they will spend the money on the purposes envisioned by the statute. *See* 34 U.S.C. § 10153(a)(2) & (a)(5)(A)-(C). *Second*, the Attorney General can require that applicants provide information to demonstrate financial and programmatic integrity. *Id.* § 10153(a)(4). *Third*, the Attorney General can demand that localities “certif[y],” in conjunction with their applications, that they “will comply with all provisions of this part and all other applicable Federal laws.” *Id.* § 10153(a)(5)(D).¹¹

¹¹ While the statute also includes an allowance for the Attorney General to “issue Rules to carry out this part,” 34 U.S.C. § 10155, that provision has no relevance here. It is not relevant first and foremost because it refers to “Rules,” and the Attorney General did not seek to impose the Department’s three new conditions by engaging in any form of rulemaking. In addition, the provision grants the Attorney General no additional authority beyond what is provided for already in the statute; it simply refers to the demarcated grants of authority set forth, and allows

The above delegations are notably silent on one critical thing: They do *not* include a general grant of authority to the Attorney General to impose obligations on grantees that he unilaterally deems worthy—unless, again, they pertain to the program requirements of “this part,” deal with budget protocols and the accounting of grant funds, or refer to “applicable Federal laws.” *See id.* §§ 10153(a)(2), (a)(4) & (a)(5).

None of the Attorney General’s three new conditions for FY 2017 Byrne JAG fall into any of these three statutorily established buckets of authority. None pertain to Byrne JAG program requirements, or even to the use of Byrne JAG funds. *See id.* §§ 10153(a)(2), 10153(a)(5)(A)-(C). None pertain to budgetary protocols or financial integrity. *See id.* § 10153(a)(4). And none trace to an “applicable Federal law.” *See id.* § 10153(a)(5)(D). The jail access and advance notification provisions are not based in *any* federal law, let alone an “applicable” one. And while Section 1373 is in fact a federal law, it is not an “applicable Federal law[]” under Section 10153(a)(5).

Although the phrase “applicable Federal laws” is not defined within the Byrne JAG statute, the most reasonable interpretation is that it refers to federal laws that, by their terms, are “applicable” to federal grant-making—*i.e.*, to statutes that directly speak to recipients of federal funds. *See, e.g.*, 42 U.S.C. § 2000d (condition of nondiscrimination on the basis of race, color or national origin applies to “any program or activity receiving Federal financial assistance”); 42 U.S.C. § 6102 (same, as to age discrimination). The exact wording of the statutory language is critical: Section 10153 authorizes the Attorney General to require that applicants certify compliance “with all provisions of this part *and all other* applicable Federal laws.” 34 U.S.C. § 10153(a)(5)(D) (emphasis added). It thus contains a specific term (“all provisions of this

the Attorney General to exercise those powers through rulemaking—*i.e.*, to execute his authority to collect and review Byrne JAG applications through promulgating “Rules.” *Id.* § 10155.

part'), followed by a general, residual term ("all other applicable Federal laws"). When the Supreme Court has encountered similar phrasing in a federal statute, it has interpreted the residual term to be limited by the qualities of the specific term. *See, e.g., Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 114-115 (2001) (finding that term "any other class of workers" should be "controlled and defined by reference to" the preceding terms, "seamen" and "railroad employees" (internal quotation marks omitted)). Here, that counsels reading "all other applicable Federal laws" in light of "all provisions of this part," and as therefore referring to *other* federal statutes that, similarly, impose requirements on federal grantees.

At the very least, the phrase "*applicable* Federal laws" in Section 10153(a)(5)(D) must be understood to refer to existing federal laws that, in some substantive manner, are "applicable" to the grant program Congress spelled out in the Byrne JAG statute. Any other reading raises constitutional doubts; not even *Congress* could impose capacious and free-ranging conditions on federal grantees that were not "reasonably calculated to address th[e] particular . . . purpose for which the funds are expended." *South Carolina v. Dole*, 483 U.S. 203, 209 (1987); *see infra* pp. 34-42 (discussing this issue in detail). Construing Section 10153 to be a limitless grant of authority to the Attorney General to pick and choose any provision from the U.S. Code that he decides should be "applicable" to a JAG award would exceed even the "outer limits of Congress' power" under the Spending Clause, and should be rejected. *Solid Waste Agency of N. Cook Cty. v. U.S. Army Corps of Eng'rs*, 531 U.S. 159, 174 (2001). "Applicable" requires a substantive relationship, and Section 1373 lacks one to Byrne JAG grants: It deals with federal immigration enforcement, and has nothing to do with either federal grant eligibility or distribution, or with Byrne JAG's programmatic purpose of enhancing local criminal justice systems.

Congress' decision *not* to delegate to the Attorney General a broader scope of authority to impose his own, substantive conditions on recipients of Byrne JAG awards—unconnected to the program requirements of “this part” and untethered to other federal laws that “appl[y]” to Byrne JAG’s purpose—is further evidenced by reviewing the Byrne statute in comparison to others. Time and time again, Congress has demonstrated that it knows how to confer executive discretion to add substantive conditions to federal grants or establish criteria for grant distribution that go beyond the stated text or purpose of the statute, when it wants to. *See, e.g.*, 25 U.S.C. § 4152 (a) (delegating HUD the authority to establish a block grant formula); 22 U.S.C. § 2151b(c) (authorizing the President “to furnish assistance, on such terms and conditions as he may determine, for health programs” in developing countries). Indeed, Congress made those sorts of delegations to the Department of Justice for *other* grant programs codified in the very same Chapter as the Byrne JAG program (Byrne JAG is codified at Subchapter V of Chapter 101 of Title 34, and other grant programs administered by OJP are codified different subchapters of Chapter 101). *See* 34 U.S.C. § 10446(e)(3) (authorizing the Attorney General to “impose reasonable conditions on grant awards” in a program for combatting violence against women, codified in Subchapter XIX of Chapter 101); 34 U.S.C. § 40701 (c)(1) (providing that the Attorney General shall “distribute grant amounts, and establish grant conditions ” for a program supporting DNA indexes, codified in Subchapter IV of Chapter 101). Congress made no such delegation here. *See Jama v. Immigration & Customs Enforcement*, 543 U.S. 335, 341 (2005) (“[O]ur reluctance” to “assume that Congress has omitted from its adopted text requirements that it nonetheless intends to apply” is “even greater when Congress has shown elsewhere in the same statute that it knows how to make such a requirement manifest”); *see also Chicago*, 2017 WL 4081821, at **5-6 (comparing the broader scope of authority given to the

Director of the Bureau of Justice Assistance to disburse discretionary (as opposed to formula) BJA grants in Subchapter V, and finding this indicative of “the ostensibly clear decision by Congress to withhold comparable authority in the Byrne JAG provisions”).

Finally, reading Section 10153 to allow the Attorney General to create conditions at his choosing, or to condition funds on his preferred parts of the U.S. Code, would upend the formula approach that Congress created for distributing Byrne JAG funds based on jurisdictions’ populations and rates of violent crime. It would permit the Attorney General to substitute his own invented criteria for the express statistical criteria Congress intended and established. Where Congress means to include such discretionary determinations in formula grants, it says so. *Cf. Fort Peck Hous. Auth. v. U.S. Dep’t of Hous. & Urban Dev.*, 367 Fed. App’x 884, 890 (10th Cir. 2010) (analyzing a statute in which “Congress set forth criteria to act as the formula’s basis” but included as a factor “‘objectively measurable conditions as the Secretary and the Indian tribes may specify’”). It did not say so here. *See, e.g., State Highway Comm’n v. Volpe*, 479 F.2d 1099, 1112-14 (8th Cir. 1973) (rejecting the Secretary of Transportation’s conditions on funding because where the Federal-Aid Highway Act “set[] out detailed considerations designed to guide the Secretary’s approval” of state projects, it was “impossible to find from these specific grants of authority discretion in the Secretary to withhold approval . . . because of a system of priorities the Executive chooses to impose”). *See generally Amalgamated Transit Union v. Skinner*, 894 F.2d 1362, 1364 (D.C. Cir. 1990) (“Where Congress prescribes the form in which an agency may exercise its authority, . . . we cannot elevate the goals of an agency’s action, however reasonable, over that prescribed form.”).

b. **Legislative History.** The legislative history of the Byrne JAG statutes, as well as Section 1373, confirms that the new conditions exceed the Attorney General’s authority.

i. Congress's intent in fashioning the Byrne JAG program was to empower localities to make their own criminal justice policies, not to empower the Attorney General to override local objectives. The current Byrne JAG program is the product of two predecessor grants. One was the Edward Byrne Memorial Formula Grant Program, created in 1988 to "assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system." Pub. L. No. 100-690, § 6091, 102 Stat. 4181 (1988). The other was the Local Law Enforcement Block Grant Program ("LLEBG Program"), set forth in the Local Government Law Enforcement Block Grants Act of 1995 and enacted in 1996 as part of an appropriations bill. The conference report accompanying the 1995 Act stated that the LLEBG Program "repudiated the 'Washington knows best' mindset that has too often characterized federal efforts to assist localities" in confronting crime and avoided "prescribing the specific programs that localities must implement in order to receive funding." H.R. Rep. No. 104-24, at 8-10 (1995). Rather, Congress recognized:

The overwhelming majority of crime falls within state and local jurisdictions. As a result, it falls preeminently to states and localities to combat crime. The federal government's challenge, therefore, is to assist localities [in] fight[ing] crime without getting in their way.

Id. at 9; *see also Harris County v. Gist*, 976 F. Supp. 601, 605-606 (S.D. Tex. 1996) ("Under the [LLEBG] program, local governments [would] receive federal funds to supplement their law enforcement budgets and ha[d] broad control over the decision how to use the funds."). When Congress merged the two predecessor grants in 2005, its conference report echoed the same principles: Congress explained that it was combining the grants "to give State and local governments more flexibility to spend money for programs that work for them rather than to impose a 'one size fits all' solution." H.R. Rep. No. 109-233, at 89.

This history illustrates that Congress did not intend to authorize the Attorney General to override States' and localities' determinations about what will best strengthen their criminal justice systems, as the Department's new conditions do. Whatever authority the Attorney General enjoys under the Byrne JAG statutes, it does not include authority to impose federally preferred practices on local officers.

ii. Subsequent legislative history for the Byrne JAG statute as well as for Section 1373 reinforces that the Attorney General lacks the power he now asserts. These histories show that time and again, Congress has considered—and then refused—to make Byrne JAG funds conditioned on localities' immigration oversight or actions, or to make Section 1373 a condition of federal funds to State or local governments.

Starting with the Byrne JAG statute, Congress has rejected several attempts to withhold JAG funding from jurisdictions that do not “cooperate” with federal immigration enforcement efforts.¹² For instance, the Enforce the Law for Sanctuary Cities Act proposed to direct the Attorney General to withhold Byrne JAG grant awards from any jurisdiction that “ha[d] in effect” a policy “in contravention of” Section 1373. H.R. 3009, 114th Cong. § 3(b) (2015). Likewise, the Stop Sanctuary Cities Act introduced in 2015 proposed to declare jurisdictions that either violate Section 1373 or fail to comply with ICE detainer or notification requests “[in]eligible to receive a grant under the Byrne Memorial Justice Assistance Grant Program” following a 180 period to remedy non-compliance. S. 1814, 114th Cong. (2015).¹³ Some members of Congress have also tried to add provisions in appropriations bills prohibiting the use

¹² All of the rejected legislation discussed herein is collected and attached hereto as Exhibits E-1, E-2, E-3, E-4 (Exhibit E had to be broken into four segments given filing size restrictions).

¹³ See also, e.g., Repeal Executive Amnesty Act of 2015, H.R. 191, 114th Cong. § 506 (2015) (House Version); Repeal Executive Amnesty Act of 2015, S. 129, 114th Cong. § 506 (2015) (Senate Version).

of Byrne JAG funds (or other OJP grants) “in contravention” of Section 1373. *E.g.*, Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016, H.R. 2578, 114th Cong. § 572 (2015).¹⁴ All of these attempts failed.

Other unsuccessful bills have more broadly targeted Department of Justice or “law enforcement” funding, and sought to link it to localities’ immigration activities. In 2015, then-Senator Sessions introduced S. 1640, the Michael Davis, Jr. and Danny Oliver in Honor of State and Local Law Enforcement Act, which sought to make jurisdictions which do not comply with Section 1373 “[in]eligible to receive” “any . . . law enforcement or Department of Homeland Security Grant.” S. 1640, 114th Cong. § 114 (2015). An identical bill was introduced in the House. *See* H.R. 1148, 114th Cong. § 114 (2015). Neither passed.¹⁵ Congress also considered, and then rejected, an attempt to give the Attorney General authority to determine what funds *could* be conditioned on compliance with cooperation with immigration authorities. The Improving Cooperation with States and Local Governments and Preventing the Catch and Release of Criminal Aliens Act of 2015 proposed making a jurisdiction that “does not cooperate with Federal officials,” including “by refusing . . . to notify a Federal law enforcement agency, upon request, of the release of such aliens,” ineligible to receive “any . . . law enforcement related grants or contracts awarded by . . . the Department of Justice,” and provided that such grants or contracts would be “designated by . . . the Attorney General.” S. 1812, 114th Cong. § 3 (2015). That bill did not pass either.

¹⁴ *See also, e.g.*, Commerce, Justice, Science, and Related Agencies Appropriations Act, H.R. 4660, 113th Cong. § 564 (2014); Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, H.R. 3093, 110th Cong. § 703 (2007).

¹⁵ *See also, e.g.*, SAFE Act of 2013, H.R. 2278, 113th Cong. (2013); Loophole Elimination and Verification Enforcement (“LEAVE”) Act of 2011, H.R. 1196, H.R. 1196, 112th Cong. § 921 (2011); LEAVE Act of 2009, H.R. 994, 111th Congress § 921 (2009); LEAVE Act of 2008, H.R. 6789, 110th Congress (2008).

Not only has Congress repeatedly declined to tie Byrne JAG funds—or DOJ funds more broadly—to States and localities’ immigration efforts, it has also declined to add funding-related enforcement mechanisms to Section 1373 itself. By its terms, Section 1373 does not condition any federal funding on compliance with the statute. *See* 8 U.S.C. § 1373. The statute’s only effect is to preempt contrary state or local legislation, as the Department itself has asserted. *See* Br. for United States at 51-52, *Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182), 2012 WL 939048 (“Congress enacted Section 1373 to preempt various state and local laws and policies that, at the time, precluded officials from sharing information with federal immigration authorities.”); U.S. Dep’t of Justice, Office of Legal Counsel, *Relationship Between Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and Statutory Requirement for Confidentiality of Census Information* at 12 n.10 (May 18, 1999), <https://goo.gl/ZoGdSU> (“[I]t is clear that Congress intended for 8 U.S.C.A. § 1373(a) to displace state or local provisions that specifically targeted disclosures to the INS for special prohibition.”).

The lack of funding conditions in Section 1373 has been a topic of frequent, but universally unsuccessful, legislative proposals. In 2003, one member of Congress introduced an amendment to withhold Homeland Security funds from jurisdictions that did not comply with Section 1373. Speaking about Section 1373, the member explained:

There are no sanctions, there are no provisions for a penalty if localities, in fact, violate the law.

...

[T]he original law[, Section 1373,] did not apply to the transfer of any funds. It was simply a law making it illegal for any city to restrict the flow of information to or from the Department of the Immigration and Naturalization Service[.]

149 Cong. Rec. H5,791 (daily ed. June 24, 2003) (statements of Rep. Tancredo). And the TRUE Enforcement and Border Security Act of 2005 proposed amending Section 1373 (adding a subsection entitled “Enforcement”) to direct the Attorney General to withhold from any jurisdiction

deemed to be in violation of Section 1373 “any law enforcement grant program carried out by any element of the Department of Justice.” H.R. 4313, 109th Cong. § 233 (2006). Then-Senator Sessions’ recent proposal had a similar structure. S. 1640, 114th Cong. § 114 (2015) (adding a section entitled “Compliance” to Section 1373 and tying DHS and DOJ funding). Obviously, these efforts all failed and Section 1373 today stands bare of any enforcement mechanism.

The Sisyphean history of congressional proposals to condition Byrne JAG or other funding on Section 1373 makes clear: The Department cannot use Byrne JAG as “a means for the executive branch to achieve a legislative goal that Congress has considered and rejected.” *In re Apple, Inc.*, 149 F. Supp. 3d 341, 360 (E.D.N.Y. 2016); *see also Am. Health Care Ass’n v. Burwell*, 217 F. Supp. 3d 921, 935-936 (N.D. Miss. 2016) (finding history of rejected legislation “particularly strong . . . in determining whether a federal agency which asserts extraordinarily broad powers . . . actually had the authority it claims to have had”).

c. Implementation History. Finally, the Attorney General’s lack of statutory authority to impose the type of grant conditions at issue is also evidenced by historical practice. From the time Byrne JAG funds were created in 2005 until today, the Attorney General has never insisted that applicants accept conditions that fall outside of the three buckets enumerated in the statute—again, requirements that either (1) relate to the disbursement of the grants themselves, to ensure they meet the requirements of “this part” (*i.e.*, the statute); (2) pertain to the accounting of that spending; or (3) reflect “applicable Federal laws,” which in turn refer to statutes that apply to federal grantees or that are at least substantively relevant to Byrne JAG’s purpose. The FY 2016 JAG award received by Philadelphia on August 23, 2016 is indicative; Philadelphia agreed to 53 “special conditions” as part of that award, including certifying that it:

- complies with the Department of Justice’s “Part 200” Uniform Administrative Requirements, Cost Principles, and Audit Requirements;

- adheres to the “DOJ Grants Financial Guide”;
- will “collect and maintain data that measure the performance and effectiveness of activities under this award”;
- recognizes that federal funds “may not be used by the recipient, or any subrecipient” on “lobbying” activities;
- “agrees to assist BJA in complying with the National Environmental Policy Act (NEPA) . . . in the use of these grant funds”; and
- will ensure that any recipient or subrecipient will “comply with all applicable requirements of 28 C.F.R. Part 42” (pertaining to civil rights and non-discrimination).¹⁶

Philadelphia has catalogued these conditions—and indeed, all of the 53 special conditions printed in the FY 2016 award—in a chart attached to this motion.¹⁷ As that analysis shows, the majority of the conditions relate to the administration and expenditure of the grant itself or to accounting of the expenditure. The few conditions that apply to the general conduct of the recipient or subrecipient are expressly made applicable to federal grantees by other federal statutes. In other words, *every condition the Attorney General has historically imposed upon Philadelphia falls into one of the three buckets of authority explicitly delegated to the Attorney General in the Byrne JAG statute*. The Department’s new conditions are different: They do not apply to the expenditure of JAG funding; they are not programmatic or financial integrity requirements; neither the jail access nor the advance notification conditions invoke an existing federal law; and while Section 1373 is a federal statute, it is not one that imposes conditions on federal grantees nor is it substantively “applicable” to the Byrne JAG program’s focus on strengthening criminal justice systems. There is simply no precedent for the type of condition that the Department of Justice has sought to add to Byrne JAG awards here. *Cf. State Highway Comm’n*, 479 F.2d at 1114 (“To reason that there is implicit authority within the Act to [deny

¹⁶ See Compl. Ex. 9.

¹⁷ See Exhibit F.

funds] for reasons totally collateral and remote to the Act itself requires a strained construction which we refuse to make”).

Put bluntly, the Department “claims to discover” in the Byrne JAG statutes “an unheralded power” to impose substantive conditions on grantees. *Util. Air Reg. Grp. v. EPA*, 134 S. Ct. 2427, 2444 (2014). Its new interpretation “would bring about an enormous and transformative expansion” in the Department’s authority “without clear congressional authorization.” *Id.* In light of the text, purpose, legislative history of the Byrne JAG statute, plus the “rejected bills” discussed above, the Department’s efforts cannot stand. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 144 (1999).

d. *The Department’s Baseless Claim of Authority.* The Department says that it does, in fact, have authority to impose its three new grant conditions, pointing not to the Byrne JAG statute itself but to a statutory provision that defines the “powers and duties” of the Assistant Attorney General (“AAG”) of the Office of Justice Programs. *See* Def.’s Opp. to Mot. for Prelim. Inj. at 2, *Chicago* (N.D. Ill. Aug. 24, 2017), ECF No. 32. The provision the Department relies upon—34 U.S.C. § 10102(a)(6)—was added to the Omnibus Crime Control and Safe Streets Act in a 1984 appropriations bill, in which Congress created the Office of Justice Programs and provided for it to be directed by an Assistant Attorney General. *See* Pub. L. No. 98-473, 98 Stat. 1837 (1984). The provision the Government hangs its authority upon states: “The Assistant Attorney General shall . . . exercise such other powers and functions as may be vested in the Assistant Attorney General *pursuant to this chapter or by delegation of the Attorney General*, including placing special conditions on all grants, and determining priority purposes for formula grants.” *Id.* § 10102(a)(6) (emphasis added).

But Section 10102(a)(6) cannot possibly bear the weight the Department places on it. That provision merely empowers the AAG for OJP to exercise “powers and functions” either set forth in “this chapter” (*i.e.*, Section 10102) or that the Attorney General has given to him “by delegation,” either of which may include the power to place “special conditions” on grants. Section 10102 does not *itself* endow the AAG with any authority to impose “special conditions” on grants, *see* § 10102(a)(1)-(5), and the Attorney General could only “delegate” that kind of authority to his subordinate if he *himself* possessed it pursuant to an underlying delegation. That is precisely the problem: The statute creating the Byrne JAG program does *not* vest the Attorney General with authority to impose “special conditions” on local awards at his choosing, it instead constrains him to impose the types of requirements expressly set forth in the statute.

The Department’s contrary reading of Section 10102(a)(6) defies basic principles of statutory interpretation. In effect, the Department would have this Court construe an ancillary provision governing a sub-cabinet post to confer unlimited discretion on an agency to impose “special conditions” or “determin[e] priority purposes” for various grants, irrespective of the express terms of the *statutes creating those grants*. That cannot be. Congress “does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.” *Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 468 (2001). It defies logic to think that Congress intended to vest the Attorney General with unbridled authority to alter its finely reticulated schemes for disbursing grants across any and all statutes, through a provision defining the duties of the AAG of OJP. *See also Chicago*, 2017 WL 4081821, at *6 (rejecting this argument about Section 10102(a)(6)).

2. The Imposition of the Conditions Violates the Separation of Powers.

By imposing conditions on Byrne JAG recipients that are not reflected in the authorizing statute and are in fact “contrary to” its purpose and text, the Attorney General has not only

violated that statute but run afoul of the Constitution's separation of powers between the Executive and Legislative Branches. The Constitution vests Congress, not the President or his appointees, with the power to appropriate funding to "provide for the . . . general Welfare of the United States." U.S. Const. art. I, § 8, cl. 1. Neither the President nor his Attorney General nor Assistant Attorney General can amend or cancel an appropriation that Congress has duly enacted. *See Clinton v. City of New York*, 524 U.S. 417, 438 (1998). Likewise, executive officials cannot choose to spend less than the full amount of funding Congress has authorized under a statute. *Train v. City of New York*, 420 U.S. 35, 44 (1975); *see also In re Aiken Cty.*, 725 F.3d 255, 261 n.1 (D.C. Cir. 2013) (the President cannot "refuse to spend . . . funds" that Congress appropriated "for a particular project or program"); *Dabney v. Reagan*, 542 F. Supp. 756, 764-768 (1982) (officials at HUD could not decide unilaterally not to "mak[e] available" statutorily "appropriated funds"). The President's constitutional duty, and that of his appointees, is to "take Care that the Law be faithfully executed." U.S. Const. art. II, § 3, cl. 5. It is not to change the law unilaterally or ignore it altogether. *See Kendall v. U.S. ex rel. Stokes*, 37 U.S. (12 Pet.) 524, 613 (1838) (to allow the President to ignore a federal statute "would be clothing the President with a power to control the legislation of congress").

The Supreme Court's decision in *Train* is instructive. There, the EPA Administrator had attempted to issue a regulation providing that the EPA would allot only \$2 billion in annual spending on a water pollution abatement program, created by Congress to extend federal financial assistance to localities, even though the statute had appropriated a sum "not to exceed \$5 billion." *Train*, 420 U.S. at 38, 40. The Court held that the Administrator lacked the authority to withhold the fully authorized amount. *Id.* at 40. The statute had not "confer[red] . . . discretion on the Executive to withhold funds from the program," and the Court identified no

other source of authority that would permit an Executive Branch official to negate “a firm commitment” of funds by Congress “to achieve” its objective. *Id.* at 46. Numerous courts have similarly held that the expenditure of appropriated funds is mandatory, and that the President has no inherent or residual constitutional authority to “refuse to spend” such funds. *Nat’l Council of Cmty. Mental Health Ctrs., Inc. v. Weinberger*, 361 F. Supp. 897, 903 (D.D.C. 1973); *see also Dubose v. Hills*, 405 F. Supp. 1277, 1287-88 (D. Conn. 1975) (Secretary lacked “the authority not to spend the reserve fund” created by Congress); *Guadamuz v. Ash*, 368 F. Supp. 1233, 1243-44 (D.D.C. 1973) (“the Executive has no residual constitutional power to refuse to spend th[e] appropriations”).

That Congress has expressly rejected funding conditions like those the Department seeks to impose, *supra* pp. 23-26, as well as legislation that would have given the Department the kind of authority it claims, *supra* p. 24, underscores the separation-of-powers violation. In *Youngstown*, the Supreme Court concluded that President Truman lacked the seizure power he claimed because “[w]hen the Taft-Hartley Act was under consideration in 1947, Congress rejected an amendment which would have authorized such governmental seizures in cases of emergency.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 586 (1952); *accord id.* at 663 (Clark, J., concurring); *id.* at 599 (Frankfurter, J., concurring). The same reasoning applies here.

The Constitution’s separation-of-powers principles are not to be lightly dismissed; they protect against the concentration of too much power in any one Branch and thereby “preclude the exercise of arbitrary power” by the federal government. *Bartkus v. Illinois*, 359 U.S. 121, 137 (1959) (internal quotation marks and citation omitted). On numerous occasions, the Supreme Court has explained how these structural provisions of our Constitution both secure individual

liberty and protect States and localities from the enactment of laws that they have no opportunity to influence through representative participation. *Compare NLRB v. Noel Canning*, 134 S. Ct. 2550, 2559 (2014) (“the separation of powers . . . serve[s] to safeguard individual liberty”); *and Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 501 (2010) (similar), *with Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528, 551, 550-556 (1985) (“the structure of the Federal Government itself” was designed to protect “the interests of the States”). These principles are undermined when a Presidential appointee attempts to override laws enacted by the People. The “preserv[ation of] free government” demands that the “the Executive be *under* the law[s]” that Congress made, not that he be given free rein to ignore those laws. *Youngstown*, 343 U.S. at 655 (Jackson, J., concurring) (emphasis added). By exercising authority not delegated to him within the JAG statute, the Attorney General has run afoul of the constitutional restrictions on his powers.

3. The Imposition of the Conditions Is Arbitrary and Capricious.

The Attorney General’s imposition of the new conditions was also arbitrary and capricious. The Department departed from past practice without explanation, failed to rely on reasoned decisionmaking and, to the extent it cited reasons at all for its new conditions, those reasons are contradicted by the available evidence.

First, the imposition of the new conditions is arbitrary is because the Department deviated from its prior practice of granting JAG awards without any requirements of this type and provided no sound reason or explanation. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016) (an “agency must at least ‘display awareness that it is changing position’ and ‘show that there are good reasons for the new policy’” (citations omitted)); *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005) (an “unexplained inconsistency” in an agency’s policy is “a reason for holding an interpretation to be an arbitrary

and capricious change”); *Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42-43 (1983) (same). “[S]ince 1996, the United States government has never sought to enforce [Section 1373] against a state or local government,” and neither the Department of Justice nor any other agency has made compliance with Section 1373 a requirement of receiving a federal grant.¹⁸ Likewise, no grant-making arm of the government, including the Department of Justice, has ever sought to impose a requirement like the jail access or advance notification conditions on grantees.

The Department of Justice departed from those practices without “articulating] a satisfactory explanation” for its policy shift. *State Farm*, 463 U.S. at 43. It released no reports, studies, or analysis whatsoever alongside its July 25, 2017 announcement of the new grant conditions, or alongside the posting of the FY 2017 Local Solicitation in August 2017, explaining why the Department has now determined that these conditions further Byrne JAG’s purpose of keeping cities safe. *See* Compl. ¶¶ 86-91. Especially given the public attention that this issue has received in recent months, the agency’s “failure to offer an explanation . . . for the change in its policy” is particularly inexcusable. *Comite’ De Apoyo A Los Trabajadores Agrícolas v. Perez*, 774 F.3d 173, 188 (3d Cir. 2014); *accord CBS Corp. v. FCC*, 663 F.3d 122, 152 (3d Cir. 2011) (holding that the FCC’s “depart[ure] from its prior policy excepting fleeting broadcast material” from sanction without any explanation was arbitrary and capricious).

The Memorandum by the DOJ’s Office of Inspector General in May 2016 provides nothing close to a sufficient explanation for the Department’s policy shift. *See* Compl. ¶ 71. As an initial matter, that document did not even address the Attorney General’s new jail access and advance notification conditions. And while it purported to study whether various jurisdictions

¹⁸ Elizabeth M. McCormick, *Federal Anti-Sanctuary Law: A Failed Approach to Immigration Enforcement and a Poor Substitute for Real Reform*, 20 Lewis & Clark L. Rev. 165, 170 (2016).

have policies that may conflict with Section 1373, it did not engage in any analysis about whether DOJ grant funding that is intended to bolster cities' criminal justice systems should be made contingent on the contours of a locality's information-sharing protocols. For instance, the Memorandum did not find—or even discuss the notion—that local policies which protect the confidentiality of individuals' immigration-status information result in a greater incidence of crime. Indeed, Philadelphia, like most other major U.S. cities that have considered the issue, has determined just the opposite. Compl. ¶¶ 3, 28, 37.

Moreover, not only did the Department fail to provide a sufficient explanation on the record for its deviation from past practice, but the justifications that the Attorney General has offered in public statements suggest that the Department's policy conclusions "ru[n] counter to the evidence before the agency." *State Farm*, 463 U.S. at 44. For instance, several of the nine jurisdictions that submitted Section 1373 certification letters to the Department this past summer provided the Department evidence and testimonials conveying that policies which build trust with the immigrant community promote rather than detract from effective policing. Philadelphia's certification letter contained such material. *See* Compl. ¶¶ 79-83 & Ex. 14. Additionally, there have been several studies and reports published concluding that localities with "sanctuary-type" policies have seen drops in rates of crime. *See* Compl. ¶¶ 29-30. The Department has not paid heed or responded to any of this evidence.

B. The Conditions Violate The Spending Clause.

Even if Congress had authorized the Department's action, it would still be unlawful, as it runs afoul of limits on Congress's Spending Clause authority. Congress's Spending Clause power is "not unlimited, but is instead subject to several general restrictions." *Dole*, 483 U.S. at 207 (citations omitted). As the Third Circuit has explained, Congress can only impose conditions on federal funds that are "related to federal interests in the program." *Koslow v.*

Pennsylvania, 302 F.3d 161, 175 (3d Cir. 2002). Moreover, any conditions must be “unambiguous.” *Id.* The Department’s new conditions fail both requirements.

1. Each Condition Is Unrelated to the Purpose of the JAG Program.

Although “Congress may attach appropriate conditions to federal . . . spending programs to preserve its control over the use of federal funds,” “[t]he Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress’ instructions.” *NFIB*, 567 U.S. at 577, 579 (quoting *New York v. United States*, 505 U.S. 144, 162 (1992)). To maintain this limit on Congress’s Spending Clause power, “conditions on federal grants” must be “reasonably calculated to address th[e] particular . . . purpose for which the funds are expended.” *Dole*, 483 U.S. at 207; accord *Massachusetts v. United States*, 435 U.S. 444, 461 (1978). This requirement is crucial: Without “some relationship” between spending conditions and “the purpose of the federal spending,” “the spending power could render academic the Constitution’s other grants and limits of federal authority.” *New York*, 505 U.S. at 167.

There is no such relationship here. The conditions the Department seeks to impose are divorced from Byrne JAG’s purpose, if not antithetical to it.

a. First and foremost, the new conditions are not “related to [the] federal interests in the [Byrne JAG] program” because they are aimed at immigration enforcement, not at “improv[ing] the administration of the criminal justice system.” 34 U.S.C. § 10153(a)(6); see *Koslow*, 302 F.3d at 175. Although the Department trumpets the new conditions as necessary to “keep our communities safe,” it has stated that the conditions are aimed at “ensur[ing] that federal

immigration authorities have the information they need to enforce immigration laws.”¹⁹ Enforcing immigration laws is not “administ[ering] . . . the criminal justice system,” 34 U.S.C. § 10153(A)(6); deportation and removal proceedings are “civil in nature.” *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010); *see also Arizona v. United States*, 567 U.S. 387, 407 (2012) (“As a general rule, it is not a crime for a removable alien to remain present in the United States.”); Br. for United States at 52, *Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182), 2012 WL 939048 (“Section 1373 is intended to assist the ‘Federal regulation of immigration’” (quoting S. Rep. No. 249, 104th Cong. 2d Sess. 19-20 (1996))). The Department cannot use criminal justice funding to further goals of another federal program. *See Texas v. United States*, No. 7:15-cv-00151-O, 2016 WL 4138632, at **16-17 (N.D. Tex. Aug. 4, 2016) (sustaining Spending Clause relatedness challenge to Medicaid condition requiring states to reimburse fee paid by health plans, because “the purpose of the [fee] is to generate revenue due to expected enrollment in [non-Medicaid] insurance programs, rather than to generate revenue related to the federal interest in advancing Medicaid services”).

Furthermore, Congress made clear when it created the modern Byrne JAG program in 2005 that it sought to maintain flexibility for States and localities in determining how best to use their awards to enhance public safety. It expressly wanted to *avoid* thrusting a “one size fits all” federal solution upon localities, *see supra* p. 22, or to demand that they adopt particular policies. Yet that is precisely what the Attorney General aims to do here. The three conditions he has imposed prescribe *specific* policies that States and cities must implement in order to receive their funds: The Section 1373 condition tells localities how their line-level officers should

¹⁹ Press Release, U.S. Dep’t of Justice, *Attorney General Sessions Announces Immigration Compliance Requirements for Edward Byrne Memorial Justice Assistance Grant Programs* (July 25, 2017), <https://goo.gl/KBwVNP>.

communicate with federal agencies; the jail access condition tells States and cities they must enact a “local ordinance, []rule, []regulation, []policy, []or practice” allowing federal agents to access their correctional facilities; and the notification condition tells States and cities they must enact a “local ordinance, []rule, []regulation, []policy, []or practice” to communicate information regarding prisoners to federal officers. *See* Ex. D, at 19 (Special Conditions 56.1.A, 56.1.B). Each condition applies regardless of the impact on prison administration or other law enforcement goals, and scores of States and cities have determined that these policies do *not* “work for them.” H.R. Rep. No. 109-233, at 89. By insisting that localities agree to terms they renounce as enhancing public safety, the Department has run afoul of the JAG program’s purpose, not come up with conditions “reasonably related” to it. *Dole*, 483 U.S. at 207.

b. The rift between Byrne JAG’s goals and the Department’s conditions sets this Spending Clause case apart from others. Unlike past cases in which courts have upheld spending conditions, there is no text or legislative history demonstrating that the Byrne JAG statute, or its predecessor statutes, was enacted to encourage immigration enforcement. In *Koslow*, for instance, the Third Circuit concluded that conditions requiring waiver of sovereign immunity were related to the goals of the Rehabilitation Act because Congress’s “interest in eliminating disability-based discrimination in state departments” was “reflected in the legislative history” of that statute. 302 F.3d at 175-176; *accord Arbogast v. Kan., Dep’t of Labor*, 789 F.3d 1174, 1187 (10th Cir. 2015). Likewise, in *Kansas v. United States*, 214 F.3d 1196 (10th Cir. 2000), the Tenth Circuit rejected Kansas’s challenge to provisions conditioning TANF/AFDC funds on recipients establishing child support enforcement systems, because relying on legislative history and the fact that the “AFDC/TANF and the child support programs are both set forth in the same subchapter of the Social Security Act,” the court found “child support enforcement was

conceived of as a related component of the AFDC system.” *Id.* at 1200. Courts have also rejected challenges to conditions imposed by Congress under Religious Land Use and Institutionalized Persons Act (“RLUIPA”) based on similar evidence. *See Cutter v. Wilkinson*, 423 F.3d 579, 587 (6th Cir. 2005).

The Byrne JAG statute and its predecessors, in contrast, were enacted without any mention of federal immigration enforcement. Byrne JAG funds are available for eight enumerated program areas; none involve immigration. *See* 34 U.S.C. § 10152(a)(1)(A)(H); *accord id.* § 10156 (setting the State and local allocation formulas as a function of rates of violent crime, not anything pertaining to immigration).

Moreover, unlike other conditions that courts have approved under the Spending Clause, the Department’s conditions reach activities wholly unrelated to those funded through the Byrne JAG program. The Third Circuit’s decision in *Koslow* rested heavily on the fact that the condition being attached to federal funds—the requirement that recipients waive sovereign immunity—extended only to those departments or agencies that actually received the federal funds. 302 F.3d at 176. As then-Chief Judge Scirica explained: “This limitation helps ensure the waiver accords with the ‘relatedness’ requirement articulated in *Dole*.” *Id.* Other courts have adopted *Koslow*’s reasoning wholesale. *See, e.g., Miller v. Tex. Tech Univ. Health Scis. Ctr.*, 421 F.3d 342, 350 (5th Cir. 2005); *see also Madison v. Virginia*, 474 F.3d 118, 126 (4th Cir. 2005) (applying similar reasoning in upholding RLUIPA’s spending conditions). .

The Department’s conditions are not so limited. The notification and jail access conditions are imposed on a grantee regardless of whether it intends to spend its Byrne JAG money on operations at its jails or detention facilities. Similarly, the Section 1373 condition purports to govern information-sharing between the federal government and “any government

entity or official,” 8 U.S.C. § 1373(a) (emphasis added), not just those officials who work in City departments or programs benefitting from Byrne JAG funds. *See McCormick, supra*, at 198-199 (Section 1373 purports to reach everyone from “a registrar at a local elementary school” to “a records clerk at a public hospital emergency room”). It is hard to see how controlling the immigration-related communications of a city’s parks and recreation employees, hospital staff, or sanitation workers is “reasonably calculated” to furthering the criminal justice goals of the Byrne JAG program.

2. The Conditions Are Ambiguous.

A second reason that the conditions run afoul of the Spending Clause is that, as is evident from the growing number of challenges to the Department’s new conditions, they are highly ambiguous. “[L]egislation enacted pursuant to the spending power is much in the nature of a contract: in return for federal funds, the States agree to comply with federally imposed conditions.” *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981). “The legitimacy of Congress’s exercise of the spending power . . . rests on whether the State voluntarily and knowingly accepts the terms of the ‘contract.’” *NFIB*, 567 U.S. at 577. Grantees “cannot knowingly accept conditions of which they are ‘unaware’ or which they are ‘unable to ascertain.’” *Arlington Central Sch. Dist. v. Murphy*, 548 U.S. 291, 296 (2006).

The Department’s conditions fail this test. Despite invoking an existing statute, the Section 1373 condition provides anything but “clear notice” about what the Department intends to require of Byrne JAG applicants. *Arlington Central*, 548 U.S. at 296. Until the Department’s recent expeditions involving the statute, “the United States government ha[d] never sought to enforce [Section 1373] against a state or local government, or to invalidate a sub-federal sanctuary law or practice based on these provisions.” *McCormick, supra*, at 170. Decisions analyzing Section 1373 have analyzed, at most, what Section 1373 does *not* require of states and

cities. *See, e.g., Steinle v. City & Cty. of San Francisco*, 230 F. Supp. 3d 994, 1015 (N.D. Cal. 2017) (“Nothing in 8 U.S.C. § 1373(a) addresses information concerning an inmate’s release date.”); *Doe v. City of New York*, 860 N.Y.S.2d 841, 844 (N.Y. Sup. Ct. 2008) (holding that Section 1373 “does not impose an affirmative duty” to report immigration status). Neither the statute nor case law explains what kinds of local policies will be found to run afoul of the Section 1373 condition.

The Department’s mixed messages only make matters worse. On some occasions, the Department has stated that Section 1373 requires no affirmative action by States and local governments.²⁰ On others, it has stated that States and local governments must simply “ma[ke] employees explicitly aware” that they are allowed to respond to ICE requests to be in adherence.²¹ On still other occasions, the Department has issued foreboding press releases hinting that, in the Department’s view, jurisdictions like Philadelphia are violating Section 1373 despite their careful efforts to comply with the statute as lawfully construed.²² Meanwhile, the Department has yet to rule on Philadelphia’s certification from June 2017 or from its recent FY 2017 application, or to indicate what factors it will deem most important in assessing compliance. In short: Philadelphia has no way of “voluntarily and knowingly accept[ing] the terms of the ‘contract’” as to the Section 1373 condition because it has no clarity on what the Department will require. *NFIB*, 567 U.S. at 577 (internal quotation marks omitted).

The notification and jail access conditions are also ambiguous. The notification condition commands grantees to provide “advance notice of the scheduled release date and time” for inmates of interest to ICE, but does not define the term “scheduled release date.” This leaves

²⁰ U.S. Dep’t of Justice, *Office of Justice Programs Guidance Regarding Compliance with 8 U.S.C. § 1373*, at 1 (2016), <https://goo.gl/ht5eQP>.

²¹ Horowitz Memorandum, *supra* note 4.

²² *See* Compl. ¶ 85.

grantees like Philadelphia only guessing about whether the condition is intended to apply to detainees who have no “scheduled release date,” such as individuals who are awaiting preliminary hearings, trials, or sentencing. Over 80% of inmates detained in Philadelphia’s jails are in such postures.

On the one hand, the City would have valid reasons to assume that the notification condition does *not* apply to detainees without convictions and formal sentences. In normal parlance, “scheduled” means “entered on a schedule or list” or “included in a schedule.” The Oxford English Dictionary (2d ed. 1989). Moreover, criminal statutes often define a prisoner’s “date of release” as the “date of the expiration of the prisoner’s *term of imprisonment*,” 18 U.S.C. § 3624(a) (emphasis added), and courts routinely adjudicate disputes governing calculations of a prisoner’s “scheduled release date.” *E.g., Rios v. Wiley*, 29 F. Supp. 2d 232, 233 (M.D. Pa. 1998). These authorities suggest that the term “scheduled release date and time” should refer only to those prisoners who have been convicted of crimes and sentenced, not to inmates in a pre-trial or pre-sentencing posture. *See generally Arlington Central*, 548 U.S. at 295-296 (pending conditions that employ a “term of art” should be read as incorporating the meaning given to that term by convention and practice). But, at the same time, the Department has instructed grantees to provide “as much advance notice as practicable,” *see* Ex. D, at 18-19 (Special Condition 56.4.B, incorporating by reference Special Condition 55.4.B), suggesting it may wish grantees to apply this condition to inmates even without a “scheduled” date for their release. This is hardly “clear notice” of what the Administration intended. *Arlington Central*, 548 U.S. at 300.

As for the jail access condition, the Department has not indicated whether policies like Philadelphia’s—that allow ICE agents to interview inmates, as long as they consent—will be

deemed compliant. The Department's new condition says nothing about situations where inmates refuse to speak with ICE, leaving grantees no guidance as to whether the Department will, nonetheless, expect them to allow ICE agents to visit such an inmate's cell even while an inmate refuses to answer questions. This again is "a far cry from the clarity [the Supreme Court] demands of Spending Clause legislation." *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 675 (1999) (Kennedy, J., dissenting).

C. Philadelphia Complies With Section 1373 As Lawfully Construed.

Philadelphia is also likely to succeed on the merits of its arguments concerning the City's compliance with Section 1373. Should this Court deem Section 1373 to be an "applicable Federal law" for Byrne JAG awards—which it is not—Philadelphia plainly complies with all of the obligations the statute can be read to impose upon the City as a recipient of the grant. Therefore, the Department should be enjoined from withholding funds based on the Section 1373 condition.

1. Philadelphia's Non-Collection Policy Is Consistent with Section 1373.

Philadelphia's policies direct City officials to refrain from affirmatively collecting immigration-status information except where necessary or otherwise required by law. *See* Compl. ¶¶ 23, 33-34. But there is no conflict between these policies and Section 1373, because Section 1373 does not impose any duty on the City to collect immigration or citizenship status information in the first place.

"Start, as [courts] always do, with the statutory language." *Advocate Health Care Network v. Stapleton*, 137 S. Ct. 1652, 1658 (2017). Section 1373 provides that a "State[] or local government entity or official may not *prohibit*, or in any way *restrict*, any government entity or official from sending to, or receiving from, [federal immigration officials] information regarding the citizenship or immigration status . . . of any individual." 8 U.S.C. § 1373(a)

(emphases added); *see also id.* § 1373(b) (forbidding “prohibit[ions]” or “restrict[ions]” on the “[s]ending,” “requesting,” “receiving,” “[m]aintaining,” or “[e]xchanging” of immigration-status information). The statute indicates nothing about how or when state and local officials should collect such information.

This Court’s inquiry into Section 1373 should start and end with the unambiguous terms of the statutory text. *See United States v. Woods*, 134 S. Ct. 557, 567 n.5 (2013). Still, the legislative history reinforces what the text demonstrates: While Congress wished to preserve voluntary lines of communication between the federal government and localities about immigration-status information, it had no intent to take the prior step of regulating information collection. All of the congressional reports discussing this provision speak solely to prohibitions and restrictions on information exchange, not to any affirmative collection requirement. *See* H.R. Conf. Rep. No. 104-828, at 249 (1996); S. Rep. No. 104-249, at 19 (1996); H.R. Rep. No. 104-469, at 277 (1996). The scope of Section 1373 is decidedly narrow: It issues a negative command, not a positive one.

Courts have consistently found that Section 1373 imposes no affirmative requirement on States or localities to collect immigration-status information. *See, e.g., Sturgeon v. Bratton*, 95 Cal. Rptr. 3d 718, 731 (Ct. App. 2009) (“[Section 1373] addresses only communications with ICE. . . . [I]f Congress had wanted to prohibit restrictions on local entities *obtaining* such information, it could have expressly so legislated.”); *Doe*, 860 N.Y.S.2d at 844 (“[W]hile [Section 1373] prohibits state and local governments from placing restrictions on the reporting of immigration status, it does not impose an affirmative duty to make such reports.”), *aff’d*, 890 N.Y.S.2d 548 (App. Div. 2009). This Court should do the same.

2. Philadelphia's Disclosure Policies Are Consistent with Section 1373.

Philadelphia has several policies that instruct City employees and officials to make disclosures of immigration-status information only where necessary or otherwise required by law. Confidentiality Order § 3B; Memorandum 01-06, ¶ 3. As an initial matter, it is important to observe that the City's disclosure policies hold little practical consequence when it comes to compliance with Section 1373. That is due to the City's non-collection policies: Whether it is employees of City-run health clinics, officials in Philadelphia's public schools, administrators of the City's social service programs, or Philadelphia police officers and Assistant District Attorneys, City officials are rarely in active possession of information about persons' immigration or citizenship status because they are instructed not to collect it in the first place (save for in a narrow set of circumstances). *See* Gladstein Decl. ¶ 5; Abernathy Decl. ¶ 4.

Nonetheless, Philadelphia's policies regarding the disclosure of immigration-status information are carefully structured, in several respects, to ensure compliance with Section 1373 to the extent it can be made applicable to a JAG award.

a. Perhaps most importantly, Philadelphia's disclosure policies contain clear exceptions for the sharing of information-status information with federal authorities about criminal suspects, arrestees, or detainees. Both the Confidentiality Order and Memorandum 01-06 provide that their general directives to avoid the disclosure of such information lapse when it comes to persons suspected of crimes. *See* Confidentiality Order § 3B(3) (permitting disclosure when "the individual to whom such information pertains is suspected by such officer or employee or such officer's or employee's agency of engaging in criminal activity"); Memorandum 01-06, ¶ 3A(3) (permitting disclosure when "[t]he immigrant is suspected of engaging in criminal activity"). Each policy further instructs Philadelphia officers to cooperate with federal authorities in law enforcement efforts and to follow ordinary law enforcement protocols, irrespective of a criminal

suspect's immigration status. *See* Confidentiality Order § 2C ("Law enforcement officers shall continue to cooperate with state and federal authorities in investigating and apprehending individuals who are suspected of criminal activity."); Memorandum 01-06, ¶ 3B ("Sworn members of the Police Department who obtain information on immigrants suspected of criminal activity will comply with normal crime reporting and investigating procedures"); *id.* ¶ 3C ("The Philadelphia Police Department will continue to cooperate with federal authorities in investigating and apprehending immigrants suspected of criminal activities.").

There can be no debate that, by their clear letter, the City's policies do not "prohibit" or "restrict" information exchange about criminal suspects. 8 U.S.C. § 1373(a)-(b).²³

b. As to witnesses to crimes, victims of crimes, and other law-abiding persons seeking City services, Philadelphia's non-disclosure policies provide special protection. *See* Confidentiality Order § 3B ("No City officer or employee shall disclose confidential information" about such individuals, except if they consent or the disclosure is required by law); Memorandum 01-06, ¶ 3C ("[I]mmigrants who are victims of crimes will not have their status as an immigrant transmitted [to federal authorities] in any manner."). But reading Section 1373 to demand otherwise—*i.e.*, to require the City to disclose confidential information about these

²³ As a matter of practice and consistent with these exceptions, the City regularly shares whatever identifying information it has about criminal suspects and detainees with federal authorities. Philadelphia's Police Department, District Attorney's Office, prison officials, and municipal court staff use three law enforcement databases as part of their routine activities, each of which the federal government, including ICE, can regularly access. Two are run by the FBI; the other is maintained by the First Judicial District of Pennsylvania and the Philadelphia District Attorney's Office but is available to ICE pursuant to an end-user license agreement. *See* Compl. ¶¶ 53-54 (describing Philadelphia's use of the FBI's National Crime Information Center (NCIC) database, Integrated Automated Fingerprint Identification System, and Preliminary Arraignment System). By voluntarily using these systems, the City makes available to federal authorities—indeed, on a daily basis—the names and fingerprint data of virtually any criminal suspect, arrestee, or detainee within the City, irrespective of their backgrounds. *Id.*; *accord* Compl. Ex. 14, pp. 7-9.

individuals, despite the City’s conclusion that doing so would harm public safety and well-being—would raise numerous constitutional problems.

First and foremost, construing Section 1373 to impose such an obligation on Philadelphia would interfere with the City’s ability to administer its police powers. The Constitution unquestionably preserves those powers for States and municipalities, not for the Federal Government. *See Bond v. United States*, 134 S. Ct. 2077, 2086 (2014) (“[t]he States have broad authority to enact legislation for the public good” through the “police power,” while “[t]he Federal Government, by contrast, has no such authority”); *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) (similar); *Brecht v. Abrahamson*, 507 U.S. 619, 635 (1993) (similar). Cities like Philadelphia have substantial autonomy and discretion to use their police powers to safeguard the safety, health, and general welfare of their residents. *See, e.g., Chi., Burlington & Quincy Ry. Co. v. Illinois ex rel. Grimwood*, 200 U.S. 561, 593 (1906) (the police power “has always been exercised by municipal corporations”); *Devlin v. City of Philadelphia*, 862 A.2d 1234, 1248 (Pa. 2004) (recognizing Philadelphia’s police powers); 6A *McQuillin Municipal Corporations* § 24:34 (3d ed. rev. 2017) (“[M]unicipal corporations have police power to safeguard the health, comfort and general welfare of their inhabitants[.]”).

Congress may not disturb these exercises of autonomy lightly. To displace a State’s or municipality’s police powers, Congress must provide a “clear statement” of its intent to subvert the federal-state balance. *Bond*, 134 S. Ct. at 2093; *see also United States v. Bass*, 404 U.S. 336, 349 & n.16 (1971) (collecting cases). Thus, in addition to the general constitutional-avoidance canon, *Clark v. Martinez*, 543 U.S. 371, 381 (2005) (courts should approach statutes with “the reasonable presumption that Congress did not intend [an interpretation] which raises serious constitutional doubts”), this Court’s analysis should be guided by the “background principle”

that “it is incumbent upon the federal courts to be *certain* of Congress’ intent before finding that federal law overrides the usual constitutional balance of federal and state powers.” *Bond*, 134 S. Ct. at 2089 (emphasis added, internal quotation marks omitted).

Section 1373 offers no such certainty. It contains no clear statement that Congress sought to overhaul the traditional federalism balance that has existed for centuries, or that it intended to compel States and localities to forsake the sound execution of their police powers. But that is precisely what would happen were Philadelphia made to abandon its confidentiality policies for witnesses, victims, and law-abiding persons because of Section 1373. Trust with the immigrant community would be broken, crime reporting and witness participation would drop, safety would be compromised, and access to healthcare, education, and basic necessities among segments of the immigration population would be threatened. *See* Compl. ¶¶ 27-32, 37, 83, 100; Abernathy Decl. ¶ 9. Section 1373 speaks to voluntary information exchange; it contains no “certain” signal that Congress wished to dislodge cities’ longstanding authority to determine how best to protect the health and safety of their residents. *Bond*, 134 S. Ct. at 2090; *see* 6A *McQuillin*, *supra*, § 24:34 (“[E]ach municipality . . . should make its own police regulations for the preservation of the health, safety, and welfare of its own citizens.”).

Construing Section 1373 to compel Philadelphia to disclose information about the above classes of individuals also would grate against the anti-commandeering principles embedded in the Tenth Amendment. The Tenth Amendment provides that “[t]he Federal Government may not compel the States to enact or administer a federal regulatory program.” *New York*, 505 U.S. at 188. Nor may the federal government “circumvent that prohibition by . . . command[ing] the States’ *officers*, or those of their political subdivisions, to administer or enforce” a federal program. *Printz v. United States*, 521 U.S. 898, 935 (1997) (emphasis added). While insisting

that States and localities keep open *some* channels of communication with federal authorities may be permissible under the Tenth Amendment, mandating that localities adopt a particular disclosure policy would raise concerns. State and local governments need to maintain control over their own “officers,” and that includes determining how and when local officials share information with federal authorities. *See Printz*, 521 U.S. at 935. Were it otherwise, local officials could be summoned by ICE at any moment to drop what they are doing, look up a person’s immigration-status information, and help “administer” a federal program. That would produce the very commandeering that the Tenth Amendment forbids. *See* Gabriel J. Chin, *Controlling the Criminal Justice System: Colorado as a Case Study*, 94 Denv. L. Rev. 497, 500 (2017) (“Federal displacement of state authority over its employees in a regime when the federal government cannot direct and control state employees directly creates employees who, on this issue, can act unilaterally and be answerable to no one.”); Bernard W. Bell, *De-Funding Sanctuary Cities*, Yale J. on Reg.: Notice & Comment (Mar. 28, 2017) (“[D]epriving a sovereign of the right to control its own employees has significant implications—it severs the hierarchical relationship between senior officials and their subordinates”).

Finally, construing Section 1373 to compel Philadelphia to disclose information about witnesses and victims as a condition of receiving Byrne JAG funds would violate the Spending Clause. As previously discussed, “Congress may attach conditions on the receipt of federal funds” to induce States and localities to act in certain ways that Congress could not require outright. *Dole*, 483 U.S. at 206. But those “conditions must . . . bear some relationship to the purpose of the federal spending.” *New York*, 505 U.S. at 167. Indeed, they should be “reasonably calculated to address” that purpose. *Dole*, 483 U.S. at 209. The stated “purpose of” the Byrne JAG program is “to improve the administration of the criminal justice system.” 34

U.S.C. §10153(a)(6). Compelled disclosure of information about law-abiding individuals would not be “reasonably calculated to address” that goal—especially where Philadelphia has concluded that requiring this information be shared with the federal government *jeopardizes* public safety. *See* Compl. ¶¶ 36-37, 83; Abernathy Decl. ¶ 9. Indeed, just two short years ago, a task force convened by the White House on 21st century policing agreed with this concept.²⁴ Under the Spending Clause, the Byrne JAG statute cannot impose a condition so at odds with the statute’s purpose.

c. Philadelphia’s disclosure policies were also drafted to contain savings clauses that authorize City employees and officials to provide access to immigration-status information when “required by law.” The Confidentiality Order provides: “No City officer or employee shall disclose confidential information unless . . . such disclosure *is required by law*.” Confidentiality Order § 3B(2) (emphasis added)). Police Department Memorandum 01-06 likewise states: “[P]olice personnel will transmit [confidential immigration-status] information to federal immigration authorities . . . when *[r]equired by law*.” Memorandum 01-06, ¶ 3A(1) (emphasis added). When the “plain text” of a law contains a savings clause, that text is the “authoritative statement.” *Chamber of Commerce of U.S. v. Whiting*, 563 U.S. 582, 599 (2011); *accord Engine Mfrs. Ass’n v. S. Coast Air Quality Mgmt. Dist.*, 541 U.S. 246, 252 (2004) (“Statutory construction must begin with the language employed” (internal quotation marks omitted)). Courts regularly construe savings clauses to negate other parts of a statute or to carry controlling weight. *See Cameron v. United States*, 252 U.S. 450, 455 (1920); *N.J. Transit*

²⁴ *See Final Report of the President’s Task Force on 21st-Century Policing* 18 (2015), <https://goo.gl/hJvNJT> (“Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement.”).

Policemen's Benevolent Ass'n Local 304 v. N.J. Transit Corp., 806 F.2d 451, 456 (3d Cir. 1986); *Henry v. Schlesinger*, 407 F. Supp. 1179, 1190 n.30 (E.D. Pa. 1976).

Accordingly, if this Court deems Section 1373 to be an applicable and enforceable provision that Philadelphia must follow in order to receive its Byrne JAG award, the savings clauses in the City's policies ensure that Section 1373 will be followed. Indeed, the Department of Justice's Office of the Inspector General previously approved of another locality's policies as consistent with Section 1373 years ago, largely on the basis of that jurisdiction's savings clauses. *See* U.S. Dep't of Justice, Office of the Inspector Gen., *Cooperation of SCAAP Recipients in the Removal of Criminal Aliens from the United States* 26 (2007), <https://goo.gl/qKBXjA> ("[I]n light of the specific provisions requiring compliance with federal law, we cannot conclude that San Francisco's policies are contrary to 8 U.S.C. § 1373.").

II. PHILADELPHIA WILL SUFFER IRREPARABLE HARM ABSENT THE REQUESTED RELIEF.

Philadelphia will suffer irreparable harm if the DOJ is permitted to impose its three new grant conditions on applicants for the FY2017 JAG grant. Irreparable harm in the Third Circuit means that which cannot be undone after-the-fact through monetary compensation. *See Adams v. Freedom Forge Corp.*, 204 F.3d 475, 484-485 (3d Cir. 2000); *Instant Air Freight Co. v. C.F. Air Freight, Inc.*, 882 F.2d 797, 801 (3d Cir.1989). Philadelphia will suffer such harm absent this Court's intervention.

The Department aims to make Philadelphia do one of three things: (1) change its policies to comply with the new Byrne JAG conditions, interpreted to their most extreme extent; (2) forfeit the City's entitlement to \$1.6 million in funding; or (3) accept its grant award with the expectation that the City *may* be deemed in compliance with the new grant conditions, but then subject itself to potential consequences ranging from funding denials, to debarment, to

administrative sanctions, if the Department takes an unreasonable interpretation of the conditions and deems Philadelphia in violation of its contractual award. Thrusting Philadelphia into this “stark choice” itself inflicts irreparable harm on the City. *Am. Trucking Ass’ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1058-1059 (9th Cir. 2009); *Cty. of Santa Clara v. Trump*, Nos. 17-cv-00574-WHO & 17-cv-00485-WHO, 2017 WL 1459081, at *27-*28 (N.D. Cal. Apr. 25, 2017) (“By forcing the Counties to make this unreasonable choice, the Order results in . . . irreparable harm.”). And each choice, whatever option Philadelphia chooses, will cause it to suffer an injury that “money cannot atone for.” *ECRI v. McGraw-Hill, Inc.*, 809 F.2d 223, 225 (3d Cir. 1987).

As to the *first* option, forcing Philadelphia to change its policies would inflict two distinct harms. One is the interference with Philadelphia’s autonomy and exercise of its police powers, which courts have widely recognized as an irreparable injury. *See Kansas v. United States*, 249 F.3d 1213, 1227 (10th Cir. 2001); *Texas v. United States*, 201 F. Supp. 3d 810, 834-835 (N.D. Tex. 2016). The other is the impact on Philadelphia’s public safety and well-being. Philadelphia officials have engaged in a concerted effort to build trust with the City’s immigrant community and ensure that its residents feel safe to engage fully in public life. Forcing Philadelphia to abandon its policies would destroy that trust. *See* Compl. ¶¶ 100-102; Abernathy Decl. ¶¶ 7, 9. Residents could be discouraged from accessing City services or speaking to the police, and the crime rates that Philadelphia has seen fall could tick back up. Compl. ¶ 37.

These are not empty fears: The Administration’s rhetoric against so-called sanctuary cities has already led to a decline in overall crime reporting by Latinos in Philadelphia and two

other major cities.²⁵ If Philadelphia were to adopt the Department's preferred policies, there is every reason to believe that this troubling trend would worsen.

The *second* option before Philadelphia is no better: Under this course, Philadelphia could decline to accept the three new conditions and forfeit its entitlement to \$1.6 million in FY 2017 Byrne JAG funding. Losing out on this money will hamper Philadelphia's ability to provide the varied and essential services its JAG appropriation has funded over the years. Compl. ¶ 62. In the upcoming year, the City intends to use its award for important initiatives such as giving its police and emergency personnel naloxone to reverse deadly opioid overdoses. *See* Wertheimer Decl. ¶ 11; *supra* p. 5. The President's own Commission on Combating Drug Addiction and the Opioid Crisis has recommended actions like this to save lives.²⁶ Depriving Philadelphia of JAG funding would "have an immediate impact on [the City's] ability to provide critical resources to the public, causing damage that would persist regardless of whether funding [was] subsequently reinstated." *United States v. North Carolina*, 192 F. Supp. 3d 620, 629 (M.D.N.C. 2016); *see also Exodus Refugee Immigration, Inc. v. Pence*, 165 F. Supp. 3d 718, 739 (S.D. In. 2016) (finding irreparable harm where an organization would be "[unable] to provide adequate social services to its clients"); *Planned Parenthood Greater Memphis Region v. Dreyzehner*, 853 F. Supp. 2d 724, 738 (M.D. Tenn. 2012) (finding irreparable harm where the plaintiff faced "the prospect of cuts in programming, community contacts and employees"). Indeed, district courts have found that a locality's inability to apply for formula grant funding—due to the Department of Justice's alleged improper administration of the grant—constituted irreparable harm and warranted preliminary relief. *See Harris Cty.*, 976 F. Supp. at 608-609 (involving Byrne JAG's

²⁵ Rob Arthur, *Latinos in Three Cities Are Reporting Fewer Crimes Since Trump Took Office*, FiveThirtyEight (May 18, 2017), <https://goo.gl/ft1fwW>.

²⁶ President's Commission on Combating Drug Addiction and the Opioid Crisis, *Interim Draft Report*, pp. 5-6 (July 31, 2017), <https://goo.gl/W9iH5g>.

predecessor LLBEG program); *Dallas Cty. v. Bureau of Justice Assistance*, 988 F. Supp. 1030, 1031 (N.D. Tex. 1996) (same).

The *third* option also subjects Philadelphia to irreparable injury: Should it accept its FY 2017 award on the assumption that it does comply with the conditions as interpreted reasonably and modestly, Philadelphia could be subjecting itself to claw-backs and even sanctions if the Department disagrees. As stated in the City's Complaint, Philadelphia believes that it may already comply with the jail access condition, given that it permits ICE agents to access its facilities if the inmate consents. Compl. ¶ 101. Philadelphia further believes that its notification policies do not meaningfully conflict with the Department's objectives, because Philadelphia provides advance notification when ICE presents a judicial warrant, and ICE has rarely sent the City advance notification requests for inmates with schedule release dates *without* also providing a warrant. Compl. ¶ 102. Additionally, as provided in Philadelphia's certification letter and its FY 2017 grant application, the City believes its policies comply with Section 1373.

However, given the ambiguity in the conditions as written, the lack of explanation by the Department, and the absence of any response to Philadelphia's Section 1373 certification submissions, the City is left only to wonder whether the Department will accept its position. That means that Philadelphia would have to agree—within 45 days of its award—whether to accept its FY 2017 grant, not knowing whether the Department would find Philadelphia to be non-compliant with one or more of the stated conditions. If the Department does come to such a conclusion, Philadelphia could face a claw-back of funds appropriated and spent, as well as sanctions or debarment. Requiring the City to submit a grant application under this cloud of uncertainty is itself an irreparable harm. *See Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 380-381 (1992).

In short, whether or not the City bends to the Department's will, Philadelphia and its residents stand to suffer irreparable harm absent this Court's intervention.

III. THE BALANCE OF EQUITIES AND PUBLIC INTEREST FAVOR GRANTING THE REQUESTED RELIEF.

The balance of hardships and public interest favor preliminarily enjoining the Attorney General from imposing the challenged conditions on Philadelphia, and preserving the City's ability to receive its local Byrne JAG allocation, until this Court resolves whether those conditions are lawful. As to the respective hardships born by the parties or the balance of equities, the Department of Justice has identified no harm whatsoever—and there is none—that it would suffer from the imposition of a preliminary injunction. Granting the requested relief would mean simply that the Department has to wait before imposing the three new conditions on Philadelphia in conjunction with its FY 2017 Byrne JAG award—*i.e.*, that the Department cannot deny Philadelphia an award based on one or more of the conditions, or grant Philadelphia an award but subsequently impose sanctions if it determines that Philadelphia is in breach, until this Court determines whether the new conditions withstand scrutiny. There is no conceivable reason why the Department would be irreparably damaged or burdened at all by having to wait to disburse Philadelphia's award. At the very least, the “issuance of an injunction would not harm” the Department of Justice “more than a denial would harm” the City. *Opticians Ass'n of Am. v. Indep. Opticians of Am.*, 920 F.2d 187, 197 (3d Cir. 1990).

The public interest also plainly favors granting the requested relief. The public interest is always served by the prevention of constitutional violations. *Swartwelder v. McNeilly*, 297 F.3d 228, 242 (3d Cir. 2002). Allowing the City to continue observing policies that are designed to forge trust with the immigrant community—and that have helped keep the City healthy, safe, and integrated—would benefit all Philadelphia residents.

CONCLUSION

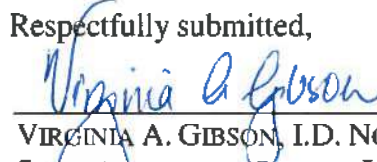
For the foregoing reasons, the Court should preliminarily enjoin the Department of Justice from enforcing the advance notification, jail access, and Section 1373 conditions for the FY 2017 Byrne JAG award as to Philadelphia, and enjoin the Department from withholding any JAG funding from Philadelphia on account of non-compliance with 8 U.S.C. § 1373 because Philadelphia does comply with that condition as properly construed.

DATED: September 28, 2017

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

THE CITY of PHILADELPHIA,

Plaintiff,

v.

JEFFERSON BEAUREGARD SESSIONS III,
in his official capacity as Attorney General of
the United States,

Defendant.

Case No. 2:17-cv-03894-MMB

**[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY
INJUNCTION**

AND NOW, this ____ day of _____, upon consideration of the Motion for Preliminary Injunction filed by Plaintiff City of Philadelphia (the “City” or “Philadelphia”), Defendant’s opposition thereto, and the arguments of counsel, it is hereby **ORDERED** that Philadelphia’s Motion is **GRANTED**.

It is further **ORDERED** that Defendant Jefferson Beauregard Sessions III, the Attorney General of the United States, and his assistants, deputies, agents, designees, and subordinates, as well as any person acting in concert or participation with them, are hereby enjoined from imposing the following conditions on Philadelphia’s application for or receipt of funding under the FY 2017 Edward Byrne Memorial Justice Assistance Grant (“Byrne JAG”) Program:

1. The requirement that FY 2017 Byrne JAG recipients have in place an ordinance, rule, regulation, policy, or practice to ensure that local correctional facilities honor requests from the Department of Homeland Security for advance notice of the scheduled release date and time of a particular person; or any other condition that requires that FY 2017 Byrne JAG recipients provide the Department of Homeland

Security with advance notice of the scheduled release date and time of a particular person.

2. The requirement that FY 2017 Byrne JAG recipients have in place an ordinance, rule, regulation, policy, or practice to ensure that agents of the United States are given access to local correctional facilities for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States; or any other condition that requires that FY 2017 Byrne JAG recipients allow agents of the United States access to local correctional facilities for the purpose of inquiring as to an individual's right to be or remain in the United States.
3. Any requirement that FY 2017 Byrne JAG recipients must certify their compliance with 8 U.S.C. § 1373.

The City has demonstrated that it is likely to succeed on the merits of its claims that each of these conditions is unlawful and/or unconstitutional, that the City will suffer irreparable harm absent preliminary relief, that the balance of the equities weighs in favor of an injunction, and that a preliminary injunction would serve the public interest.

It is further **ORDERED** that Defendant and his assistants, deputies, agents, designees, and subordinates, as well as any person acting in concert or participation with them, are enjoined from rejecting Philadelphia's FY 2017 application for Byrne JAG funding or withholding any FY 2017 Byrne JAG funding from Philadelphia based on Philadelphia's certification of compliance with 8 U.S.C. § 1373. The City has demonstrated a likelihood of success on its claim that it complies with Section 1373 as lawfully and constitutionally construed.

BY THE COURT:

MICHAEL M. BAYLSON, U.S.D.J.

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE CITY OF PHILADELPHIA,

Plaintiff,

v.

**JEFFERSON BEAUREGARD SESSIONS III,
Attorney General of the United States,**

Defendant.

Civil Action No. 17-03894-MMB

**DECLARATION OF JULIE WERTHEIMER
IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

1. I, Julie Wertheimer, respectfully submit this declaration in support of the City of Philadelphia's motion for preliminary injunction. I have personal knowledge of the facts set forth in this declaration or believe them to be true based upon my experience.

2. I am the Chief of Staff, Criminal Justice, in the Managing Director's Office ("MDO"), a cabinet level office within the City of Philadelphia's ("the City" or "Philadelphia"), with oversight over the City's operating departments. In this capacity, I oversee the Office of Violence Prevention, which coordinates several gun violence prevention and intervention strategies; the Philadelphia Reentry Coalition, a stakeholder group of government, nonprofits, advocates, and services providers focused on a multidisciplinary approach to reducing recidivism; implementation of a nineteen-prong reduction strategy to safely reduce the county jail population by 34% over 3 years, funded by the MacArthur Foundation's Safety and Justice Challenge; and coordination of juvenile justice efforts, along with the Department of Human

Services. In addition, I provide strategic support to the Philadelphia Police Department, Police Advisory Commission, and the Philadelphia Department of Prisons, and often serve as the Kenney Administration's primary liaison to high level leadership in the First Judicial District, the Philadelphia District Attorney's Office, and the Defender Association of Philadelphia. As the primary criminal justice grants and General Fund manager, I am also responsible for procurement and contract management, serving as well on the Grant Subcommittee of the Philadelphia County Criminal Justice Advisory Board, which oversees justice-related grant applications.

3. Since joining the MDO in 2010, I have been actively involved in 4 Office of Violence Against Women ("OVW") grants, 3 Office of Juvenile Justice and Delinquency Prevention ("OJJDP") grants, 2 Community Oriented Policing Services ("COPS") grants, 9 Byrne Justice Assistance Grants ("JAG"), including JAG funding from the American Recovery and Reinvestment Act ("ARRA") and for the Presidential Nominating Convention Security Grant, and a Second Chance Act grant, as well as funding from the Pennsylvania Commission on Crime and Delinquency, and private funders. Prior to becoming Chief of Staff for Criminal Justice in 2016, I served as Chief of Staff for Public Safety and was an Assistant Budget Director for the City of Philadelphia.

4. Philadelphia has filed direct applications for Byrne JAG local initiative funding every year since the program's inception in 2005. All of its applications have been granted; the City has never been denied direct Byrne JAG funds for which it applied.

5. In FY 2016, Philadelphia received \$1.67 million in its direct Byrne JAG award. That award was dated August 23, 2016. In FY 2015, the City received \$1.6 million in its direct Byrne JAG award. That award was dated September 30, 2015. Over the past eleven years, excluding

funding received as part of the 2009 ARRA and 2016 Presidential Nominating Convention Security Grant, Philadelphia has received over \$26 million in JAG funding, with an annual average Byrne JAG award of \$2.17 million, and ranging between \$925,591 in 2008 to \$3.13 million in 2005.

6. The City is also eligible for, and has previously been awarded, competitive subgrants from the annual Byrne JAG award to the State of Pennsylvania.

7. Philadelphia relies upon the federal funding provided by the Byrne JAG program to support a number of priorities within and improvements to its criminal justice system. In recent years, a significant portion of Philadelphia's Byrne JAG funding has gone towards Philadelphia Police Department technology and equipment enhancements, training, and over-time payments to police officers. Philadelphia has also relied upon Byrne JAG funds to finance upgrades to courtroom technology in the City; to enable the District Attorney's Office to purchase new technology and invest in training programs for Assistant District Attorneys; to support juvenile delinquency programs for the City's youth; to bolster reentry programs for formerly incarcerated individuals seeking to reenter the community; to operate alternative rehabilitation programs for low-level offenders with substance use disorders; to make physical improvements to blighted communities with Clean and Seal teams; and to improve indigent criminal defense services.

8. On July 25, 2017, the Department of Justice ("DOJ" or "the Department") notified Philadelphia that, as a condition to receiving any Byrne JAG funds in fiscal year 2017, Philadelphia must comply with three conditions. Philadelphia must: (1) certify that the City complies with 8 U.S.C. § 1373, a statute which bars states and localities from adopting policies that restrict immigration-related communications between state and local officials and the federal government; (2) permit officials from the Department of Homeland Security ("DHS") access to

any detention facility maintained by Philadelphia in order to meet with persons of interest to DHS; and (3) provide at least 48 hours' advance notice to DHS regarding the scheduled release date and time of an inmate for whom DHS requests such advance notice.

9. The application deadline for local FY 2017 Byrne JAG funding was September 5, 2017. Philadelphia submitted a timely application but has not certified compliance with the second and third conditions.

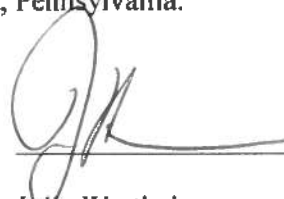
10. Unlike other DOJ grants, JAG program funding is available for drawdown upon award. At that time, once the money is received by the City, the grant is provided a six-digit index code by the City's Finance Department and placed into an interest bearing account. No money can be obligated or expended by the City without this index code. This means that even though there is a category in Philadelphia's budget called the "unanticipated grants fund"—for which, for the City's 2017 budget, accounts for JAG funding—if a grant is ultimately not awarded, no money will be appropriated for that spending.

11. Philadelphia has applied for almost \$1.6 million in JAG funding for FY 2017. If awarded, the money would support four Philadelphia agencies: the Philadelphia Police Department, the Managing Director's Office, the District Attorney's Office, and the Defender Association of Philadelphia. Among other things, FY 2017 JAG funding will support Philadelphia's Police Commissioner's "Crime Fighting Strategy," including sworn law enforcement overtime funding for Quality of Life initiatives; the enhancement of a Reality Based Training Unit to emphasize best practices on the use of force; to purchase naloxone to equip police officers with life-saving medication for the treatment of known or suspected opioid overdoses; and to procure supplies for the Community Health Enrichment Empowerment Resource Services program, a collaboration

with the Philadelphia Police Department, School District of Philadelphia, Behavioral Health Organizations, and others, to support inner-city youth.

I, Julie Wertheimer, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 27 day of September, 2017, in Philadelphia, Pennsylvania.



Julie Wertheimer

EXHIBIT B

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE CITY OF PHILADELPHIA,

Plaintiff,

v.

**JEFFERSON BEAUREGARD SESSIONS III,
Attorney General of the United States,**

Defendant.

Civil Action No. 17-03894-MMB

**DECLARATION OF EVA GLADSTEIN
IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

1. I, Eva Gladstein, respectfully submit this declaration in support of the City of Philadelphia's motion for preliminary injunction. I have personal knowledge of the facts set forth in this declaration or believe them to be true based upon my experience.

2. I am the Deputy Managing Director of Health and Human Services in the Office of the Managing Director, who is a cabinet level officer within the City of Philadelphia ("the City" or "Philadelphia") with oversight over the City's operating departments. In this capacity, I directly oversee five City agencies: the Department of Human Services (which oversees the child welfare system and supports youth in detention); the Office of Behavioral Health & Intellectual disAbility Services; the Office of Homeless Services; the Department of Public Health; and the Office of Community Empowerment and Opportunity (the City's anti-poverty agency).

3. Prior to becoming Deputy Managing Director of Health and Human Services in January 2016, I served in various positions in City government since 1998. From 2013 through 2016, I was the Executive Director of the Office of Community Empowerment and Opportunity, where I developed and implemented a nationally recognized citywide plan, titled Shared Prosperity Philadelphia, to address poverty. Outreach to immigrant communities to ensure that they are aware of available services and able to access them has been an important component of all efforts of that plan.

4. From 2009 through 2012, I was the Executive Director of the Philadelphia Zoning Code Commission, successfully reforming and modernizing Philadelphia's 50-year old zoning code. From 2005 through 2007, I was the Director of Neighborhood Transformation for former Mayor John F. Street, coordinating a multifaceted strategy designed to renew and strengthen entire communities, including those with a high preponderance of immigrant households. And from 1998 through 2005, I was the Executive Director of the Philadelphia Empowerment Zone under then-Mayors Street and Rendell, where I worked in three high-poverty areas in the City—one of which had a predominantly Latino population, and all of which had strong immigrant communities—to promote community and economic development, managing a \$79 million federal grant.

5. For many years, it has been the practice and the policy of the City to refrain from asking for immigration status information, unless doing so is necessary to determine benefits eligibility or otherwise required by federal or state law. As a consequence, City officials are generally not in possession of such information.

6. In my experience working across Philadelphia, but especially from working with immigrant communities and particularly Latino communities, the City's confidentiality practices

have led immigrants to feel that by applying for City services, such as seeking necessary healthcare services, they are not subjecting themselves or their families to negative treatment because they are immigrants. Indeed, it has been the experience of the agencies I oversee, and especially the Departments of Human Services and Public Health and the Office of Behavioral Health & Intellectual disAbility Services, that the non-collection and confidentiality of immigration information increases the likelihood immigrants will seek services by these agencies.

7. In FY 2017 alone: 11,477 individuals have received housing support through the Office of Homeless Services; 8,676 children have received in-home dependency services for 30 days or longer; 88,414 individuals have visited a City health center; 41,639 individuals were immunized at a City health center; 114,589 individuals have accessed mental health services through a City-funded program; 28,586 individuals have sought substance abuse treatment through a City-funded program; and 6,350 children have benefited from early intervention services by the City.

8. The City is home to almost 1.6 million residents, including approximately 200,000 immigrants (13 percent of the overall population). Because immigration status information is not collected when residents are accessing these City services, the City does not have firm numbers on immigrant use of the City's services in its health and human services agencies. However, in my role as supervisor of the City's five health and human services agencies, it is my professional understanding and experience that, in large part because of the City's confidentiality policies, immigrants are using these services when they need them. If the City were required to collect immigration status information as a requisite to providing services, that would have a significant impact on the community's willingness to access these services and I would expect a significant drop in these numbers, which would put all Philadelphians at risk.

9. In the context of healthcare, for example, there would be a significantly increased risk of otherwise preventable or treatable diseases such as measles, whooping cough, or tuberculosis.

This could have an impact on all Philadelphians. Creating barriers to access relating to immigration status information would decrease the efficacy of treatment, increase treatment failures, and allow for the spread of preventable diseases at a higher rate in our City.

10. In my time working in the City, and especially since 2009, when then-Mayor Nutter enacted a formal confidentiality policy, Philadelphia has seen continued, robust access among its immigrant populations to basic services such as healthcare, housing support, and assistance for persons with mental health and substance abuse needs. This access has undoubtedly led to a healthier Philadelphia and a safer Philadelphia.

I, Eva Gladstein, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 28th day of September, 2017, in Philadelphia, Pennsylvania.



Eva Gladstein

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE CITY OF PHILADELPHIA,

Plaintiff,

v.

**JEFFERSON BEAUREGARD SESSIONS III,
Attorney General of the United States,**

Defendant.

Civil Action No. 17-03894-MMB

**DECLARATION OF BRIAN ABERNATHY
IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

1. I, Brian Abernathy, respectfully submit this declaration in support of the City of Philadelphia's motion for preliminary injunction. I have personal knowledge of the facts set forth in this declaration or believe them to be true based upon my experience.

2. I am the First Deputy Managing Director of the Managing Director's Office ("MDO"), a cabinet level office within the City of Philadelphia ("the City" or "Philadelphia"), with oversight over the City's operating departments. In this capacity, I directly supervise the City's Police Commissioner, Prisons Commissioner, Fire Commissioner, and the Director of Office of Emergency Management. I am responsible for supporting the day-to-day operations of the City's public safety departments and in ensuring the Managing Director is fully informed about all that is happening in the City.

3. Prior to becoming First Deputy Managing Director in January 2016, I served in various positions in City government, including as Executive Director of the Philadelphia Redevelopment Authority and as Chief of Staff to the City's Managing Director.

4. It is a longstanding policy of the City of Philadelphia for City officials to refrain from asking about constituents' or visitors' immigration status. The idea that immigration status has no relationship to one's propensity for crime or one's contributions to the community is engrained by Executive Order, police policies, as well as the fabric of City life. For this reason, City officials rarely inquire about that information, unless asking for that information is otherwise required under federal or state law or if required for benefits eligibility.

5. Since 2009, when then-Mayor Michael Nutter formalized the City's confidentiality policy by signing Executive Order No. 8-09, "Policy Concerning Access of Immigrants to City Services," the City has witnessed a decrease in crime of over 17 percent, including a 20 percent decrease in violent crime. Philadelphia attributes this decrease to the success of, among other things, its policies and its efforts by its agencies to bring immigrants, especially undocumented immigrants, out of the shadows of society and into the mainstream. We are proud of the relationship that the City has built, particularly the Philadelphia Police Department, with the various immigrant communities. It is a relationship of mutual respect, understanding, and communication.

6. The Philadelphia Department of Prisons operates six facilities: (1) the Curran-Fromhold Correctional Facility, which is PPS' largest facility and contains 256 cells; (2) the Detention Center; (3) the House of Correction; (4) the Philadelphia Industrial Correctional Center ("PICC"); (5) the Riverside Correctional Facility; and (6) the Alternative & Special Detention facilities. Across these six facilities, the inmate population is roughly 6,700. Approximately 17

percent of those inmates are serving time for criminal sentences imposed, and the remaining 83 percent inmates are all in a pre-trial posture (roughly 78 percent of inmates), a pre-sentencing posture (roughly 2 percent of inmates), or some other form of temporary detention (roughly 3 percent of inmates). Of the 17 percent serving sentences, none are serving sentences longer than 23-months, and approximately 30 percent are serving sentences of one year or less.

7. In May 2017, the Department of Prisons instituted a new “consent form,” to be provided to any inmate in a Philadelphia Prison System facility whom ICE seeks to interview. The form was adapted to help protect prisoners’ constitutional rights to decline speaking with law enforcement authorities against their will or to speak only with such authorities in the presence of counsel if they so choose. It is the expectation that such a policy will further encourage trust by the immigrant community and foster cooperation with law enforcement, without any fears of deportation looming above. The consent-based policy also ensures the orderly administration of Philadelphia’s prisons, by avoiding the unnecessary expenditure of time and resources that sometimes would be incurred when inmates are delivered to ICE only to then exercise their constitutional rights to remain silent or have counsel present.

8. The City’s mayors have issued multiple executive orders bearing on the City’s responses to detainer and notification requests by ICE. In April 2014, then-Mayor Nutter enacted the first order. When Mayor Jim Kenny was elected into office, in January 2016, he reaffirmed Mayor Nutter’s first order. These orders were put in place to require the federal government to attach a judicial warrant if the City were to comply with the requests.

9. The City’s law enforcement protocols, its notification policy, and its consent-based jail access provisions have led its immigration population to trust Philadelphia’s police officers and prosecutors, to believe that reporting a crime or participating as a witness in a trial will not result

in that individual or his family being turned over to ICE, and to view Philadelphia's law enforcement personnel not as extensions of ICE or as immigration enforcement agents, but as persons whose primary jobs is to keep their families and communities safe from crime. If City officials, including Philadelphia police officers, were required to affirmatively collect immigration information, this long built trust with the immigrant community would be broken, compromising public safety and pushing a significant segment of Philadelphia's community into the shadows. Simply put, we would expect crime reporting and witness participation in criminal proceedings to drop and use of healthcare, education, and other services among segments of the immigration population to be reduced.

10. Since December 2014, ICE has sent the Philadelphia Department of Prisons approximately 136 detainer requests, which include requests for advance notification of the release of inmates. Of these 136 requests, only three inmates had been serving a sentence in the Philadelphia prisons system. The rest either had not been tried at all or were awaiting sentencing, if any was to be imposed.

I, Brian Abernathy, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 27 day of September, 2017, in Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Brian Abernathy', with a horizontal line drawn underneath the signature.

Brian Abernathy

EXHIBIT D

 U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance	Grant	PAGE 1 OF 20																	
1 RECIPIENT NAME AND ADDRESS (Including Zip Code) County of Greenville 301 University Ridge, Suite 600 Greenville, SC 29601	4 AWARD NUMBER: 2017-DJ-BX-0002																		
	5 PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020 BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020																		
	6 AWARD DATE 08/23/2017	7 ACTION Initial																	
2a GRANTEE IRS/VENDOR NO [REDACTED]	8 SUPPLEMENT NUMBER 00																		
2b GRANTEE DUNS NO [REDACTED]	9 PREVIOUS AWARD AMOUNT \$ 0																		
3 PROJECT TITLE Judicial Support and Law Enforcement Enhancements 2017	10 AMOUNT OF THIS AWARD \$ 163,164																		
	11 TOTAL AWARD \$ 163,164																		
12 SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S)																			
13 STATUTORY AUTHORITY FOR GRANT This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub L No 90-351 (generally codified at 42 U S C 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U S C 3750 - 3758); see also 28 U S C 530C(a)																			
14 CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16 738 - Edward Byrne Memorial Justice Assistance Grant Program																			
15 METHOD OF PAYMENT GPRS																			
AGENCY APPROVAL		GRANTEE ACCEPTANCE																	
16 TYPED NAME AND TITLE OF APPROVING OFFICIAL Alan R Hanson Acting Assistant Attorney General		18 TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Joseph M Kernell County Administrator																	
17 SIGNATURE OF APPROVING OFFICIAL 		19 SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	19A DATE																
AGENCY USE ONLY																			
20 ACCOUNTING CLASSIFICATION CODES <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD ACT</th> <th>OFC</th> <th>DIV REG</th> <th>SUB</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>163164</td> </tr> </tbody> </table>		FISCAL YEAR	FUND CODE	BUD ACT	OFC	DIV REG	SUB	POMS	AMOUNT	X	B	DJ	80	00	00		163164	21 SDJUGT0339	
FISCAL YEAR	FUND CODE	BUD ACT	OFC	DIV REG	SUB	POMS	AMOUNT												
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OJP FORM 4000/2 (REV 5-87) PREVIOUS EDITIONS ARE OBSOLETE

OJP FORM 4000/2 (REV 4-88)



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 2 OF 20

PROJECT NUMBER 2017-DJ-BX-0002

AWARD DATE 08/23/2017

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2017 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the DOJ Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.



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4. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

5. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

6. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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7. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

8. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

9. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.



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10. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

11. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

12. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

13. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

14. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

15. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.



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16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

19. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.



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20. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at <https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

21. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig_hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.



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22. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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23. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

24. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

25. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

26. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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27. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

28. Justice Information Sharing

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the recipient (and any subrecipient at any tier) must comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular award. The recipient shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

29. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

30. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The recipient may not satisfy such a fine with federal funds.

31. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

32. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.



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33. Verification and updating of recipient contact information

The recipient must verify its Point of Contact (POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

34. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

35. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

36. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



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37. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

38. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



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39. Prohibition on use of award funds for match under BVP program

JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

40. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

41. Body armor - compliance with NIJ standards

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/>). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

42. Required monitoring of subawards

The recipient must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

43. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

44. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



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45. Prohibited Expenditures List

Award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

46. Controlled expenditures - prior written approval required

Award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions are set out at <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

47. Controlled expenditures - incident reporting

If an agency uses award funds to purchase or acquire any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, the agency must collect and retain (for at least 3 years) certain information about the use of-- (1) any federally-acquired Controlled Equipment in the agency's inventory, and (2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and the agency must make that information available to BJA upon request. Details about what information must be collected and retained are set out at <https://ojp.gov/docs/LE-Equipment-WG-Final-Report.pdf>.

48. Sale of items on Controlled Expenditure List

Notwithstanding the provision of the Part 200 Uniform Requirements set out at 2 C.F.R. 200.313, no equipment listed on the Controlled Expenditure List that is purchased with award funds may be transferred or sold to a third party, except as described below:

a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it were requesting approval to use award funds for the initial purchase of items on the Controlled Expenditure List.

b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.

c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

The recipient must notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased with award funds, and must abide by any applicable laws (including regulations) in such disposal.

49. Prohibited or controlled expenditures - Effect of failure to comply

Failure to comply with an award condition related to prohibited or controlled expenditures may result in denial of any further approvals of controlled expenditures under this or other federal awards.



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50. Controlled expenditures - Standards

Consistent with recommendation 2.1 of Executive Order 13688, a law enforcement agency that acquires controlled equipment with award funds must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

51. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2016

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2016), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

52. "Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government

In order validly to accept this award, the applicant local government must submit the required "Certification of Compliance with 8 U.S.C. 1373" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a unit of local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the unit of local government does submit the necessary certification regarding 8 U.S.C. 1373, it may submit a fully-executed award document executed by the unit of local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribes.



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53. Ongoing compliance with 8 U.S.C. 1373 is required

1. With respect to the "program or activity" funded in whole or part under this award (including any such "program or activity" of any subrecipient at any tier), throughout the period of performance for the award, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). For purposes of this award, any prohibition (or restriction) that violates this condition is an "information-communication restriction."

2. Certifications from subrecipients. The recipient may not make a subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Similarly, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State or local government or a "public" institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is one that is owned, controlled, or directly funded by a State or local government.

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means for purposes of 8 U.S.C. 1373 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and terms that are defined in 8 U.S.C. 1101 (Immigration and Nationality Act) mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. 901(a)(2)).

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any "public" institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.



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IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

54. Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify

1. If the recipient is a State or local government--

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any "information-communication restriction."

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and all subrecipients (regardless of tier) are in compliance with 8 U.S.C. 1373.

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded "program or activity" of the recipient, or of any subrecipient at any tier that is either a State or a local government or a "public" institution of higher education, may be subject to any "information-communication restriction." In addition, any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient such credible evidence regarding an "information-communication restriction."

2. Any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

B. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.



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55. Required State-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a State government, and also apply to any State-government subrecipient at any tier (whether or not the recipient is a State government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given to access any State (or State-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that, when a State (or State-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, rules, regulations, policies, and practices to satisfy this condition, and (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3)).

(2) the term "correctional facility" means what it means under the Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 42 U.S.C. 3791(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual would have been released in the absence of this condition.

Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). In the event that (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to permit the advance notice that DHS has requested, it shall not be a violation of this condition to provide only as much advance notice as practicable.



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NOTE: Current DHS practice is to use one form (DHS Form I-247A (3/17)) for two distinct purposes -- to request advance notice of scheduled release, and to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition imposes NO requirements as to such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

56. Required local-government-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a unit of local government, and also apply to any local-government subrecipient of this award at any tier (whether or not the recipient itself is a unit of local government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given access a local-government (or local-government-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that, when a local-government (or local-government-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see "Rules of Construction" incorporated by para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, ordinances, rules, regulations, policies, and practices to satisfy this condition, (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. The "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

B. The "Rules of Construction" set out in the award condition entitled "Required State-level rules or practices related to aliens; allowable costs" are incorporated by reference as though set forth here in full.



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57. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

58. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

EXHIBIT E-2

I

112TH CONGRESS
1ST SESSION

H. R. 1196

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. GARY G. MILLER of California (for himself, Mr. CAMPBELL, Mr. MARCHANT, and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Oversight and Government Reform, Education and the Workforce, House Administration, Financial Services, Homeland Security, Ways and Means, Natural Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Loophole Elimination
3 and Verification Enforcement Act” or the “LEAVE Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to prohibit all activities
6 that assist, encourage, direct, or induce an alien to reside
7 in or remain in the United States or to attempt to reside
8 in the United States, knowing or in reckless disregard of
9 the fact that the alien is not authorized to be present in
10 the United States.

11 **SEC. 3. TABLE OF CONTENTS.**

12 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Purpose.

Sec. 3. Table of contents.

TITLE I—ALIEN SMUGGLING AND RELATED OFFENSES

Sec. 101. Alien smuggling and related offenses.

TITLE II—IDENTITY SECURITY

Subtitle A—Photo Identification

Sec. 201. Forms of acceptable identification for Federal Government purposes.

Sec. 202. Forms of acceptable identification for financial institutions.

Subtitle B—Prohibition on Driver’s Licenses for Unlawfully Present Aliens

Sec. 211. Prohibition on issuing driver’s licenses to illegal aliens.

Subtitle C—Stopping Social Security Number Abuse

Sec. 221. Effect of final regulation on “no-match” letters.

Subtitle D—Birth/Death Registry

Sec. 231. Establishment of electronic birth and death registration systems.

Subtitle E—Reform of Passport Fraud Offenses

Sec. 241. Trafficking in passports.

Sec. 242. False statement in an application for a passport.

Sec. 243. Forgery and unlawful production of a passport.

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- Sec. 244. Misuse of a passport.
- Sec. 245. Schemes to defraud aliens.
- Sec. 246. Immigration and visa fraud.
- Sec. 247. Alternative imprisonment maximum for certain offenses.
- Sec. 248. Attempts, conspiracies, jurisdiction, and definitions.
- Sec. 249. Clerical amendment.

TITLE III—BIRTHRIGHT CITIZENSHIP

- Sec. 301. Citizenship at birth for certain persons born in the United States.

TITLE IV—HOUSING AND HOMEOWNERSHIP

- Sec. 401. Mortgages prohibited for principal residences of individuals who lack valid personal identification.
- Sec. 402. Prohibition on public housing and section 8 rental assistance for illegal aliens.
- Sec. 403. Prohibition on renting of dwelling units to illegal aliens.
- Sec. 404. Prohibition on Federal and government-sponsored enterprise support for mortgages for illegal aliens.

TITLE V—TAXES AND SOCIAL SECURITY

- Sec. 501. Prohibiting totalization agreements that benefit unlawfully present aliens.
- Sec. 502. No Social Security credit for work performed while unlawfully present.
- Sec. 503. Limited eligibility for credits.
- Sec. 504. Reducing individual taxpayer identification number abuse.

TITLE VI—EMPLOYEE VERIFICATION

Subtitle A—General Provisions

- Sec. 601. Mandatory employment authorization verification.
- Sec. 602. Mandatory notification of SSN mismatches and multiple uses and terminations of ineligibility for employment.
- Sec. 603. Penalty for failure to file correct information returns.
- Sec. 604. Authorization of appropriations.

Subtitle B—Self-Employed Subcontractors Loophole

- Sec. 611. Requiring self-employed subcontractors to participate E-Verify Program.

Subtitle C—Prohibition on Unlawful Employment of Aliens in Capitol

- Sec. 621. Requiring legislative branch contractors to participate in E-Verify Program.
- Sec. 622. Capitol complex defined.
- Sec. 623. Effective date; transition for current contracts.

Subtitle D—Coordination Between SSA and IRS

- Sec. 631. Availability of information.

TITLE VII—PROHIBITING UNLAWFULLY PRESENT ALIENS FROM
OBTAINING FINANCIAL SERVICES

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- Sec. 701. Foreign-issued forms of identification prohibited as proof of identity to open accounts at financial institutions.
- Sec. 702. “Know your customer” regulations applied to certain transmitting businesses.
- Sec. 703. Requirements relating to the United States Postal Service.
- Sec. 704. Applicability of identification rules to certain transactions involving the Federal Reserve Board, including the Directo a México program.

TITLE VIII—BORDER AND LAW ENFORCEMENT

- Sec. 801. Construction of border fencing and security improvements.
- Sec. 802. Increase in full-time Border Patrol agents.
- Sec. 803. Increase in number of ICE agents.
- Sec. 804. Prohibition on impeding certain activities of the Secretary of Homeland Security related to border security.

TITLE IX—STATE AND LOCAL GOVERNMENT AUTHORITY

Subtitle A—General Provisions

- Sec. 901. State defined; severability.
- Sec. 902. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 903. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 904. Listing of immigration violators in the National Crime Information Center database.
- Sec. 905. State and local law enforcement provision of information about apprehended aliens.
- Sec. 906. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 907. Increased Federal detention space.
- Sec. 908. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
- Sec. 909. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 910. Immunity.
- Sec. 911. Institutional removal program (IRP).

Subtitle B—Eliminating Sanctuary Cities

- Sec. 921. Eliminating sanctuary cities.

Subtitle C—Criminal Aliens

- Sec. 931. State criminal alien assistance program (SCAAP).
- Sec. 932. Authorization of appropriations.
- Sec. 933. Assistance for States incarcerating undocumented aliens charged with certain crimes.
- Sec. 934. Preemption.

TITLE X—PROHIBITING IN-STATE TUITION FOR UNLAWFULLY PRESENT ALIENS

- Sec. 1001. Ensuring enforceability.

1 **TITLE I—ALIEN SMUGGLING**
 2 **AND RELATED OFFENSES**

3 **SEC. 101. ALIEN SMUGGLING AND RELATED OFFENSES.**

4 Section 274 of the Immigration and Nationality Act
 5 (8 U.S.C. 1324) is amended to read as follows:

6 “**ALIEN SMUGGLING AND RELATED OFFENSES**

7 “**SEC. 274. (a) CRIMINAL OFFENSES AND PEN-**
 8 **ALTIES.—**

9 “**(1) PROHIBITED ACTIVITIES.—**Whoever—

10 “(A) assists, encourages, directs, or in-
 11 duces a person to come to or enter the United
 12 States, or to attempt to come to or enter the
 13 United States, knowing or in reckless disregard
 14 of the fact that such person is an alien who
 15 lacks lawful authority to come to or enter the
 16 United States;

17 “(B) assists, encourages, directs, or in-
 18 duces a person to come to or enter the United
 19 States at a place other than a designated port
 20 of entry or place other than as designated by
 21 the Secretary of Homeland Security, regardless
 22 of whether such person has official permission
 23 or lawful authority to be in the United States,
 24 knowing or in reckless disregard of the fact
 25 that such person is an alien;

1 “(C) assists, encourages, directs, or in-
2 duces a person to reside in or remain in the
3 United States, or to attempt to reside in or re-
4 main in the United States, knowing or in reck-
5 less disregard of the fact that such person is an
6 alien who lacks lawful authority to reside in or
7 remain in the United States;

8 “(D) transports or moves a person in the
9 United States, knowing or in reckless disregard
10 of the fact that such person is an alien who
11 lacks lawful authority to enter or be in the
12 United States, where the transportation or
13 movement will aid or further in any manner the
14 person’s illegal entry into or illegal presence in
15 the United States;

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

21 “(F) transports, moves, harbors, conceals,
22 or shields from detection a person outside of
23 the United States knowing or in reckless dis-
24 regard of the fact that such person is an alien
25 in unlawful transit from one country to another

1 or on the high seas, under circumstances in
2 which the person is in fact seeking to enter the
3 United States without official permission or
4 lawful authority; or

5 “(G) conspires or attempts to commit any
6 of the preceding acts,

7 shall be punished as provided in paragraph (2), re-
8 gardless of any official action which may later be
9 taken with respect to such alien.

10 “(2) **CRIMINAL PENALTIES.**—A person who vio-
11 lates the provisions of paragraph (1) shall—

12 “(A) except as provided in subparagraphs
13 (D) through (H), in the case where the offense
14 was not committed for commercial advantage,
15 profit, or private financial gain, be imprisoned
16 for not more than 5 years, or fined under title
17 18, United States Code, or both;

18 “(B) except as provided in subparagraphs
19 (C) through (H), where the offense was com-
20 mitted for commercial advantage, profit, or pri-
21 vate financial gain—

22 “(i) in the case of a first violation of
23 this subparagraph, be imprisoned for not
24 more than 20 years, or fined under title
25 18, United States Code, or both; and

1 “(ii) for any subsequent violation, be
2 imprisoned for not less than 3 years nor
3 more than 20 years, or fined under title
4 18, United States Code, or both;

5 “(C) in the case where the offense was
6 committed for commercial advantage, profit, or
7 private financial gain and involved 2 or more
8 aliens other than the offender, be imprisoned
9 for not less than 3 nor more than 20 years, or
10 fined under title 18, United States Code, or
11 both;

12 “(D) in the case where the offense furthers
13 or aids the commission of any other offense
14 against the United States or any State, which
15 offense is punishable by imprisonment for more
16 than 1 year, be imprisoned for not less than 5
17 nor more than 20 years, or fined under title 18,
18 United States Code, or both;

19 “(E) in the case where any participant in
20 the offense created a substantial risk of death
21 or serious bodily injury to another person, in-
22 cluding—

23 “(i) transporting a person in an en-
24 gine compartment, storage compartment,
25 or other confined space;

1 “(ii) transporting a person at an ex-
2 cessive speed or in excess of the rated ca-
3 pacity of the means of transportation; or

4 “(iii) transporting or harboring a per-
5 son in a crowded, dangerous, or inhumane
6 manner,

7 be imprisoned not less than 5 nor more than 20
8 years, or fined under title 18, United States
9 Code, or both;

10 “(F) in the case where the offense caused
11 serious bodily injury (as defined in section 1365
12 of title 18, United States Code, including any
13 conduct that would violate sections 2241 or
14 2242 of title 18, United States Code, if the con-
15 duct occurred in the special maritime and terri-
16 torial jurisdiction of the United States) to any
17 person, be imprisoned for not less than 7 nor
18 more than 30 years, or fined under title 18,
19 United States Code, or both;

20 “(G) in the case where the offense involved
21 an alien who the offender knew or had reason
22 to believe was an alien—

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

1 “(ii) intending to engage in such ter-
2 rorist activity,
3 be imprisoned for not less than 10 nor more
4 than 30 years, or fined under title 18, United
5 States Code, or both; and

6 “(H) in the case where the offense caused
7 or resulted in the death of any person, be pun-
8 ished by death or imprisoned for not less than
9 10 years, or any term of years, or for life, or
10 fined under title 18, United States Code, or
11 both.

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

15 “(b) **SEIZURE AND FORFEITURE.**—

16 “(1) **IN GENERAL.**—Any property, real or per-
17 sonal, that has been used to commit or facilitate the
18 commission of a violation of this section, the gross
19 proceeds of such violation, and any property trace-
20 able to such property or proceeds, shall be subject
21 to forfeiture.

22 “(2) **APPLICABLE PROCEDURES.**—Seizures and
23 forfeitures under this subsection shall be governed
24 by the provisions of chapter 46 of title 18, United
25 States Code, relating to civil forfeitures, including

1 section 981(d) of such title, except that such duties
2 as are imposed upon the Secretary of the Treasury
3 under the customs laws described in that section
4 shall be performed by such officers, agents, and
5 other persons as may be designated for that purpose
6 by the Secretary of Homeland Security.

7 “(c) **AUTHORITY TO ARREST.**—No officer or person
8 shall have authority to make any arrests for a violation
9 of any provision of this section except officers and employ-
10 ees designated by the Secretary of Homeland Security, ei-
11 ther individually or as a member of a class, and all other
12 officers whose duty it is to enforce criminal laws.

13 “(d) **ADMISSIBILITY OF EVIDENCE.**—

14 “(1) **PRIMA FACIE EVIDENCE IN DETERMINA-**
15 **TIONS OF VIOLATIONS.**—Notwithstanding any provi-
16 sion of the Federal Rules of Evidence, in deter-
17 mining whether a violation of subsection (a) has oc-
18 curred, any of the following shall be prima facie evi-
19 dence that an alien involved in the violation lacks
20 lawful authority to come to, enter, reside, remain, or
21 be in the United States or that such alien had come
22 to, entered, resided, remained or been present in the
23 United States in violation of law:

24 “(A) Any order, finding, or determination
25 concerning the alien’s status or lack thereof

1 made by a Federal judge or administrative ad-
2 judicator (including an immigration judge or an
3 immigration officer) during any judicial or ad-
4 ministrative proceeding authorized under the
5 immigration laws or regulations prescribed
6 thereunder.

7 “(B) An official record of the Department
8 of Homeland Security, Department of Justice,
9 or the Department of State concerning the
10 alien’s status or lack thereof.

11 “(C) Testimony by an immigration officer
12 having personal knowledge of the facts con-
13 cerning the alien’s status or lack thereof.

14 “(2) **VIDEOTAPED TESTIMONY.**—Notwith-
15 standing any provision of the Federal Rules of Evi-
16 dence, the videotaped (or otherwise audiovisually
17 preserved) deposition of a witness to a violation of
18 subsection (a) who has been deported or otherwise
19 expelled from the United States, or is otherwise un-
20 available to testify, may be admitted into evidence in
21 an action brought for that violation if the witness
22 was available for cross examination at the deposition
23 and the deposition otherwise complies with the Fed-
24 eral Rules of Evidence.

25 “(e) **DEFINITIONS.**—For purposes of this section:

1 “(1) The term ‘lawful authority’ means permis-
 2 sion, authorization, or license that is expressly pro-
 3 vided for in the immigration laws of the United
 4 States or the regulations prescribed thereunder.
 5 Such term does not include any such authority se-
 6 cured by fraud or otherwise obtained in violation of
 7 law, nor does it include authority that has been
 8 sought but not approved. No alien shall be deemed
 9 to have lawful authority to come to, enter, reside, re-
 10 main, or be in the United States if such coming to,
 11 entry, residence, remaining, or presence was, is, or
 12 would be in violation of law.

13 “(2) The term ‘unlawful transit’ means travel,
 14 movement, or temporary presence that violates the
 15 laws of any country in which the alien is present, or
 16 any country from which or to which the alien is trav-
 17 eling or moving.”.

18 **TITLE II—IDENTITY SECURITY**

19 **Subtitle A—Photo Identification**

20 **SEC. 201. FORMS OF ACCEPTABLE IDENTIFICATION FOR** 21 **FEDERAL GOVERNMENT PURPOSES.**

22 (a) **FORMS OF ACCEPTABLE IDENTIFICATION.**—A
 23 Federal agency may not accept, for any official purpose,
 24 including for Federal benefits and for individual taxpayer

1 identification numbers, any form of identification of an in-
2 dividual other than the following:

3 (1) **SOCIAL SECURITY CARD WITH PHOTO IDEN-**
4 **TIFICATION CARD OR REAL ID ACT IDENTIFICA-**
5 **TION.—**

6 (A) A Social Security card accompanied by
7 a photo identification card issued by the Fed-
8 eral Government or a State government; or

9 (B) a driver's license or identification card
10 issued by a State in the case of a State that is
11 in compliance with title II of the REAL ID Act
12 of 2005 (title II of division B of Public Law
13 109–13; 49 U.S.C. 30301 note).

14 (2) **PASSPORT.—**A passport issued by the
15 United States or a foreign government.

16 (3) **USCIS PHOTO IDENTIFICATION CARD.—**A
17 photo identification card issued by the Secretary of
18 Homeland Security (acting through the Director of
19 the United States Citizenship and Immigration Serv-
20 ices).

21 (b) **EFFECTIVE DATE.—**The requirements of sub-
22 section (a) shall take effect six months after the date of
23 the enactment of this Act.

1 **SEC. 202. FORMS OF ACCEPTABLE IDENTIFICATION FOR FI-**
 2 **NANCIAL INSTITUTIONS.**

3 (a) **IN GENERAL.**—Section 5318(l) of title 31, United
 4 States Code (relating to identification and verification of
 5 accountholders) is amended by striking paragraph (6) and
 6 inserting the following new paragraph:

7 “(6) **FORMS OF ACCEPTABLE IDENTIFICA-**
 8 **TION.**—A financial institution may not accept, for
 9 the purpose of verifying the identity of an individual
 10 seeking to open an account in accordance with this
 11 subsection, any form of identification of the indi-
 12 vidual other than the following:

13 “(A) **SOCIAL SECURITY CARD WITH PHOTO**
 14 **IDENTIFICATION CARD OR REAL ID ACT IDENTI-**
 15 **FICATION.**—

16 “(i) A Social Security card accom-
 17 panied by a photo identification card
 18 issued by the Federal Government or a
 19 State government; or

20 “(ii) a driver’s license or identification
 21 card issued by a State in the case of a
 22 State that is in compliance with title II of
 23 the REAL ID Act of 2005 (title II of divi-
 24 sion B of Public Law 109–13; 49 U.S.C.
 25 30301 note).

1 “(B) **PASSPORT**.—A passport issued by the
 2 United States or a foreign government.

3 “(C) **USCIS PHOTO IDENTIFICATION**
 4 **CARD**.—A photo identification card issued by
 5 the Secretary of Homeland Security (acting
 6 through the Director of the U.S. Citizenship
 7 and Immigration Services).”.

8 (b) **EFFECTIVE DATE**.—The amendments made by
 9 subsection (a) shall take effect six months after the date
 10 of the enactment of this Act.

11 **Subtitle B—Prohibition on Driver’s**
 12 **Licenses for Unlawfully Present**
 13 **Aliens**

14 **SEC. 211. PROHIBITION ON ISSUING DRIVER’S LICENSES TO**
 15 **ILLEGAL ALIENS.**

16 Section 202 of the REAL ID Act of 2005 (49 U.S.C.
 17 30301 note) is amended—

18 (1) in subsection (d), by striking paragraph
 19 (11) and redesignating paragraphs (12) and (13) as
 20 paragraphs (11) and (12), respectively; and

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

22 “(e) **PROHIBITION**.—A State is prohibited from
 23 issuing any driver’s license or identification card to any
 24 individual unless the State satisfies the requirements of
 25 subsection (c)(2)(B).”.

1 **Subtitle C—Stopping Social**
2 **Security Number Abuse**

3 **SEC. 221. EFFECT OF FINAL REGULATION ON “NO-MATCH”**
4 **LETTERS.**

5 The Congress approves the final rule promulgated by
6 the Department of Homeland Security entitled “Safe-Har-
7 bor Procedures for Employers Who Receive a No-Match
8 Letter” (August 15, 2007; 72 Fed. Reg. 45611), and such
9 rule shall have the force and effect of enacted law until
10 changed by such law.

11 **Subtitle D—Birth/Death Registry**

12 **SEC. 231. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
13 **DEATH REGISTRATION SYSTEMS.**

14 (a) In consultation with the Secretary of Health and
15 Human Services and the Commissioner of Social Security,
16 the Secretary shall take the following actions:

17 (1) Work with the States to establish a common
18 data set and common data exchange protocol for
19 electronic birth registration systems and death reg-
20 istration systems.

21 (2) Coordinate requirements for such systems
22 to align with a national model.

23 (3) Ensure that fraud prevention is built into
24 the design of electronic vital registration systems in
25 the collection of vital event data, the issuance of

1 birth certificates, and the exchange of data among
2 government agencies.

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

8 (5) Establish uniform field requirements for
9 State birth registries.

10 (6) Not later than 1 year after the date of the
11 enactment of this Act, establish a process with the
12 Department of Defense that will result in the shar-
13 ing of data, with the States and the Social Security
14 Administration, regarding deaths of United States
15 military personnel and the birth and death of their
16 dependents.

17 (7) Not later than 1 year after the date of the
18 enactment of this Act, establish a process with the
19 Department of State to improve registration, notifi-
20 cation, and the sharing of data with the States and
21 the Social Security Administration, regarding births
22 and deaths of United States citizens abroad.

23 (8) Not later than 3 years after the date of es-
24 tablishment of databases provided for under this sec-
25 tion, require States to record and retain electronic

1 records of pertinent identification information col-
 2 lected from requestors who are not the registrants.

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

9 **Subtitle E—Reform of Passport** 10 **Fraud Offenses**

11 **SEC. 241. TRAFFICKING IN PASSPORTS.**

12 Section 1541 of title 18, United States Code, is
 13 amended to read as follows:

14 **“§ 1541. Trafficking in passports**

15 “(a) **MULTIPLE PASSPORTS.**—Any person who, dur-
 16 ing any period of 3 years or less, knowingly—

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

19 “(2) forges, counterfeits, alters, or falsely
 20 makes 10 or more passports;

21 “(3) secures, possesses, uses, receives, buys,
 22 sells, or distributes 10 or more passports, knowing
 23 the passports to be forged, counterfeited, altered,
 24 falsely made, stolen, procured by fraud, or produced
 25 or issued without lawful authority; or

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

7 “(b) **PASSPORT MATERIALS.**—Any person who know-
8 ingly and without lawful authority produces, buys, sells,
9 possesses, or uses any official material (or counterfeit of
10 any official material) used to make a passport, including
11 any distinctive paper, seal, hologram, image, text, symbol,
12 stamp, engraving, or plate, shall be fined under this title,
13 imprisoned not more than 20 years, or both.”.

14 **SEC. 242. FALSE STATEMENT IN AN APPLICATION FOR A**
15 **PASSPORT.**

16 Section 1542 of title 18, United States Code, is
17 amended to read as follows:

18 **“§ 1542. False statement in an application for a pass-**
19 **port**

20 “(a) **IN GENERAL.**—Whoever knowingly makes any
21 false statement or representation in an application for a
22 United States passport, or mails, prepares, presents, or
23 signs an application for a United States passport knowing
24 the application to contain any false statement or represen-

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

3 “(b) **VENUE.**—

4 “(1) **IN GENERAL.**—An offense under sub-
 5 section (a) may be prosecuted in any district—

6 “(A) in which the false statement or rep-
 7 resentation was made or the application for a
 8 United States passport was prepared or signed;
 9 or

10 “(B) in which or to which the application
 11 was mailed or presented.

12 “(2) **ACTS OCCURRING OUTSIDE THE UNITED**
 13 **STATES.**—An offense under subsection (a) involving
 14 an application for a United States passport prepared
 15 and adjudicated outside the United States may be
 16 prosecuted in the district in which the resultant
 17 passport was or would have been produced.

18 “(c) **SAVINGS CLAUSE.**—Nothing in this section may
 19 be construed to limit the venue otherwise available under
 20 sections 3237 and 3238 of this title.”.

21 **SEC. 243. FORGERY AND UNLAWFUL PRODUCTION OF A**
 22 **PASSPORT.**

23 Section 1543 of title 18, United States Code, is
 24 amended to read as follows:

1 **“§ 1543. Forgery and unlawful production of a pass-**
2 **port**

3 “(a) **FORGERY.**—Any person who knowingly—

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

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

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

12 “(b) **UNLAWFUL PRODUCTION.**—Any person who
13 knowingly and without lawful authority—

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

17 “(2) produces, issues, authorizes, or verifies a
18 United States passport for or to any person knowing
19 or in reckless disregard of the fact that such person
20 is not entitled to receive a passport; or

21 “(3) transfers or furnishes a passport to any
22 person for use by any person other than the person
23 for whom the passport was issued or designed,
24 shall be fined under this title, imprisoned not more than
25 15 years, or both.”.

1 **SEC. 244. MISUSE OF A PASSPORT.**

2 Section 1544 of title 18, United States Code, is
3 amended to read as follows:

4 **“§ 1544. Misuse of a passport**

5 “Any person who knowingly—

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

8 “(2) uses any passport in violation of the condi-
9 tions or restrictions therein contained, or in violation
10 of the laws, regulations, or rules governing the
11 issuance and use of the passport;

12 “(3) secures, possesses, uses, receives, buys,
13 sells, or distributes any passport knowing it to be
14 forged, counterfeited, altered, falsely made, procured
15 by fraud, or produced or issued without lawful au-
16 thority; or

17 “(4) violates the terms and conditions of any
18 safe conduct duly obtained and issued under the au-
19 thority of the United States,

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

22 **SEC. 245. SCHEMES TO DEFRAUD ALIENS.**

23 Section 1545 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1545. Schemes to defraud aliens**

2 “(a) IN GENERAL.—Any person who knowingly exe-
 3 cutes a scheme or artifice, in connection with any matter
 4 that is authorized by or arises under Federal immigration
 5 laws or any matter the offender claims or represents is
 6 authorized by or arises under Federal immigration laws,
 7 to—

8 “(1) defraud any person; or

9 “(2) obtain or receive money or anything else of
 10 value from any person by means of false or fraudu-
 11 lent pretenses, representations, promises,
 12 shall be fined under this title, imprisoned not more than
 13 15 years, or both.

14 “(b) MISREPRESENTATION.—Any person who know-
 15 ingly and falsely represents that such person is an attor-
 16 ney or an accredited representative (as that term is de-
 17 fined in section 1292.1 of title 8, Code of Federal Regula-
 18 tions (or any successor regulation to such section)) in any
 19 matter arising under Federal immigration laws shall be
 20 fined under this title, imprisoned not more than 15 years,
 21 or both.”.

22 **SEC. 246. IMMIGRATION AND VISA FRAUD.**

23 Section 1546 of title 18, United States Code, is
 24 amended to read as follows:

25 **“§ 1546. Immigration and visa fraud**

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

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

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

5 “(3) completes, mails, prepares, presents, signs,
6 or submits any immigration document knowing it to
7 contain any materially false statement or representa-
8 tion;

9 “(4) secures, possesses, uses, transfers, re-
10 ceives, buys, sells, or distributes any immigration
11 document knowing it to be forged, counterfeited, al-
12 tered, falsely made, stolen, procured by fraud, or
13 produced or issued without lawful authority;

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

17 “(6) transfers or furnishes, without lawful au-
18 thority, an immigration document to another person
19 for use by a person other than the person for whom
20 the passport was issued or designed,

21 shall be fined under this title, imprisoned not more than
22 15 years, or both.

23 “(b) **TRAFFICKING**.—Any person who, during any pe-
24 riod of 3 years or less, knowingly—

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

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

6 “(3) secures, possesses, uses, buys, sells, or dis-
7 tributes 10 or more immigration documents, know-
8 ing the immigration documents to be forged, coun-
9 terfeited, altered, stolen, falsely made, procured by
10 fraud, or produced or issued without lawful author-
11 ity; or

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

16 shall be fined under this title, imprisoned not more than
17 20 years, or both.

18 “(c) **IMMIGRATION DOCUMENT MATERIALS.**—Any
19 person who knowingly and without lawful authority pro-
20 duces, buys, sells, possesses, or uses any official material
21 (or counterfeit of any official material) used to make im-
22 migration documents, including any distinctive paper, seal,
23 hologram, image, text, symbol, stamp, engraving, or plate,
24 shall be fined under this title, imprisoned not more than
25 20 years, or both.

1 “(d) **EMPLOYMENT DOCUMENTS.**—Whoever uses—

2 “(1) an identification document, knowing (or
3 having reason to know) that the document was not
4 issued lawfully for the use of the possessor;

5 “(2) an identification document knowing (or
6 having reason to know) that the document is false;
7 or

8 “(3) a false attestation,
9 for the purpose of satisfying a requirement of section
10 274A(b) of the Immigration and Nationality Act (8 U.S.C.
11 1324a(b)), shall be fined under this title, imprisoned not
12 more than 5 years, or both.”.

13 **SEC. 247. ALTERNATIVE IMPRISONMENT MAXIMUM FOR**
14 **CERTAIN OFFENSES.**

15 Section 1547 of title 18, United States Code, is
16 amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “(other than an offense under section
19 1545)”;

20 (2) in paragraph (1), by striking “15” and in-
21 serting “20”; and

22 (3) in paragraph (2), by striking “20” and in-
23 serting “25”.

1 **SEC. 248. ATTEMPTS, CONSPIRACIES, JURISDICTION, AND**
 2 **DEFINITIONS.**

3 Chapter 75 of title 18, United States Code, is amend-
 4 ed by adding after section 1547 the following new sections:

5 **“§ 1548. Attempts and conspiracies**

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

9 **“§ 1549. Additional jurisdiction**

10 “(a) **IN GENERAL.**—Any person who commits an of-
 11 fense under this chapter within the special maritime and
 12 territorial jurisdiction of the United States shall be pun-
 13 ished as provided under this chapter.

14 “(b) **EXTRATERRITORIAL JURISDICTION.**—Any per-
 15 son who commits an offense under this chapter outside
 16 the United States shall be punished as provided under this
 17 chapter if—

18 “(1) the offense involves a United States pass-
 19 port or immigration document (or any document
 20 purporting to be such a document) or any matter,
 21 right, or benefit arising under or authorized by Fed-
 22 eral immigration laws;

23 “(2) the offense is in or affects foreign com-
 24 merce;

25 “(3) the offense affects, jeopardizes, or poses a
 26 significant risk to the lawful administration of Fed-

1 eral immigration laws, or the national security of the
2 United States;

3 “(4) the offense is committed to facilitate an
4 act of international terrorism (as defined in section
5 2331) or a drug trafficking crime (as defined in sec-
6 tion 929(a)(2)) that affects or would affect the na-
7 tional security of the United States;

8 “(5) the offender is a national of the United
9 States or an alien lawfully admitted for permanent
10 residence (as those terms are defined in section
11 101(a) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a))); or

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

15 **“§ 1550. Authorized law enforcement activities**

16 “Nothing in this chapter shall prohibit any lawfully
17 authorized investigative, protective, or intelligence activity
18 of a law enforcement agency of the United States, a State,
19 or a political subdivision of a State, or an intelligence
20 agency of the United States, or any activity authorized
21 under title V of the Organized Crime Control Act of 1970
22 (Public Law 91–452; 84 Stat. 933).

23 **“§ 1551. Definitions**

24 “As used in this chapter:

1 “(1) The term ‘application for a United States
2 passport’ includes any document, photograph, or
3 other piece of evidence submitted in support of an
4 application for a United States passport.

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

7 “(3) The term ‘immigration document’—

8 “(A) means any application, petition, affi-
9 davit, declaration, attestation, form, visa, iden-
10 tification card, alien registration document, em-
11 ployment authorization document, border cross-
12 ing card, certificate, permit, order, license,
13 stamp, authorization, grant of authority, or
14 other official document, arising under or au-
15 thorized by the immigration laws of the United
16 States; and

17 “(B) includes any document, photograph,
18 or other piece of evidence attached to or sub-
19 mitted in support of an immigration document
20 described in subparagraph (A).

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

22 “(A) the laws described in section
23 101(a)(17) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(17));

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

3 “(C) the regulations prescribed under the
4 authority of any law described in subparagraph
5 (A) or (B).

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

9 “(6) The term ‘passport’ means—

10 “(A) a travel document attesting to the
11 identity and nationality of the bearer that is
12 issued under the authority of the Secretary of
13 State, a foreign government, or an international
14 organization; or

15 “(B) any instrument purporting to be a
16 document described in subparagraph (A).

17 “(7) The term ‘produce’ means to make, pre-
18 pare, assemble, issue, print, authenticate, or alter.

19 “(8) The term ‘to present’ means to offer or
20 submit for official processing, examination, or adju-
21 dication. Any such presentation continues until the
22 official processing, examination, or adjudication is
23 complete.

24 “(9) The ‘use’ of a passport or an immigration
25 document referred to in section 1541(a), 1543(b),

1 1544, 1546(a), and 1546(b) of this chapter in-
 2 cludes—

3 “(A) any officially authorized use;

4 “(B) use to travel;

5 “(C) use to demonstrate identity, resi-
 6 dence, nationality, citizenship, or immigration
 7 status;

8 “(D) use to seek or maintain employment;

9 or

10 “(E) use in any matter within the jurisdic-
 11 tion of the Federal Government or of a State
 12 government.”.

13 **SEC. 249. CLERICAL AMENDMENT.**

14 The table of sections for chapter 75 of title 18,
 15 United States Code, is amended to read as follows:

“Sec.

“1541. Trafficking in passports.

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

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Alternative imprisonment maximum for certain offenses.

“1548. Attempts and conspiracies.

“1549. Additional jurisdiction.

“1550. Authorized law enforcement activities.

“1551. Definitions.”.

TITLE III—BIRTHRIGHT CITIZENSHIP

SEC. 301. CITIZENSHIP AT BIRTH FOR CERTAIN PERSONS BORN IN THE UNITED STATES.

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

(1) by inserting “(a) **IN GENERAL.**—” before “The following”;

(2) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8); and

(3) by adding at the end the following:

“(b) **DEFINITION.**—Acknowledging the right of birthright citizenship established by section 1 of the 14th amendment to the Constitution, a person born in the United States shall be considered ‘subject to the jurisdiction’ of the United States for purposes of subsection (a)(1) if the person is born in the United States of parents, one of whom is—

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

“(2) an alien lawfully admitted for permanent residence in the United States whose residence is in the United States; or

“(3) an alien performing active service in the Armed Forces (as defined in section 101 of title 10, United States Code).”.

1 (b) **APPLICABILITY.**—The amendment made by sub-
 2 section (a)(3) shall not be construed to affect the citizen-
 3 ship or nationality status of any person born before the
 4 date of the enactment of this Act.

5 **TITLE IV—HOUSING AND**
 6 **HOMEOWNERSHIP**

7 **SEC. 401. MORTGAGES PROHIBITED FOR PRINCIPAL RESI-**
 8 **DENCES OF INDIVIDUALS WHO LACK VALID**
 9 **PERSONAL IDENTIFICATION.**

10 (a) **IN GENERAL.**—Chapter 2 of the Truth in Lend-
 11 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
 12 at the end the following new section:

13 **“§ 140. Mortgages prohibited for principal residences**
 14 **of individuals who lack valid personal**
 15 **identification**

16 “Notwithstanding any provision of State law, no
 17 credit may be extended by any creditor to any consumer
 18 in any consumer credit transaction in which a security in-
 19 terest, including any such interest arising by operation of
 20 law, is or will be retained or acquired in any property lo-
 21 cated within the United States which is or, upon the com-
 22 pletion of the transaction, will be used as the principal
 23 residence of such consumer unless the creditor has verified
 24 that the consumer is a citizen or national of the United
 25 States or is lawfully present in the United States, by re-

1 quiring the consumer to provide to the creditor valid per-
 2 sonal identification in one of the forms specified in the
 3 amendment made by section 202(a) of the Loophole Elimini-
 4 nation and Verification Enforcement Act.”.

5 (b) **CLERICAL AMENDMENT.**—The table of sections
 6 for chapter 2 of the Truth in Lending Act is amended
 7 by inserting after the item relating to section 139 the fol-
 8 lowing new item:

“140. Mortgages prohibited for principal residences of individuals who lack valid
 personal identification.”.

9 **SEC. 402. PROHIBITION ON PUBLIC HOUSING AND SECTION**
 10 **8 RENTAL ASSISTANCE FOR ILLEGAL ALIENS.**

11 Occupancy in public housing assisted under the
 12 United States Housing Act of 1937 (42 U.S.C. 1437 et
 13 seq.) may not be provided to any individual or household,
 14 and rental assistance under section 8 of such Act (42
 15 U.S.C. 1437f) may not be provided to or on behalf of any
 16 individual or household, unless the public housing agency
 17 or owner of housing assisted under section 8, as applica-
 18 ble, verifies that the individual, or in the case of a house-
 19 hold, all adult members of the household, are citizens or
 20 nationals of the United States or are lawfully present in
 21 the United States, by requiring such individual, or in the
 22 case of a household, all adult members of the household,
 23 to provide to the public housing agency or owner of hous-
 24 ing assisted under such section 8, as applicable, valid per-

1 sonal identification in one of the forms specified in section
2 201(a) of this Act.

3 **SEC. 403. PROHIBITION ON RENTING OF DWELLING UNITS**
4 **TO ILLEGAL ALIENS.**

5 It is the sense of the Congress that renting a dwelling
6 unit to an individual who is unlawfully present in the
7 United States, or to any household that includes such an
8 individual, should be considered an act of harboring an
9 illegal alien or assisting an illegal alien to reside in the
10 United States and therefore illegal.

11 **SEC. 404. PROHIBITION ON FEDERAL AND GOVERNMENT-**
12 **SPONSORED ENTERPRISE SUPPORT FOR**
13 **MORTGAGES FOR ILLEGAL ALIENS.**

14 (a) **FEDERAL AGENCIES.**—No Federal agency, de-
15 partment, office, or other instrumentality may make, in-
16 sure, or guarantee any mortgage or loan for the purchase
17 of, or secured by, a residential property unless the mort-
18 gagee under such mortgage, or the lender under such loan,
19 as the case may be, has verified that the mortgagor under
20 the mortgage or borrower under the loan, as the case may
21 be, is a citizen or national of the United States or is law-
22 fully present in the United States, by requiring such mort-
23 gator or borrower to provide to such lender under such
24 mortgage or loan valid personal identification in one of
25 the forms specified in section 201(a) of this Act.

1 (b) FANNIE MAE AND FREDDIE MAC.—The Federal
 2 National Mortgage Association and the Federal Home
 3 Loan Mortgage Corporation may not purchase, securitize,
 4 service, sell, lend on the security of, or otherwise deal in
 5 any mortgage or loan unless the mortgagee under such
 6 mortgage has verified that the mortgagor under the mort-
 7 gage is a citizen or national of the United States or is
 8 lawfully present in the United States, by requiring such
 9 mortgagor to provide to such mortgagee under such mort-
 10 gage valid personal identification in one of the forms speci-
 11 fied in section 201(a) of this Act.

12 **TITLE V—TAXES AND SOCIAL** 13 **SECURITY**

14 **SEC. 501. PROHIBITING TOTALIZATION AGREEMENTS THAT** 15 **BENEFIT UNLAWFULLY PRESENT ALIENS.**

16 It is the sense of the House of Representatives that
 17 the totalization agreement establishing totalization ar-
 18 rangements between the Social Security system estab-
 19 lished by title II of such Act and the Social Security sys-
 20 tem of Mexico, signed by the Commissioner of Social Secu-
 21 rity and the Director General, Mexican Social Security In-
 22 stitute, on June 29, 2004, is inappropriate public policy
 23 and should not take effect.

1 **SEC. 502. NO SOCIAL SECURITY CREDIT FOR WORK PER-**
2 **FORMED WHILE UNLAWFULLY PRESENT.**

3 (a) **DETERMINATIONS OF INSURED STATUS.**—Sec-
4 tion 214(c)(1) of the Social Security Act (42 U.S.C.
5 414(c)(1)) is amended by striking “at the time of assign-
6 ment,” and all that follows through “any later time,” and
7 inserting “at the time any such quarters of coverage are
8 earned,”.

9 (b) **ENTITLEMENT TO DISABILITY INSURANCE BEN-**
10 **EFITS.**—Section 223(a)(1)(C)(i) of such Act (42 U.S.C.
11 423(a)(1)(C)(i)) is amended by striking “at the time of
12 assignment,” and all that follows through “any later
13 time,” and inserting “at the time any such quarters of
14 coverage are earned,”.

15 **SEC. 503. LIMITED ELIGIBILITY FOR CREDITS.**

16 Notwithstanding any other provision of law, an indi-
17 vidual who makes a return with respect to Federal income
18 tax and includes on such return an individual taxpayer
19 identification number in lieu of a Social Security account
20 number shall not be eligible for any refund of or credit
21 against Federal income tax, including the earned income
22 tax credit under section 32 of the Internal Revenue Code
23 of 1986.

1 **SEC. 504. REDUCING INDIVIDUAL TAXPAYER IDENTIFICA-**
2 **TION NUMBER ABUSE.**

3 (a) **MODIFIED ITIN FORMAT AND LAWFUL PRES-**
4 **ENCE REQUIREMENT.—**

5 (1) **IN GENERAL.**—Section 6109(c) of the Inter-
6 nal Revenue Code of 1986 (26 U.S.C. 6109(c)) is
7 amended to read as follows:

8 “(c) **REQUIREMENT OF INFORMATION.**—

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

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

19 “(3) **VERIFICATION OF STATUS FOR ALIENS.**—
20 Prior to issuing any identifying number to an indi-
21 vidual who is physically present in the United
22 States, the Secretary shall verify with the Depart-
23 ment of Homeland Security that the applicant for
24 such number is lawfully present in the United
25 States.”.

1 (2) **EFFECTIVE DATE.**—Section 6109(c)(2) of
 2 the Internal Revenue Code of 1986, as added by
 3 paragraph (1), shall take effect no later than 30
 4 days after the date of enactment of this Act.

5 (b) **INFORMATION SHARING.**—

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

9 “(D) **POSSIBLE VIOLATIONS OF FEDERAL**
 10 **IMMIGRATION LAW.**—The Secretary shall dis-
 11 close in electronic format to the Secretary of
 12 Homeland Security the taxpayer identity (as de-
 13 fined in subsection (b)(6)) of each taxpayer who
 14 has been assigned an individual taxpayer identi-
 15 fication number. The Secretary of Homeland
 16 Security may disclose such information to offi-
 17 cers and employees of the Department to the
 18 extent necessary to enforce Federal immigration
 19 laws.”.

20 (2) **EFFECTIVE DATE.**—The Secretary of the
 21 Treasury shall disclose information under the
 22 amendment made by paragraph (1) not later than
 23 60 days after the date of the enactment of this Act.

1 **TITLE VI—EMPLOYEE**
2 **VERIFICATION**
3 **Subtitle A—General Provisions**

4 **SEC. 601. MANDATORY EMPLOYMENT AUTHORIZATION**
5 **VERIFICATION.**

6 (a) **MAKING BASIC PILOT PROGRAM PERMANENT.—**
7 Section 401(b) of the Illegal Immigration Reform and Im-
8 migrant Responsibility Act of 1996 (8 U.S.C. 1324a note)
9 is amended by adding before the period at the end of the
10 last sentence the following “, except that the E-Verify Pro-
11 gram described in section 403(a) shall be a permanent
12 program”.

13 (b) **MANDATORY USE OF E-VERIFY SYSTEM.—**

14 (1) **IN GENERAL.—**Subject to paragraphs (2)
15 and (3), every person or other entity that hires one
16 or more individuals for employment in the United
17 States shall verify through the E-Verify Program es-
18 tablished by section 403(a) of the Illegal Immigra-
19 tion Reform and Immigrant Responsibility Act of
20 1996 (division C of Public Law 104–208; 8 U.S.C.
21 1324a note), that each such individual is authorized
22 to work in the United States. The Secretary of
23 Homeland Security shall ensure that verification by
24 means of a toll-free telephone line is an available op-
25 tion in complying with the preceding sentence.

1 (2) **SELECT ENTITIES REQUIRED TO USE E-**
 2 **VERIFY PROGRAM IMMEDIATELY.**—The following en-
 3 tities must satisfy the requirement in paragraph (1)
 4 by not later than one year after the date of the en-
 5 actment of this Act:

6 (A) **FEDERAL AGENCIES.**—Each depart-
 7 ment and agency of the Federal Government.

8 (B) **FEDERAL CONTRACTORS.**—A con-
 9 tractor that—

10 (i) has entered into a contract with
 11 the Federal Government to which section
 12 2(b)(1) of the Service Contract Act of
 13 1965 (41 U.S.C. 351(b)(1)) applies, and
 14 any subcontractor under such contract; or

15 (ii) has entered into a contract ex-
 16 empted from the application of such Act by
 17 section 6 of such Act (41 U.S.C. 356), and
 18 any subcontractor under such contract.

19 (C) **LARGE EMPLOYERS.**—An employer
 20 that employs more than 250 individuals in the
 21 United States.

22 (3) **PHASING-IN FOR OTHER EMPLOYERS.**—

23 (A) **2 YEARS FOR EMPLOYERS OF 100 OR**
 24 **MORE.**—Entities that employ 100 or more indi-
 25 viduals in the United States must satisfy the

1 requirement in paragraph (1) by not later than
2 two years after the date of the enactment of
3 this Act.

4 (B) **3 YEARS FOR EMPLOYERS WITH 30 OR**
5 **MORE EMPLOYEES.**—All entities that employ 30
6 or more individuals in the United States must
7 satisfy the requirement in paragraph (1) by not
8 later than three years after the date of the en-
9 actment of this Act.

10 (C) **4 YEARS FOR ALL EMPLOYERS.**—All
11 entities that employ one or more individuals in
12 the United States must satisfy the requirement
13 in paragraph (1) by not later than four years
14 after the date of the enactment of this Act.

15 (4) **VERIFYING EMPLOYMENT AUTHORIZATION**
16 **OF CURRENT EMPLOYEES.**—Every person or other
17 entity that employs one or more persons in the
18 United States shall verify through the E-Verify pro-
19 gram by not later than four years after the date of
20 the enactment of this Act that each employee is au-
21 thorized to work in the United States.

22 (5) **DEFENSE.**—An employer who has complied
23 with the requirements in paragraphs (1) and (4)
24 shall not be liable for hiring an unauthorized alien,
25 if—

1 (A) such hiring occurred due to an error in
 2 the E-Verify Program that was unknown to the
 3 employer at the time of such hiring; and

4 (B) the employer terminates the employ-
 5 ment of the alien upon being informed of the
 6 error.

7 (6) **SANCTIONS FOR NONCOMPLIANCE.**—The
 8 failure of an employer to comply with the require-
 9 ments in paragraphs (1) or (4) shall—

10 (A) be treated as a violation of section
 11 274A(a)(1)(B) with respect to each offense; and

12 (B) create a rebuttable presumption that
 13 the employer has violated section
 14 274A(a)(1)(A).

15 (7) **VOLUNTARY PARTICIPATION OF EMPLOYERS**
 16 **NOT IMMEDIATELY SUBJECT TO REQUIREMENT.**—
 17 Nothing in this subsection shall be construed as pre-
 18 venting a person or other entity that is not imme-
 19 diately subject to the requirement of paragraph (1)
 20 pursuant to paragraph (2) or (3) from voluntarily
 21 using the E-Verify Program to verify the employ-
 22 ment authorization of new hires or current employ-
 23 ees.

24 (8) **STATE INTERFERENCE.**—No State may
 25 prohibit a person or other entity from using the E-

1 Verify Program to verify the employment authoriza-
 2 tion of new hires or current employees.

3 **SEC. 602. MANDATORY NOTIFICATION OF SSN MISMATCHES**
 4 **AND MULTIPLE USES AND DETERMINATIONS**
 5 **OF INELIGIBILITY FOR EMPLOYMENT.**

6 (a) NOTIFICATION OF MULTIPLE USES OF INDIV-
 7 VIDUAL SOCIAL SECURITY ACCOUNT NUMBERS.—

8 (1) PERIODIC REVIEW OF RECORDS REGARDING
 9 INDIVIDUALS FOR MATERIAL EMPLOYMENT-BASED
 10 INFORMATION.—The Commissioner of Social Secu-
 11 rity shall review, on at least an annual basis, the
 12 records of the Commissioner to determine whether
 13 there is included in such records any material em-
 14 ployment-based information in connection with any
 15 individual with respect to whom such records are
 16 maintained.

17 (2) NOTIFICATION OF INDIVIDUALS REGARDING
 18 MATERIAL EMPLOYMENT-BASED INFORMATION.—

19 (A) IN GENERAL.—In any case in which
 20 the Commissioner determines, on the basis of
 21 any review pursuant to paragraph (1), that
 22 there is any material employment-based infor-
 23 mation included in such records relating to any
 24 individual, the Commissioner shall notify such
 25 individual of the existence of such information

1 and that such information may be evidence of
2 the occurrence of identity theft.

3 (B) **REQUIREMENTS.**—The notification
4 shall be sent by letter to the individual’s ad-
5 dress maintained in the Commissioner’s records
6 and shall include—

7 (i) the name and location of each per-
8 son listed in such records as such individ-
9 ual’s employer involved,

10 (ii) a statement that, if the listing re-
11 garding each such employer so identified in
12 the notification is in fact an accurate rep-
13 resentation of persons who have been em-
14 ployers of such individual, there is no prob-
15 lem and no response to the notification is
16 required, and

17 (iii) a statement that, if the listing is
18 in any respect not in fact an accurate rep-
19 resentation of persons who have been em-
20 ployers of such individual, such individual
21 is requested to notify the Department of
22 Homeland Security or the Social Security
23 Administration of the inaccuracy by tele-
24 phone or by Internet communication at a

1 telephone number or Web site which shall
 2 be specified in the notification.

3 (b) **MATERIAL EMPLOYMENT-BASED INFORMA-**
 4 **TION.**—For purposes of this section, the term “material
 5 employment-based information” means, in relation to any
 6 individual, evidence determined, on the basis of any review
 7 conducted pursuant to subsection (a)(1), that—

8 (1) such individual has had concurrent earnings
 9 from more than one employer over an extended pe-
 10 riod,

11 (2) such individual has received benefits under
 12 title II of the Social Security Act while engaged in
 13 employment, or

14 (3) such individual has been engaged in employ-
 15 ment while under the age of 16.

16 (c) **IDENTIFICATION AND TREATMENT OF UNAU-**
 17 **THORIZED ALIENS.**—

18 (1) **IDENTIFICATION OF SUSPECT EMPLOYERS**
 19 **AND EMPLOYEES AND ISSUANCE OF TENTATIVE DE-**
 20 **TERMINATION OF UNAUTHORIZED ALIEN STATUS.**—

21 In any case in which the Social Security Administra-
 22 tion receives a notification from an individual pursu-
 23 ant to subsection (a)(2)(B)(iii), the Commissioner of
 24 Social Security shall identify each employer involved
 25 and the employee of such employer actually em-

1 employed in lieu of such individual, share with the Sec-
2 retary of Homeland Security the identity of each
3 such employer and such employee, and issue a ten-
4 tative determination that such employee is an unau-
5 thorized alien (as defined in section 274A(h) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1324a(h))) with respect to the employment. Upon
8 the issuance of such tentative determination, the
9 Commissioner shall notify each such employer and
10 such employee that a potential identity fraud has oc-
11 curred in connection with the employment of such
12 employee by such employer, and that such employee
13 has been tentatively determined to be such an unau-
14 thorized alien.

15 (2) **ISSUANCE OF CONCLUSIVE DETERMINA-**
16 **TION.**—If, during the period of 30 business days fol-
17 lowing the date on which such employee receives
18 such notification, such employee fails to offer to the
19 Commissioner evidence of the employee’s correct
20 identity and that such employee is not an unauthor-
21 ized alien (as defined in section 274A(h) of the Im-
22 migration and Nationality Act (8 U.S.C. 1324a(h)))
23 with respect to the employment, the Commissioner
24 shall issue to such employer and such employee a

1 conclusive determination that such employee is such
2 an unauthorized alien.

3 (3) **MANDATORY TERMINATION OF EMPLOY-**
4 **MENT.**—The failure of such employer to immediately
5 terminate such employment of such employee upon
6 receipt of such conclusive determination shall be
7 treated as a violation of section 274a(a)(2) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1324a(a)(2)).

10 (d) **NOTIFICATION OF MISMATCHED NAME AND SO-**
11 **CIAL SECURITY NUMBER.**—The Commissioner of Social
12 Security shall notify on an annual basis each United
13 States employer with one or more employees whose Social
14 Security account number does not match the employees
15 name or date of birth in the records of the Commissioner.
16 Such notification shall instruct employers to notify listed
17 employees that they have 30 business days to correct the
18 mismatch with the Social Security Administration or the
19 employer will be required to terminate their employment.
20 The notification also shall inform employers that they may
21 not terminate listed employees prior to the close of the
22 30-day period.

23 (e) **INFORMATION SHARING WITH THE DEPARTMENT**
24 **OF HOMELAND SECURITY.**—

1 (1) Not later than 180 days following the date
2 of enactment of this Act, the Commissioner of Social
3 Security shall promulgate regulations in accordance
4 with section 1106 of the Social Security Act (42
5 U.S.C. 1306) to require that information regarding
6 all unresolved mismatch notifications and regarding
7 all multiple use notifications that lead to the identi-
8 fication of an unauthorized user of a Social Security
9 account number be shared with the Secretary of
10 Homeland Security on a timely basis.

11 (2) Information to be shared with the Secretary
12 shall include, at a minimum, the name and mailing
13 address of all employees who are the subject of an
14 unresolved mismatch notification or who are unau-
15 thorized users of another individual's Social Security
16 account number.

17 **SEC. 603. PENALTY FOR FAILURE TO FILE CORRECT INFOR-**
18 **MATION RETURNS.**

19 Section 6721 of the Internal Revenue Code of 1986
20 (26 U.S.C. 6721) is amended by adding at the end the
21 following:

22 “(f) The Secretary shall assess the maximum allow-
23 able penalties on 100 percent of the employers designated
24 in any tax year by the Social Security Administration as
25 the most egregious noncompliant employers.

1 “(g) Notwithstanding any other provision in this sec-
 2 tion, in the case of a failure described in subsection (a)(2)
 3 with respect to any person employing an alien not author-
 4 ized to be so employed, the penalty under this section shall
 5 be determined in accordance with the following table:

	“In the case of—	Not less than—	Not more than—
The first offense	\$2,500	\$5,000	
The second offense	\$7,500	\$10,000	
The third offense	\$25,000	\$40,000.”.	

6 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
 8 as may be required to carry out this subtitle.

9 **Subtitle B—Self-Employed**
 10 **Subcontractors Loophole**

11 **SEC. 611. REQUIRING SELF-EMPLOYED SUBCONTRACTORS**
 12 **TO PARTICIPATE E-VERIFY PROGRAM.**

13 Beginning with fiscal year 2012, none of the funds
 14 authorized to be appropriated for the Department of
 15 Homeland Security or the Department of Justice may be
 16 made available to those departments unless each State and
 17 local government in the United States requires, as condi-
 18 tion on acquisition of a business license, that the applicant
 19 demonstrate that the applicant has verified through the
 20 E-Verify Program, established by section 403(a) of the Il-
 21 legal Immigration Reform and Immigrant Responsibility
 22 Act of 1996 (division C of Public Law 104–208; 8 U.S.C.

1 1324a note), that the applicant, and each individual em-
 2 ployed by the applicant, is authorized to work in the
 3 United States.

4 **Subtitle C—Prohibition on Unlaw-**
 5 **ful Employment of Aliens in**
 6 **Capitol**

7 **SEC. 621. REQUIRING LEGISLATIVE BRANCH CONTRAC-**
 8 **TORS TO PARTICIPATE IN E-VERIFY PRO-**
 9 **GRAM.**

10 An office of the legislative branch may not enter into
 11 a contract for the provision of goods or services within
 12 the Capitol Complex with any contractor who employs in-
 13 dividuals unless the contractor—

14 (1) elects to participate in the E-Verify Pro-
 15 gram described in section 403(a) of the Illegal Im-
 16 migration Reform and Immigrant Responsibility Act
 17 of 1996 (8 U.S.C. 1324a note), and is in compliance
 18 with the terms and conditions of such election, with
 19 respect to all of its employees as well as those pro-
 20 viding goods or services under the contract; and

21 (2) certifies that each of its subcontractors pro-
 22 viding goods or services under the contract has elect-
 23 ed to participate in such program, and is in compli-
 24 ance with the terms and conditions of such election,

1 with respect to all of its employees as well as those
2 providing goods or services under the subcontract.

3 **SEC. 622. CAPITOL COMPLEX DEFINED.**

4 For purposes of this subtitle, the “Capitol Complex”
5 consists of the following facilities together with their
6 grounds:

7 (1) The United States Capitol (including the
8 Capitol Visitor Center) and the Capitol Grounds.

9 (2) The Cannon, Longworth, Rayburn, and
10 Ford House Office Buildings.

11 (3) The Russell, Dirksen, and Hart Senate Of-
12 fice Buildings.

13 (4) The House of Representatives Child Care
14 Center and the Senate Employee Child Care Center.

15 (5) Any facility serving as a dormitory resi-
16 dence for Congressional pages.

17 (6) The United States Botanic Garden.

18 (7) The Jefferson, Madison, and Adams Build-
19 ings of the Library of Congress.

20 (8) The Capitol Power Plant.

21 (9) The United States Capitol Police Head-
22 quarters Building.

1 **SEC. 623. EFFECTIVE DATE; TRANSITION FOR CURRENT**
 2 **CONTRACTS.**

3 (a) **IN GENERAL.**—This subtitle shall apply with re-
 4 spect to contracts entered into after the expiration of the
 5 30-day period which begins on the date of the enactment
 6 of this Act.

7 (b) **TRANSITION FOR CURRENT CONTRACTS.**—Upon
 8 the enactment of this Act, each office of the legislative
 9 branch with a contract in effect on the date of the enact-
 10 ment of this Act which is described in section 621 shall
 11 obtain assurances from the contractor involved that the
 12 contractor will meet the requirements of such section prior
 13 to the expiration of the period described in subsection (a).

14 **Subtitle D—Coordination Between**
 15 **SSA and IRS**

16 **SEC. 631. AVAILABILITY OF INFORMATION.**

17 The Commissioner of Social Security shall make
 18 available to the Commissioner of Internal Revenue any in-
 19 formation related to the investigation and enforcement of
 20 section 162(c)(4) of the Internal Revenue Code of 1986,
 21 including any no-match letter and any information in the
 22 earnings suspense file.

1 **TITLE VII—PROHIBITING UN-**
2 **LAWFULLY PRESENT ALIENS**
3 **FROM OBTAINING FINANCIAL**
4 **SERVICES**

5 **SEC. 701. FOREIGN-ISSUED FORMS OF IDENTIFICATION**
6 **PROHIBITED AS PROOF OF IDENTITY TO**
7 **OPEN ACCOUNTS AT FINANCIAL INSTITU-**
8 **TIONS.**

9 Section 5318(l) of title 31, United States Code (relat-
10 ing to identification and verification of accountholders) is
11 inserting after paragraph (6) (as added by section 202)
12 the following new paragraph:

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

1 **SEC. 702. “KNOW YOUR CUSTOMER” REGULATIONS AP-**
2 **PLIED TO CERTAIN TRANSMITTING BUSI-**
3 **NESSES.**

4 Section 5318(m) of title 31, United States Code, is
5 amended by striking “promulgated pursuant to the au-
6 thority contained in” and inserting “prescribed under
7 paragraph (1) of subsection (l) (notwithstanding para-
8 graph (5) of such subsection) or”.

9 **SEC. 703. REQUIREMENTS RELATING TO THE UNITED**
10 **STATES POSTAL SERVICE.**

11 (a) **IN GENERAL.**—The United States Postal Service
12 shall take such measures as may be necessary to ensure
13 that in the administration of any international wire trans-
14 fer service, no transfer may be made unless the sender
15 presents an acceptable form of identification, as deter-
16 mined in accordance with section 201.

17 (b) **DEFINITION.**—For purposes of this section, the
18 term “international wire transfer service” means any pro-
19 gram or service, administered by the United States Postal
20 Service, which provides for the international electronic
21 transfer of money.

22 (c) **EFFECTIVE DATE.**—The requirements of this sec-
23 tion shall take effect six months after the date of the en-
24 actment of this Act.

1 **SEC. 704. APPLICABILITY OF IDENTIFICATION RULES TO**
 2 **CERTAIN TRANSACTIONS INVOLVING THE**
 3 **FEDERAL RESERVE BOARD, INCLUDING THE**
 4 **DIRECTO A MÉXICO PROGRAM.**

5 (a) **IN GENERAL.**—The Board of Governors of the
 6 Federal Reserve System shall take such measures as may
 7 be necessary to ensure that in the administration of any
 8 international wire transfer service or settlement services,
 9 including any automated clearing house transaction such
 10 as the Directo a MéxicoTM program, no transfer may be
 11 made unless the financial institution involved has certified
 12 that the sender has presented an acceptable form of identi-
 13 fication, as determined in accordance with section 202(a).

14 (b) **DEFINITION.**—For purposes of this section, the
 15 term “international wire transfer service or settlement”
 16 means any program or service, administered by the Board
 17 of Governors of the Federal Reserve System directly or
 18 through any Federal reserve bank, including the Fedwire
 19 Funds Service, which provides for the international elec-
 20 tronic transfer of funds.

21 (c) **EFFECTIVE DATE.**—The requirements of this sec-
 22 tion shall take effect six months after the date of the en-
 23 actment of this Act.

1 **TITLE VIII—BORDER AND LAW**
2 **ENFORCEMENT**

3 **SEC. 801. CONSTRUCTION OF BORDER FENCING AND SECU-**
4 **RITY IMPROVEMENTS.**

5 (a) **IN GENERAL.**—Section 102(b)(1) of the Illegal
6 Immigration Reform and Immigrant Responsibility Act of
7 1996 (8 U.S.C. 1103 note) is amended to read as follows:

8 “(1) **SECURITY FEATURES.**—

9 “(A) **REINFORCED FENCING.**—In carrying
10 out subsection (a), the Secretary of Homeland
11 Security shall provide for at least 2 layers of re-
12 inforced fencing, the installation of additional
13 physical barriers, roads, lighting, cameras, and
14 sensors—

15 “(i) extending from 10 miles west of
16 the Tecate, California, port of entry to 10
17 miles east of the Tecate, California, port of
18 entry;

19 “(ii) extending from 10 miles west of
20 the Calexico, California, port of entry to 5
21 miles east of the Douglas, Arizona, port of
22 entry;

23 “(iii) extending from 5 miles west of
24 the Columbus, New Mexico, port of entry
25 to 10 miles east of El Paso, Texas;

1 “(iv) extending from 5 miles north-
2 west of the Del Rio, Texas, port of entry
3 to 5 miles southeast of the Eagle Pass,
4 Texas, port of entry; and

5 “(v) extending 15 miles northwest of
6 the Laredo, Texas, port of entry to the
7 Brownsville, Texas, port of entry.

8 “(B) **COMPLETION DATES.**—With respect
9 to the border area described in subparagraph
10 (A), the Secretary shall ensure that the duties
11 required under such subparagraph are com-
12 pleted by not later than July 31, 2011.

13 “(C) **EXCEPTION.**—If the topography of a
14 specific area has an elevation grade that ex-
15 ceeds 10 percent, the Secretary may use other
16 means to secure such area, including the use of
17 surveillance and barrier tools.”.

18 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There is
19 authorized to be appropriated to the Secretary of Home-
20 land Security such sums as may be necessary to carry out
21 the amendment made by subsection (a).

22 (c) **REPEALS.**—Subsection (b) of section 564 of divi-
23 sion E of the Consolidated Appropriations Act, 2008
24 (Public Law 110–161) is repealed. The amendment made
25 by subsection (a)(2)(A) of such section is repealed.

1 **SEC. 802. INCREASE IN FULL-TIME BORDER PATROL**
 2 **AGENTS.**

3 Section 5202 of the Intelligence Reform and Ter-
 4 rorism Prevention Act of 2004 (Public Law 108–458; 118
 5 Stat. 3734) is amended to read as follows:

6 **“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
 7 **AGENTS.**

8 “(a) **ANNUAL INCREASES.**—The Secretary of Home-
 9 land Security shall, subject to the availability of appropria-
 10 tions for such purpose, increase the number of positions
 11 for full-time active-duty Border Patrol agents within the
 12 Department of Homeland Security (above the number of
 13 positions for which funds were appropriated for the pre-
 14 ceding fiscal year), by—

- 15 “(1) 2,500 in fiscal year 2011;
- 16 “(2) 2,000 in fiscal year 2012;
- 17 “(3) 1,500 in fiscal year 2013;
- 18 “(4) 1,000 in fiscal year 2014; and
- 19 “(5) 1,000 in fiscal year 2015.

20 “(b) **ALLOCATIONS.**—Of the Border Patrol agents
 21 hired under subsection (a), 80 percent shall be deployed
 22 along the southern border of the United States and 20
 23 percent shall be deployed along the northern border of the
 24 United States.

25 “(c) **AUTHORIZATION OF APPROPRIATIONS.**—The
 26 necessary funds are authorized to be appropriated for each

1 of fiscal years 2011 through 2015 to carry out this sec-
2 tion.”.

3 **SEC. 803. INCREASE IN NUMBER OF ICE AGENTS.**

4 Section 5203 of the Intelligence Reform and Ter-
5 rorism Prevention Act of 2004 (Public Law 108–458; 118
6 Stat. 3734) is amended to read as follows:

7 **“SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND**
8 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

9 “(a) **IN GENERAL.**—By not later than September 30,
10 2015, the Secretary of Homeland Security shall, subject
11 to the availability of appropriations for such purpose, in-
12 crease by 3,000 the number of positions for full-time ac-
13 tive-duty investigators within the Department of Home-
14 land Security investigating violations of immigration laws
15 (as defined in section 101(a)(17) of the Immigration and
16 Nationality Act (8 U.S.C. 1101(a)(17))) above the number
17 of such positions for which funds were made available dur-
18 ing the preceding fiscal year.

19 “(b) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated to the Secretary to carry
21 out this section such sums as may be necessary for each
22 fo fiscal years 2011 through 2015.”.

1 **SEC. 804. PROHIBITION ON IMPEDING CERTAIN ACTIVITIES**
 2 **OF THE SECRETARY OF HOMELAND SECU-**
 3 **RITY RELATED TO BORDER SECURITY.**

4 On public lands of the United States, neither the Sec-
 5 retary of the Interior nor the Secretary of Agriculture may
 6 impede, prohibit, or restrict activities of the Secretary of
 7 Homeland Security to achieve operational control (as de-
 8 fined in section 2(b) of the Secure Fence Act of 2006 (8
 9 U.S.C. 1701 note; Public Law 109–367)).

10 **TITLE IX—STATE AND LOCAL**
 11 **GOVERNMENT AUTHORITY**
 12 **Subtitle A—General Provisions**

13 **SEC. 901. STATE DEFINED; SEVERABILITY.**

14 (a) **STATE DEFINED.**—For purposes of this title the
 15 term “State” has the meaning given such term in section
 16 101(a)(36) of the Immigration and Nationality Act (8
 17 U.S.C. 1101(a)(36)).

18 (b) **SEVERABILITY.**—If any provision of this title, or
 19 the application of such provision to any person or cir-
 20 cumstance, is held invalid, the remainder of this title and
 21 the application of such provision to other persons not simi-
 22 larly situated or to other circumstances, shall not be af-
 23 fected by such invalidation.

1 **SEC. 902. FEDERAL AFFIRMATION OF ASSISTANCE IN THE**
2 **IMMIGRATION LAW ENFORCEMENT BY**
3 **STATES AND POLITICAL SUBDIVISIONS OF**
4 **STATES.**

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

17 **SEC. 903. STATE AUTHORIZATION FOR ASSISTANCE IN THE**
18 **ENFORCEMENT OF IMMIGRATION LAWS EN-**
19 **COURAGED.**

20 (a) **IN GENERAL.**—Effective two years after the date
21 of the enactment of this Act, a State, or a political subdivi-
22 sion of a State, that has in effect a statute, policy, or prac-
23 tice that prohibits law enforcement officers of the State,
24 or of a political subdivision of the State, from assisting
25 or cooperating with Federal immigration law enforcement
26 in the course of carrying out the officers' routine law en-

1 forcement duties shall not receive any of the funds that
2 would otherwise be allocated to the State under section
3 241(i) of the Immigration and Nationality Act (8 U.S.C.
4 1231(i)).

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

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

15 SEC. 904. LISTING OF IMMIGRATION VIOLATORS IN THE NA-
16 TIONAL CRIME INFORMATION CENTER DATA-
17 BASE.

(a) **PROVISION OF INFORMATION TO THE NCIC.**—

Not later than 180 days after the date of the enactment of this Act and periodically thereafter as updates may require, 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 possess regarding any aliens against whom

1 a final order of removal has been issued, any aliens who
2 have signed a voluntary departure agreement, any aliens
3 who have overstayed their authorized period of stay, and
4 any aliens whose visas have been revoked. The National
5 Crime Information Center shall enter such information
6 into the Immigration Violators File of the National Crime
7 Information Center database, regardless of whether—

8 (1) the alien concerned received notice of a final
9 order of removal;

10 (2) the alien concerned has already been re-
11 moved; or

12 (3) sufficient identifying information is avail-
13 able with respect to the alien concerned.

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

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

19 (2) by redesignating paragraph (4) as para-
20 graph (5); and

21 (3) by inserting after paragraph (3) the fol-
22 lowing new paragraph:

23 “(4) acquire, collect, classify, and preserve
24 records of violations by aliens of the immigration
25 laws of the United States, regardless of whether any

1 such alien has received notice of the violation or
 2 whether sufficient identifying information is avail-
 3 able with respect to any such alien and even if any
 4 such alien has already been removed from the
 5 United States; and”.

6 **SEC. 905. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
 7 **SION OF INFORMATION ABOUT APPRE-**
 8 **HENDED ALIENS.**

9 (a) **PROVISION OF INFORMATION.**—In compliance
 10 with section 642(a) of the Illegal Immigration Reform and
 11 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
 12 and section 434 of the Personal Responsibility and Work
 13 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
 14 each State, and each political subdivision of a State, shall
 15 provide the Secretary of Homeland Security in a timely
 16 manner with the information specified in subsection (b)
 17 with respect to each alien apprehended in the jurisdiction
 18 of the State, or in the political subdivision of the State,
 19 who is believed to be in violation of the immigration laws
 20 of the United States.

21 (b) **INFORMATION REQUIRED.**—The information re-
 22 ferred to in subsection (a) is as follows:

- 23 (1) The alien’s name.
- 24 (2) The alien’s address or place of residence.
- 25 (3) A physical description of the alien.

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

4 (5) If applicable, the alien's driver's license
5 number and the State of issuance of such license.

6 (6) If applicable, the type of any other identi-
7 fication document issued to the alien, any designa-
8 tion number contained on the identification docu-
9 ment, and the issuing entity for the identification
10 document.

11 (7) If applicable, the license plate number,
12 make, and model of any automobile registered to, or
13 driven by, the alien.

14 (8) A photo of the alien, if available or readily
15 obtainable.

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

18 (c) **ANNUAL REPORT ON REPORTING.**—The Sec-
19 retary shall maintain and annually submit to Congress a
20 detailed report listing the States, or the political subdivi-
21 sions of States, that have provided information under sub-
22 section (a) in the preceding year.

23 (d) **REIMBURSEMENT.**—The Secretary of Homeland
24 Security shall reimburse States, and political subdivisions
25 of a State, for all reasonable costs, as determined by the

1 Secretary, incurred by the State, or the political subdivi-
2 sion of a State, as a result of providing information under
3 subsection (a).

4 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is
5 authorized to be appropriated to the Secretary such sums
6 as are necessary to carry out this section.

7 (f) **CONSTRUCTION.**—Nothing in this section shall re-
8 quire law enforcement officials of a State, or of a political
9 subdivision of a State, to provide the Secretary of Home-
10 land Security with information related to a victim of a
11 crime or witness to a criminal offense.

12 **SEC. 906. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
13 **POLICE AGENCIES THAT ASSIST IN THE EN-**
14 **FORCEMENT OF IMMIGRATION LAWS.**

15 (a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING**
16 **AND PROCESSING CERTAIN ALIENS.**—From amounts
17 made available to make grants under this section, the Sec-
18 retary of Homeland Security shall make grants to States,
19 and to political subdivisions of States, for procurement of
20 equipment, technology, facilities, and other products that
21 facilitate and are directly related to investigating, appre-
22 hending, arresting, detaining, or transporting aliens who
23 have violated the immigration law of the United States,
24 including additional administrative costs incurred under
25 this title.

1 (b) **ELIGIBILITY.**—To be eligible to receive a grant
2 under this section, a State, or a political subdivision of
3 a State, must have the authority to, and shall have a writ-
4 ten policy and a practice to, assist in the enforcement of
5 the immigration laws of the United States in the course
6 of carrying out the routine law enforcement duties of such
7 State or political subdivision of a State. Entities covered
8 under this section may not have any policy or practice that
9 prevents local law enforcement from inquiring about a sus-
10 pect’s immigration status.

11 (c) **FUNDING.**—There is authorized to be appro-
12 priated to the Secretary for grants under this section such
13 sums as may be necessary for fiscal year 2011 and each
14 subsequent fiscal year.

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

20 **SEC. 907. INCREASED FEDERAL DETENTION SPACE.**

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

23 (1) **IN GENERAL.**—The Secretary of Homeland
24 Security shall construct or acquire, in addition to ex-
25 isting facilities for the detention of aliens, 20 deten-

1 tion facilities in the United States, with at least 500
2 beds per facility, for aliens detained pending removal
3 from the United States or a decision regarding such
4 removal.

5 (2) **DETERMINATIONS.**—The location of any de-
6 tention facility built or acquired in accordance with
7 this subsection shall be determined by the Deputy
8 Assistant Director of the Detention Management Di-
9 vision of the Immigration and Customs Enforcement
10 Office of Detention and Removal within United
11 States Immigration and Customs Enforcement.

12 (3) **USE OF INSTALLATIONS UNDER BASE CLO-**
13 **SURE LAWS.**—In acquiring detention facilities under
14 this subsection, the Secretary of Homeland Security
15 shall consider the transfer of appropriate portions of
16 military installations approved for closure or realign-
17 ment under the Defense Base Closure and Realign-
18 ment Act of 1990 (part A of title XXIX of Public
19 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
20 cordance with paragraph (1).

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

24 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
25 Section 241(g)(1) of the Immigration and Nationality Act

1 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
 2 pend” and inserting “shall expend”.

3 **SEC. 908. FEDERAL CUSTODY OF ALIENS UNLAWFULLY**
 4 **PRESENT IN THE UNITED STATES APPRE-**
 5 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
 6 **MENT.**

7 (a) **STATE APPREHENSION.**—

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

12 “**CUSTODY OF ALIENS UNLAWFULLY PRESENT IN THE**
 13 **UNITED STATES**

14 “**SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 15 **AND LOCAL OFFICIALS.**—If a State, or a political subdivi-
 16 sion of the State, exercising authority with respect to the
 17 apprehension or arrest of an alien who is unlawfully
 18 present in the United States submits to the Secretary of
 19 Homeland Security a request that the alien be taken into
 20 Federal custody, the Secretary—

21 “(1) shall—

22 “(A) not later than 48 hours after the con-
 23 clusion of the State, or the political subdivision
 24 of a State, charging process or dismissal proc-
 25 ess, or if no State or political subdivision charg-
 26 ing or dismissal process is required, not later

1 than 48 hours after the alien is apprehended,
2 take the alien into the custody of the Federal
3 Government and incarcerate the alien; or

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

8 “(2) shall designate at least one Federal, State,
9 or local prison or jail or a private contracted prison
10 or detention facility within each State as the central
11 facility for that State to transfer custody of aliens
12 to the Department of Homeland Security.

13 “(b) **POLICY ON DETENTION IN STATE AND LOCAL**
14 **DETENTION FACILITIES.**—In carrying out section
15 241(g)(1), the Attorney General or Secretary of Homeland
16 Security shall ensure that an alien arrested under this Act
17 shall be detained, pending the alien’s being taken for the
18 examination under this section, in a State or local prison,
19 jail, detention center, or other comparable facility. Not-
20 withstanding any other provision of law or regulation,
21 such facility is adequate for detention, if—

22 “(1) such a facility is the most suitably located
23 Federal, State, or local facility available for such
24 purpose under the circumstances;

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

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

6 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
7 Security shall reimburse States, and political subdivisions
8 of a State, for all reasonable expenses, as determined by
9 the Secretary, incurred by the State, or political subdivi-
10 sion, as a result of the incarceration and transportation
11 of an alien who is unlawfully present in the United States
12 as described in subparagraphs (A) and (B) of subsection
13 (a)(1). Compensation provided for costs incurred under
14 such subparagraphs shall be the average cost of incarcer-
15 ation of a prisoner in the relevant State, as determined
16 by the chief executive officer of a State, or of a political
17 subdivision of a State, plus the cost of transporting the
18 alien from the point of apprehension to the place of deten-
19 tion, and to the custody transfer point if the place of de-
20 tention and place of custody are different.

21 “(d) **SECURE FACILITIES.**—The Secretary of Home-
22 land Security shall ensure that aliens incarcerated in Fed-
23 eral facilities pursuant to this Act are held in facilities
24 that provide an appropriate level of security.

25 “(e) **TRANSFER.**—

1 “(1) **IN GENERAL.**—In carrying out this sec-
2 tion, the Secretary of Homeland Security shall es-
3 tablish a regular circuit and schedule for the prompt
4 transfer of apprehended aliens from the custody of
5 States, and political subdivisions of a State, to Fed-
6 eral custody.

7 “(2) **CONTRACTS.**—The Secretary may enter
8 into contracts, including appropriate private con-
9 tracts, to implement this subsection.

10 “(f) **DEFINITION.**—For purposes of this section, the
11 term ‘alien who is unlawfully present in the United States’
12 means an alien who—

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

16 “(2) was admitted as a nonimmigrant and who,
17 at the time the alien was taken into custody by the
18 State, or a political subdivision of the State, had
19 failed to—

20 “(A) maintain the nonimmigrant status in
21 which the alien was admitted or to which it was
22 changed under section 248; or

23 “(B) comply with the conditions of any
24 such status;

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

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

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

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

10 (b) **GAO AUDIT.**—Not later than three years after
 11 the date of the enactment of this Act, the Comptroller
 12 General of the United States shall conduct an audit of
 13 compensation to States, and to political subdivisions of a
 14 State, for the incarceration of aliens unlawfully present
 15 in the United States under section 240D(a) of the Immi-
 16 gration and Nationality Act (as added by subsection
 17 (a)(1)).

18 **SEC. 909. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
 19 **MENT PERSONNEL RELATING TO THE EN-**
 20 **FORCEMENT OF IMMIGRATION LAWS.**

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

1 (1) a training manual for law enforcement per-
2 sonnel of a State, or of a political subdivision of a
3 State, to train such personnel in the investigation,
4 identification, apprehension, arrest, detention, and
5 transfer to Federal custody of aliens unlawfully
6 present in the United States (including the transpor-
7 tation of such aliens across State lines to detention
8 centers and the identification of fraudulent docu-
9 ments); and

10 (2) an immigration enforcement pocket guide
11 for law enforcement personnel of a State, or of a po-
12 litical subdivision of a State, to provide a quick ref-
13 erence for such personnel in the course of duty.

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

18 (c) **APPLICABILITY.**—Nothing in this section shall be
19 construed to require State or local law enforcement per-
20 sonnel to carry the training manual or pocket guide with
21 them while on duty.

22 (d) **COSTS.**—The Secretary of Homeland Security
23 shall be responsible for any costs incurred in establishing
24 the training manual and pocket guide.

25 (e) **TRAINING FLEXIBILITY.**—

1 (1) **IN GENERAL.**—The Secretary of Homeland
2 Security shall make training of State and local law
3 enforcement officers available through as many
4 means as possible, including through residential
5 training at the Center for Domestic Preparedness,
6 onsite training held at State or local police agencies
7 or facilities, online training courses by computer,
8 teleconferencing, and videotape, or the digital video
9 display (DVD) of a training course or courses. E-
10 learning through a secure, encrypted distributed
11 learning system that has all its servers based in the
12 United States, is scalable, survivable, and can have
13 a portal in place not later than 30 days after the
14 date of the enactment of this Act, shall be made
15 available by the Federal Law Enforcement Training
16 Center Distributed Learning Program for State and
17 local law enforcement personnel.

18 (2) **FEDERAL PERSONNEL TRAINING.**—The
19 training of State and local law enforcement per-
20 sonnel under this section shall not displace the train-
21 ing of Federal personnel.

22 (3) **CLARIFICATION.**—Nothing in this title or
23 any other provision of law shall be construed as
24 making any immigration-related training a require-
25 ment for, or prerequisite to, any State or local law

1 enforcement officer to assist in the enforcement of
2 Federal immigration laws in the normal course of
3 carrying out the normal law enforcement duties of
4 such officers.

5 In carrying out this section, priority funding shall be given
6 for existing Web-based immigration enforcement training
7 systems.

8 **SEC. 910. IMMUNITY.**

9 (a) **PERSONAL IMMUNITY.**—Notwithstanding any
10 other provision of law, a law enforcement officer of a State
11 or local law enforcement agency who is acting within the
12 scope of the officer's official duties shall be immune, to
13 the same extent as a Federal law enforcement officer,
14 from personal liability arising out of the performance of
15 any duty described in this title.

16 (b) **AGENCY IMMUNITY.**—Notwithstanding any other
17 provision of law, a State or local law enforcement agency
18 shall be immune from any claim for money damages based
19 on Federal, State, or local civil rights law for an incident
20 arising out of the enforcement of any immigration law,
21 except to the extent a law enforcement officer of such
22 agency committed a violation of Federal, State, or local
23 criminal law in the course of enforcing such immigration
24 law.

1 **SEC. 911. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

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

3 (1) **IN GENERAL.**—The Secretary of Homeland
4 Security shall continue to operate and implement the
5 program known as the Institutional Removal Pro-
6 gram (IRP) which—

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

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

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

13 (2) **EXPANSION.**—The Institutional Removal
14 Program shall be extended to all States. Any State
15 that receives Federal funds for the incarceration of
16 criminal aliens shall—

17 (A) cooperate with officials of the Institu-
18 tional Removal Program;

19 (B) expeditiously and systematically iden-
20 tify criminal aliens in its prison and jail popu-
21 lations; and

22 (C) promptly convey such information to
23 officials of such Program as a condition of re-
24 ceiving such funds.

25 (b) **AUTHORIZATION FOR DETENTION AFTER COM-**
26 **PLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law

1 enforcement officers of a State, or of a political subdivision
2 of a State, are authorized to—

3 (1) hold a criminal alien for a period of up to
4 14 days after the alien has completed the alien's
5 State prison sentence in order to effectuate the
6 transfer of the alien to Federal custody when the
7 alien is removable or not lawfully present in the
8 United States; or

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

14 (c) **TECHNOLOGY USAGE.**—Technology such as video
15 conferencing shall be used to the maximum extent prac-
16 ticable in order to make the Institutional Removal Pro-
17 gram available in remote locations. Mobile access to Fed-
18 eral databases of aliens, such as IDENT, and live scan
19 technology shall be used to the maximum extent prac-
20 ticable in order to make these resources available to State
21 and local law enforcement agencies in remote locations.

1 **Subtitle B—Eliminating Sanctuary** 2 **Cities**

3 **SEC. 921. ELIMINATING SANCTUARY CITIES.**

4 None of the funds made available for the Department
5 of Homeland Security or the Department of Justice may
6 be provided to any State or unit of local government that
7 has in effect any law, policy, or procedure in contravention
8 of subsection (a) or (b) of section 642 of the Illegal Immi-
9 gration Reform and Immigrant Responsibility Act of 1996
10 (8 U.S.C. 1373).

11 **Subtitle C—Criminal Aliens**

12 **SEC. 931. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM** 13 **(SCAAP).**

14 Section 241(i)(5) of the Immigration and Nationality
15 Act (8 U.S.C.1231(i)) is amended to read as follows:

16 “(5) There are authorized to be appropriated to
17 carry out this subsection such sums as may be nec-
18 essary for fiscal year 2011 and each subsequent fis-
19 cal year.”.

20 **SEC. 932. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to the Sec-
22 retary for fiscal year 2011 and each subsequent fiscal year
23 such sums as may be necessary to carry out this title.

1 **SEC. 933. ASSISTANCE FOR STATES INCARCERATING UN-**
 2 **DOCUMENTED ALIENS CHARGED WITH CER-**
 3 **TAIN CRIMES.**

4 Section 241(i)(3)(A) of the Immigration and Nation-
 5 ality Act (8 U.S.C. 1231(a)(3)(A)) is amended by insert-
 6 ing “charged with or” before “convicted”.

7 **SEC. 934. PREEMPTION.**

8 It is the sense of the Congress that States and local
 9 political subdivisions are not preempted from the enact-
 10 ment and enforcement of immigration-related laws and or-
 11 dinances that do not directly conflict with Federal immi-
 12 gration laws.

13 **TITLE X—PROHIBITING IN-**
 14 **STATE TUITION FOR UNLAW-**
 15 **FULLY PRESENT ALIENS**

16 **SEC. 1001. ENSURING ENFORCEABILITY.**

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

20 (1) in subsection (a)—

21 (A) by striking “on the basis of residence
 22 within a State (or a political subdivision)”; and

23 (B) by striking “unless a citizen” and all
 24 that follows through the period at the end and
 25 inserting “unless every citizen or national of the
 26 United States is entitled to such a benefit (in

1 no less an amount, duration, and scope) with-
 2 out regard to whether the citizen or national is
 3 a resident of the State or has attended or grad-
 4 uated from a school in the State.”;

5 (2) by redesignating subsection (b) as sub-
 6 section (c); and

7 (3) by inserting the following after subsection
 8 (a):

9 “(b) **ENFORCEMENT THROUGH CIVIL ACTION.**—

10 “(1) **IN GENERAL.**—Any citizen or national of
 11 the United States who is attending or is enrolled to
 12 attend a postsecondary educational institution al-
 13 leged to be in violation of subsection (a) may com-
 14 mence a civil action on his own behalf against any
 15 official of the State entity that governs such postsec-
 16 ondary educational institutions or of the educational
 17 institution itself to enforce the terms of subsection
 18 (a).

19 “(2) **RELIEF.**—The court shall provide all ap-
 20 propriate relief, including damages equal to the
 21 monetary value of any benefit provided to an illegal
 22 alien but denied to the citizen or national of the
 23 United States, and shall award attorneys’ fees and
 24 costs to a citizen or national of the United States

1 who establishes a violation of subsection (a) to the
2 satisfaction of the court.

3 “(3) **AUTHORITY.**—This subsection is enacted
4 pursuant to section 5 of the 14th amendment to the
5 Constitution of the United States.”.

○

IB

Union Calendar No. 509

113TH CONGRESS
2D SESSION

H. R. 2278

[Report No. 113–678, Part I]

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2013

Mr. GOWDY (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. FORBES, Mrs. BLACKBURN, Mr. BISHOP of Utah, Mr. COBLE, Mr. POE of Texas, Mr. WESTMORELAND, Mr. CHAFFETZ, Mr. SENSENBRENNER, Mrs. BACHMANN, Mr. COLLINS of Georgia, Mr. WOODALL, Mr. MULVANEY, Mr. FRANKS of Arizona, Mr. PEARCE, Mr. DESANTIS, Mr. CHABOT, and Mr. LABRADOR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Agriculture, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 16, 2014

Additional sponsors: Mr. ISSA, Mr. HOLDING, Mr. MARINO, Mr. SESSIONS, Mr. POMPEO, Mr. CALVERT, Mr. WEBER of Texas, Mr. MCKINLEY, Mr. STUTZMAN, Mr. BARTON, Mr. PITTENGER, Mr. CRAMER, Mrs. LUMMIS, Mr. LAMALFA, Mr. PERRY, Mr. STEWART, Mr. BROOKS of Alabama, Mr. AUSTIN SCOTT of Georgia, Mr. MARCHANT, and Mr. GOSAR

DECEMBER 16, 2014

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 16, 2014

The Committees on Homeland Security, Agriculture, and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 6, 2013]

A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Strengthen and Fortify*
 5 *Enforcement Act” or the “SAFE Act”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND
LOCALITIES**

Sec. 101. Definitions and severability.

Sec. 102. Immigration law enforcement by States and localities.

Sec. 103. Listing of immigration violators in the national crime information cen-
ter database.

Sec. 104. Technology access.

Sec. 105. State and local law enforcement provision of information about appre-
hended aliens.

Sec. 106. Financial assistance to State and local police agencies that assist in the
enforcement of immigration laws.

Sec. 107. Increased Federal detention space.

Sec. 108. Federal custody of inadmissible and deportable aliens in the United
States apprehended by State or local law enforcement.

Sec. 109. Training of State and local law enforcement personnel relating to the
enforcement of immigration laws.

Sec. 110. Immunity.

Sec. 111. Criminal alien identification program.

Sec. 112. Clarification of congressional intent.

Sec. 113. State criminal alien assistance program (SCAAP).

Sec. 114. State violations of enforcement of immigration laws.

Sec. 115. Clarifying the authority of ICE detainees.

TITLE II—NATIONAL SECURITY

Sec. 201. Removal of, and denial of benefits to, terrorist aliens.

Sec. 202. Terrorist bar to good moral character.

Sec. 203. Terrorist bar to naturalization.

Sec. 204. Denaturalization for terrorists.

Sec. 205. Use of 1986 IRCA legalization information for national security pur-
poses.

Sec. 206. Background and security checks.

Sec. 207. Technical amendments relating to the Intelligence Reform and Ter-
rorism Prevention Act of 2004.

4

TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony.*
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.*
- Sec. 303. Espionage clarification.*
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.*
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.*
- Sec. 306. Conforming amendment to the definition of racketeering activity.*
- Sec. 307. Conforming amendments for the aggravated felony definition.*
- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.*
- Sec. 309. Inadmissibility, deportability, and detention of drunk drivers.*
- Sec. 310. Detention of dangerous aliens.*
- Sec. 311. Grounds of inadmissibility and deportability for alien gang members.*
- Sec. 312. Extension of identity theft offenses.*
- Sec. 313. Laundering of monetary instruments.*
- Sec. 314. Increased criminal penalties relating to alien smuggling and related offenses.*
- Sec. 315. Penalties for illegal entry or presence.*
- Sec. 316. Illegal reentry.*
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.*
- Sec. 318. Forfeiture.*
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.*
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.*
- Sec. 321. Protecting immigrants from convicted sex offenders.*
- Sec. 322. Clarification to crimes of violence and crimes involving moral turpitude.*
- Sec. 323. Penalties for failure to obey removal orders.*
- Sec. 324. Pardons.*

TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.*
- Sec. 402. Visa information sharing.*
- Sec. 403. Restricting waiver of visa interviews.*
- Sec. 404. Authorizing the Department of State to not interview certain ineligible visa applicants.*
- Sec. 405. Visa refusal and revocation.*
- Sec. 406. Funding for the visa security program.*
- Sec. 407. Expedited expansion of visa security program to high-risk posts.*
- Sec. 408. Expedited clearance and placement of Department of Homeland Security personnel at overseas embassies and consular posts.*
- Sec. 409. Accreditation requirements.*
- Sec. 410. Visa fraud.*
- Sec. 411. Background checks.*
- Sec. 412. Number of designated school officials.*
- Sec. 413. Reporting requirement.*
- Sec. 414. Flight schools not certified by FAA.*
- Sec. 415. Revocation of accreditation.*
- Sec. 416. Report on risk assessment.*
- Sec. 417. Implementation of GAO recommendations.*

Sec. 418. Implementation of SEVIS II.

Sec. 419. Definitions.

**TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
OFFICERS**

Sec. 501. ICE immigration enforcement agents.

Sec. 502. ICE detention enforcement officers.

Sec. 503. Ensuring the safety of ICE officers and agents.

Sec. 504. ICE Advisory Council.

Sec. 505. Pilot program for electronic field processing.

Sec. 506. Additional ICE deportation officers and support staff.

Sec. 507. Additional ICE prosecutors.

TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS

Sec. 601. Encouraging aliens to depart voluntarily.

Sec. 602. Deterring aliens ordered removed from remaining in the United States unlawfully.

Sec. 603. Reinstatement of removal orders.

Sec. 604. Clarification with respect to definition of admission.

Sec. 605. Reports to Congress on the exercise and abuse of prosecutorial discretion.

Sec. 606. Waiver of Federal laws with respect to border security actions on Department of the Interior and Department of Agriculture lands.

Sec. 607. Biometric entry and exit data system.

Sec. 608. Certain activities restricted.

Sec. 609. Border Patrol mobile and rapid response teams.

Sec. 610. GAO study on deaths in custody.

**1 TITLE I—IMMIGRATION LAW EN-
2 FORCEMENT BY STATES AND
3 LOCALITIES**

4 SEC. 101. DEFINITIONS AND SEVERABILITY.

5 (a) **STATE DEFINED.**—For the purposes of this title,
6 the term “State” has the meaning given to such term in
7 section 101(a)(36) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(36)).

9 (b) **SECRETARY DEFINED.**—For the purpose of this
10 title, the term “Secretary” means the Secretary of Home-
11 land Security.

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

7 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**
 8 **AND LOCALITIES.**

9 (a) *IN GENERAL*.—Subject to section 274A(h)(2) of the
 10 Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)),
 11 States, or political subdivisions of States, may enact, imple-
 12 ment and enforce criminal penalties that penalize the same
 13 conduct that is prohibited in the criminal provisions of im-
 14 migration laws (as defined in section 101(a)(17) of the Im-
 15 migration and Nationality Act (8 U.S.C. 1101(a)(17))), as
 16 long as the criminal penalties do not exceed the relevant
 17 Federal criminal penalties (without regard to ancillary
 18 issues such as the availability of probation or pardon).
 19 States, or political subdivisions of States, may enact, imple-
 20 ment and enforce civil penalties that penalize the same con-
 21 duct that is prohibited in the civil provisions of immigra-
 22 tion laws (as defined in such section 101(a)(17)), as long
 23 as the civil penalties do not exceed the relevant Federal civil
 24 penalties.

1 (b) *LAW ENFORCEMENT PERSONNEL.*—*Law enforce-*
2 *ment personnel of a State, or of a political subdivision of*
3 *a State, may investigate, identify, apprehend, arrest, de-*
4 *tain, or transfer to Federal custody aliens for the purposes*
5 *of enforcing the immigration laws of the United States to*
6 *the same extent as Federal law enforcement personnel. Law*
7 *enforcement personnel of a State, or of a political subdivi-*
8 *sion of a State, may also investigate, identify, apprehend,*
9 *arrest, or detain aliens for the purposes of enforcing the im-*
10 *migration laws of a State or of a political subdivision of*
11 *State, as long as those immigration laws are permissible*
12 *under this section. Law enforcement personnel of a State,*
13 *or of a political subdivision of a State, may not remove*
14 *aliens from the United States.*

15 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
16 **TIONAL CRIME INFORMATION CENTER DATA-**
17 **BASE.**

18 (a) *PROVISION OF INFORMATION TO THE NCIC.*—*Not*
19 *later than 180 days after the date of the enactment of this*
20 *Act and periodically thereafter as updates may require, the*
21 *Secretary shall provide the National Crime Information*
22 *Center of the Department of Justice with all information*
23 *that the Secretary may possess regarding any alien against*
24 *whom a final order of removal has been issued, any alien*
25 *who has entered into a voluntary departure agreement, any*

1 *alien who has overstayed their authorized period of stay,*
 2 *and any alien whose visa has been revoked. The National*
 3 *Crime Information Center shall enter such information into*
 4 *the Immigration Violators File of the National Crime Infor-*
 5 *mation Center database, regardless of whether—*

6 *(1) the alien received notice of a final order of*
 7 *removal;*

8 *(2) the alien has already been removed; or*

9 *(3) sufficient identifying information is avail-*
 10 *able with respect to the alien.*

11 *(b) INCLUSION OF INFORMATION IN THE NCIC DATA-*
 12 *BASE.—*

13 *(1) IN GENERAL.—Section 534(a) of title 28,*
 14 *United States Code, is amended—*

15 *(A) in paragraph (3), by striking “and” at*
 16 *the end;*

17 *(B) by redesignating paragraph (4) as*
 18 *paragraph (5); and*

19 *(C) by inserting after paragraph (3) the fol-*
 20 *lowing:*

21 *“(4) acquire, collect, classify, and preserve*
 22 *records of violations by aliens of the immigration*
 23 *laws of the United States, regardless of whether any*
 24 *such alien has received notice of the violation or*
 25 *whether sufficient identifying information is available*

1 *with respect to any such alien or whether any such*
 2 *alien has already been removed from the United*
 3 *States; and”.*

4 (2) **EFFECTIVE DATE.**—*The Attorney General*
 5 *and the Secretary shall ensure that the amendment*
 6 *made by paragraph (1) is implemented by not later*
 7 *than 6 months after the date of the enactment of this*
 8 *Act.*

9 **SEC. 104. TECHNOLOGY ACCESS.**

10 *States shall have access to Federal programs or tech-*
 11 *nology directed broadly at identifying inadmissible or de-*
 12 *portable aliens.*

13 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
 14 **SION OF INFORMATION ABOUT APPRE-**
 15 **HENDED ALIENS.**

16 (a) **PROVISION OF INFORMATION.**—*In compliance with*
 17 *section 642(a) of the Illegal Immigration Reform and Im-*
 18 *migrant Responsibility Act of 1996 (8 U.S.C. 1373) and*
 19 *section 434 of the Personal Responsibility and Work Oppor-*
 20 *tunity Reconciliation Act of 1996 (8 U.S.C. 1644), each*
 21 *State, and each political subdivision of a State, shall pro-*
 22 *vide the Secretary of Homeland Security in a timely man-*
 23 *ner with the information specified in subsection (b) with*
 24 *respect to each alien apprehended in the jurisdiction of the*

1 *State, or in the political subdivision of the State, who is*
2 *believed to be inadmissible or deportable.*

3 (b) **INFORMATION REQUIRED.**—*The information re-*
4 *ferred to in subsection (a) is as follows:*

5 (1) *The alien's name.*

6 (2) *The alien's address or place of residence.*

7 (3) *A physical description of the alien.*

8 (4) *The date, time, and location of the encounter*
9 *with the alien and reason for stopping, detaining, ap-*
10 *prehending, or arresting the alien.*

11 (5) *If applicable, the alien's driver's license num-*
12 *ber and the State of issuance of such license.*

13 (6) *If applicable, the type of any other identi-*
14 *fication document issued to the alien, any designation*
15 *number contained on the identification document,*
16 *and the issuing entity for the identification document.*

17 (7) *If applicable, the license plate number, make,*
18 *and model of any automobile registered to, or driven*
19 *by, the alien.*

20 (8) *A photo of the alien, if available or readily*
21 *obtainable.*

22 (9) *The alien's fingerprints, if available or read-*
23 *ily obtainable.*

24 (c) **ANNUAL REPORT ON REPORTING.**—*The Secretary*
25 *shall maintain and annually submit to the Congress a de-*

1 *tailed report listing the States, or the political subdivisions*
 2 *of States, that have provided information under subsection*
 3 *(a) in the preceding year.*

4 *(d) REIMBURSEMENT.—The Secretary shall reimburse*
 5 *States, and political subdivisions of a State, for all reason-*
 6 *able costs, as determined by the Secretary, incurred by the*
 7 *State, or the political subdivision of a State, as a result*
 8 *of providing information under subsection (a).*

9 *(e) AUTHORIZATION OF APPROPRIATIONS.—There are*
 10 *authorized to be appropriated such sums as may be nec-*
 11 *essary to carry out this section.*

12 *(f) CONSTRUCTION.—Nothing in this section shall re-*
 13 *quire law enforcement officials of a State, or of a political*
 14 *subdivision of a State, to provide the Secretary with infor-*
 15 *mation related to a victim of a crime or witness to a crimi-*
 16 *nal offense.*

17 *(g) EFFECTIVE DATE.—This section shall take effect*
 18 *on the date that is 120 days after the date of the enactment*
 19 *of this Act and shall apply with respect to aliens appre-*
 20 *hended on or after such date.*

21 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
 22 **POLICE AGENCIES THAT ASSIST IN THE EN-**
 23 **FORCEMENT OF IMMIGRATION LAWS.**

24 *(a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING*
 25 *AND PROCESSING CERTAIN ALIENS.—From amounts made*

1 *available to make grants under this section, the Secretary*
2 *shall make grants to States, and to political subdivisions*
3 *of States, for procurement of equipment, technology, facili-*
4 *ties, and other products that facilitate and are directly re-*
5 *lated to investigating, apprehending, arresting, detaining,*
6 *or transporting aliens who are inadmissible or deportable,*
7 *including additional administrative costs incurred under*
8 *this title.*

9 (b) *ELIGIBILITY.*—*To be eligible to receive a grant*
10 *under this section, a State, or a political subdivision of a*
11 *State, must have the authority to, and shall have a written*
12 *policy and a practice to, assist in the enforcement of the*
13 *immigration laws of the United States in the course of car-*
14 *rying out the routine law enforcement duties of such State*
15 *or political subdivision of a State. Entities covered under*
16 *this section may not have any policy or practice that pre-*
17 *vents local law enforcement from inquiring about a sus-*
18 *pect's immigration status.*

19 (c) *FUNDING.*—*There is authorized to be appropriated*
20 *for grants under this section such sums as may be necessary*
21 *for fiscal year 2014 and each subsequent fiscal year.*

22 (d) *GAO AUDIT.*—*Not later than 3 years after the date*
23 *of the enactment of this Act, the Comptroller General of the*
24 *United States shall conduct an audit of funds distributed*

1 *to States, and to political subdivisions of a State, under*
 2 *subsection (a).*

3 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

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

6 *(1) IN GENERAL.—The Secretary shall construct*
 7 *or acquire, in addition to existing facilities for the de-*
 8 *tention of aliens, detention facilities in the United*
 9 *States, for aliens detained pending removal from the*
 10 *United States or a decision regarding such removal.*
 11 *Each facility shall have a number of beds necessary*
 12 *to effectuate the purposes of this title.*

13 *(2) DETERMINATIONS.—The location of any de-*
 14 *tention facility built or acquired in accordance with*
 15 *this subsection shall be determined by the Secretary.*

16 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*
 17 *authorized to be appropriated such sums as may be nec-*
 18 *essary to carry out this section.*

19 *(c) TECHNICAL AND CONFORMING AMENDMENT.—Sec-*
 20 *tion 241(g)(1) of the Immigration and Nationality Act (8*
 21 *U.S.C. 1231(g)(1)) is amended by striking “may expend”*
 22 *and inserting “shall expend”.*

1 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
 2 **PORTABLE ALIENS IN THE UNITED STATES**
 3 **APPREHENDED BY STATE OR LOCAL LAW EN-**
 4 **FORCEMENT.**

5 (a) *STATE APPREHENSION.*—

6 (1) *IN GENERAL.*—*Title II of the Immigration*
 7 *and Nationality Act (8 U.S.C. 1151 et seq.) is amend-*
 8 *ed by inserting after section 240C the following:*

9 “**CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS**
 10 **PRESENT IN THE UNITED STATES**
 11 “**SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 12 **AND LOCAL OFFICIALS.**—*If a State, or a political subdivi-*
 13 *sion of the State, exercising authority with respect to the*
 14 *apprehension or arrest of an inadmissible or deportable*
 15 *alien submits to the Secretary of Homeland Security a re-*
 16 *quest that the alien be taken into Federal custody, notwith-*
 17 *standing any other provision of law, regulation, or policy*
 18 *the Secretary—*

19 “(1) *shall take the alien into custody not later*
 20 *than 48 hours after the detainer has been issued fol-*
 21 *lowing the conclusion of the State or local charging*
 22 *process or dismissal process, or if no State or local*
 23 *charging or dismissal process is required, the Sec-*
 24 *retary should issue a detainer and take the alien into*
 25 *custody not later than 48 hours after the alien is ap-*
 26 *prehended, in order to determine whether the alien*

1 *should be detained, placed in removal proceedings, re-*
2 *leased, or removed; and*

3 *“(2) shall request that the relevant State or local*
4 *law enforcement agency temporarily hold the alien in*
5 *their custody or transport the alien for transfer to*
6 *Federal custody.*

7 *“(b) POLICY ON DETENTION IN FEDERAL, CONTRACT,*
8 *STATE, OR LOCAL DETENTION FACILITIES.—In carrying*
9 *out section 241(g)(1), the Attorney General or Secretary of*
10 *Homeland Security shall ensure that an alien arrested*
11 *under this title shall be held in custody, pending the alien’s*
12 *examination under this section, in a Federal, contract,*
13 *State, or local prison, jail, detention center, or other com-*
14 *parable facility. Notwithstanding any other provision of*
15 *law, regulation or policy, such facility is adequate for de-*
16 *tention, if—*

17 *“(1) such a facility is the most suitably located*
18 *Federal, contract, State, or local facility available for*
19 *such purpose under the circumstances;*

20 *“(2) an appropriate arrangement for such use of*
21 *the facility can be made; and*

22 *“(3) the facility satisfies the standards for the*
23 *housing, care, and security of persons held in custody*
24 *by a United States Marshal.*

1 “(c) *REIMBURSEMENT.*—*The Secretary of Homeland*
2 *Security shall reimburse a State, and a political subdivi-*
3 *sion of a State, for all reasonable expenses, as determined*
4 *by the Secretary, incurred by the State, or political subdivi-*
5 *sion, as a result of the incarceration and transportation*
6 *of an alien who is inadmissible or deportable as described*
7 *in subsections (a) and (b). Compensation provided for costs*
8 *incurred under such subsections shall be the average cost*
9 *of incarceration of a prisoner in the relevant State, as deter-*
10 *mined by the chief executive officer of a State, or of a polit-*
11 *ical subdivision of a State, plus the cost of transporting*
12 *the alien from the point of apprehension to the place of de-*
13 *tention, and to the custody transfer point if the place of*
14 *detention and place of custody are different.*

15 “(d) *SECURE FACILITIES.*—*The Secretary of Home-*
16 *land Security shall ensure that aliens incarcerated pursu-*
17 *ant to this title are held in facilities that provide an appro-*
18 *priate level of security.*

19 “(e) *TRANSFER.*—

20 “(1) *IN GENERAL.*—*In carrying out this section,*
21 *the Secretary of Homeland Security shall establish a*
22 *regular circuit and schedule for the prompt transfer*
23 *of apprehended aliens from the custody of States, and*
24 *political subdivisions of a State, to Federal custody.*

1 “(2) **CONTRACTS.**—*The Secretary may enter into*
2 *contracts, including appropriate private contracts, to*
3 *implement this subsection.*”.

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

“Sec. 240D. *Custody of inadmissible and deportable aliens present in the United States.*”.

7 (b) **GAO AUDIT.**—*Not later than 3 years after the date*
8 *of the enactment of this Act, the Comptroller General of the*
9 *United States shall conduct an audit of compensation to*
10 *States, and to political subdivisions of a State, for the in-*
11 *carceration of inadmissible or deportable aliens under sec-*
12 *tion 240D(a) of the Immigration and Nationality Act (as*
13 *added by subsection (a)(1)).*

14 (c) **EFFECTIVE DATE.**—*Section 240D of the Immigra-*
15 *tion and Nationality Act, as added by subsection (a), shall*
16 *take effect on the date of the enactment of this Act, except*
17 *that subsection (e) of such section shall take effect on the*
18 *date that is 120 day after the date of the enactment of this*
19 *Act.*

1 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
2 **MENT PERSONNEL RELATING TO THE EN-**
3 **FORCEMENT OF IMMIGRATION LAWS.**

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

7 (1) a training manual for law enforcement per-
8 sonnel of a State, or of a political subdivision of a
9 State, to train such personnel in the investigation,
10 identification, apprehension, arrest, detention, and
11 transfer to Federal custody of inadmissible and de-
12 portable aliens in the United States (including the
13 transportation of such aliens across State lines to de-
14 tention centers and the identification of fraudulent
15 documents); and

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

20 (b) **AVAILABILITY.**—The training manual and pocket
21 guide established in accordance with subsection (a) shall be
22 made available to all State and local law enforcement per-
23 sonnel.

24 (c) **APPLICABILITY.**—Nothing in this section shall be
25 construed to require State or local law enforcement per-

1 *sonnel to carry the training manual or pocket guide with*
2 *them while on duty.*

3 *(d) COSTS.—The Secretary shall be responsible for any*
4 *costs incurred in establishing the training manual and*
5 *pocket guide.*

6 *(e) TRAINING FLEXIBILITY.—*

7 *(1) IN GENERAL.—The Secretary shall make*
8 *training of State and local law enforcement officers*
9 *available through as many means as possible, includ-*
10 *ing through residential training at the Center for Do-*
11 *mestic Preparedness, onsite training held at State or*
12 *local police agencies or facilities, online training*
13 *courses by computer, teleconferencing, and videotape,*
14 *or the digital video display (DVD) of a training*
15 *course or courses. E-learning through a secure,*
16 *encrypted distributed learning system that has all its*
17 *servers based in the United States, is scalable, surviv-*
18 *able, and can have a portal in place not later than*
19 *30 days after the date of the enactment of this Act,*
20 *shall be made available by the Federal Law Enforce-*
21 *ment Training Center Distributed Learning Program*
22 *for State and local law enforcement personnel.*

23 *(2) FEDERAL PERSONNEL TRAINING.—The train-*
24 *ing of State and local law enforcement personnel*

1 *under this section shall not displace the training of*
2 *Federal personnel.*

3 (3) **CLARIFICATION.**—*Nothing in this title or*
4 *any other provision of law shall be construed as mak-*
5 *ing any immigration-related training a requirement*
6 *for, or prerequisite to, any State or local law enforce-*
7 *ment officer to assist in the enforcement of Federal*
8 *immigration laws.*

9 (4) **PRIORITY.**—*In carrying out this subsection,*
10 *priority funding shall be given for existing web-based*
11 *immigration enforcement training systems.*

12 **SEC. 110. IMMUNITY.**

13 *Notwithstanding any other provision of law, a law en-*
14 *forcement officer of a State or local law enforcement agency*
15 *who is acting within the scope of the officer's official duties*
16 *shall be immune, to the same extent as a Federal law en-*
17 *forcement officer, from personal liability arising out of the*
18 *performance of any duty described in this title, including*
19 *the authorities to investigate, identify, apprehend, arrest,*
20 *detain, or transfer to Federal custody, an alien for the pur-*
21 *poses of enforcing the immigration laws of the United*
22 *States (as defined in section 101(a)(17) of the Immigration*
23 *and Nationality Act (8 U.S.C. 1101(a)(17)) or the immi-*
24 *gration laws of a State or a political subdivision of a State.*

1 **SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

2 (a) *CONTINUATION AND EXPANSION.*—

3 (1) *IN GENERAL.*—*The Secretary shall continue*
 4 *to operate and implement a program that—*

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

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

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

11 (2) *EXPANSION.*—*The program shall be extended*
 12 *to all States. Any State that receives Federal funds*
 13 *for the incarceration of criminal aliens (pursuant to*
 14 *the State Criminal Alien Assistance Program author-*
 15 *ized under section 241(i) of the Immigration and Na-*
 16 *tionality Act (8 U.S.C. 1231(i)) or other similar pro-*
 17 *gram) shall—*

18 (A) *cooperate with officials of the program;*

19 (B) *expeditiously and systematically iden-*
 20 *tify criminal aliens in its prison and jail popu-*
 21 *lations; and*

22 (C) *promptly convey such information to of-*
 23 *ficials of such program as a condition of receiv-*
 24 *ing such funds.*

25 (b) *AUTHORIZATION FOR DETENTION AFTER COMPLE-*
 26 *TION OF STATE OR LOCAL PRISON SENTENCE.*—*Law en-*

1 *forcement officers of a State, or of a political subdivision*
2 *of a State, are authorized to—*

3 *(1) hold a criminal alien for a period of up to*
4 *14 days after the alien has completed the alien’s sen-*
5 *tence under State or local law in order to effectuate*
6 *the transfer of the alien to Federal custody when the*
7 *alien is inadmissible or deportable; or*

8 *(2) issue a detainer that would allow aliens who*
9 *have served a prison sentence under State or local law*
10 *to be detained by the State or local prison or jail*
11 *until the Secretary can take the alien into custody.*

12 *(c) **TECHNOLOGY USAGE.**—Technology, such as video*
13 *conferencing, shall be used to the maximum extent prac-*
14 *ticable in order to make the program available in remote*
15 *locations. Mobile access to Federal databases of aliens and*
16 *live scan technology shall be used to the maximum extent*
17 *practicable in order to make these resources available to*
18 *State and local law enforcement agencies in remote loca-*
19 *tions.*

20 *(d) **EFFECTIVE DATE.**—This section shall take effect*
21 *of the date of the enactment of this Act, except that sub-*
22 *section (a)(2) shall take effect on the date that is 180 days*
23 *after such date.*

1 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

2 *Section 287(g) of the Immigration and Nationality*
3 *Act (8 U.S.C. 1357(g)) is amended—*

4 *(1) in paragraph (1) by striking “may enter”*
5 *and all that follows through the period at the end and*
6 *inserting the following: “shall enter into a written*
7 *agreement with a State, or any political subdivision*
8 *of a State, upon request of the State or political sub-*
9 *division, pursuant to which an officer or employee of*
10 *the State or subdivision, who is determined by the*
11 *Secretary to be qualified to perform a function of an*
12 *immigration officer in relation to the investigation,*
13 *apprehension, or detention of aliens in the United*
14 *States (including the transportation of such aliens*
15 *across State lines to detention centers), may carry out*
16 *such function at the expense of the State or political*
17 *subdivision and to extent consistent with State and*
18 *local law. No request from a bona fide State or polit-*
19 *ical subdivision or bona fide law enforcement agency*
20 *shall be denied absent a compelling reason. No limit*
21 *on the number of agreements under this subsection*
22 *may be imposed. The Secretary shall process requests*
23 *for such agreements with all due haste, and in no case*
24 *shall take not more than 90 days from the date the*
25 *request is made until the agreement is con-*
26 *summated.”;*

1 (2) by redesignating paragraph (2) as para-
2 graph (5) and paragraphs (3) through (10) as para-
3 graphs (7) through (14), respectively;

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

6 “(2) An agreement under this subsection shall accom-
7 modate a requesting State or political subdivision with re-
8 spect to the enforcement model or combination of models,
9 and shall accommodate a patrol model, task force model,
10 jail model, any combination thereof, or any other reasonable
11 model the State or political subdivision believes is best suit-
12 ed to the immigration enforcement needs of its jurisdiction.

13 “(3) No Federal program or technology directed broad-
14 ly at identifying inadmissible or deportable aliens shall
15 substitute for such agreements, including those establishing
16 a jail model, and shall operate in addition to any agree-
17 ment under this subsection.

18 “(4)(A) No agreement under this subsection shall be
19 terminated absent a compelling reason.

20 “(B)(i) The Secretary shall provide a State or political
21 subdivision written notice of intent to terminate at least
22 180 days prior to date of intended termination, and the
23 notice shall fully explain the grounds for termination, along
24 with providing evidence substantiating the Secretary’s alle-
25 gations.

1 “(ii) The State or political subdivision shall have the
2 right to a hearing before an administrative law judge and,
3 if the ruling is against the State or political subdivision,
4 to appeal the ruling to the Federal Circuit Court of Appeals
5 and, if the ruling is against the State or political subdivi-
6 sion, to the Supreme Court.

7 “(C) The agreement shall remain in full effect during
8 the course of any and all legal proceedings.”; and

9 (4) by inserting after paragraph (5) (as redesign-
10 nated) the following:

11 “(6) The Secretary of Homeland Security shall make
12 training of State and local law enforcement officers avail-
13 able through as many means as possible, including through
14 residential training at the Center for Domestic Prepared-
15 ness and the Federal Law Enforcement Training Center,
16 onsite training held at State or local police agencies or fa-
17 cilities, online training courses by computer, teleconfer-
18 encing, and videotape, or the digital video display (DVD)
19 of a training course or courses. Distance learning through
20 a secure, encrypted distributed learning system that has all
21 its servers based in the United States, is scalable, surviv-
22 able, and can have a portal in place not later than 30 days
23 after the date of the enactment of this Act, shall be made
24 available by the COPS Office of the Department of Justice
25 and the Federal Law Enforcement Training Center Distrib-

1 *uted Learning Program for State and local law enforcement*
 2 *personnel. Preference shall be given to private sector-based*
 3 *web-based immigration enforcement training programs for*
 4 *which the Federal Government has already provided sup-*
 5 *port to develop.”.*

6 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
 7 **(SCAAP).**

8 *Section 241(i) of the Immigration and Nationality Act*
 9 *(8 U.S.C. 1231(i)) is amended—*

10 *(1) by striking “Attorney General” the first place*
 11 *such term appears and inserting “Secretary of Home-*
 12 *land Security”;*

13 *(2) by striking “Attorney General” each place*
 14 *such term appears thereafter and inserting “Sec-*
 15 *retary”;*

16 *(3) in paragraph (3)(A), by inserting “charged*
 17 *with or” before “convicted”; and*

18 *(4) by amending paragraph (5) to read as fol-*
 19 *lows:*

20 *“(5) There are authorized to be appropriated to*
 21 *carry out this subsection such sums as may be nec-*
 22 *essary for fiscal year 2014 and each subsequent fiscal*
 23 *year.”.*

1 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**
 2 **GRATION LAWS.**

3 (a) *IN GENERAL.*—Section 642 of the *Illegal Immigra-*
 4 *tion Reform and Immigrant Responsibility Act of 1996* (8
 5 *U.S.C. 1373*) is amended—

6 (1) by striking “*Immigration and Naturaliza-*
 7 *tion Service*” each place it appears and inserting
 8 “*Department of Homeland Security*”;

9 (2) in subsection (a), by striking “*may*” and in-
 10 *serting “shall”*;

11 (3) in subsection (b)—

12 (A) by striking “*no person or agency may*”
 13 *and inserting “a person or agency shall not”*;

14 (B) by striking “*doing any of the following*
 15 *with respect to information*” and inserting “*un-*
 16 *dertaking any of the following law enforcement*
 17 *activities*”; and

18 (C) by striking paragraphs (1) through (3)
 19 *and inserting the following:*

20 “(1) *Notifying the Federal Government regard-*
 21 *ing the presence of inadmissible and deportable aliens*
 22 *who are encountered by law enforcement personnel of*
 23 *a State or political subdivision of a State.*

24 “(2) *Complying with requests for information*
 25 *from Federal law enforcement.*

1 “(3) *Complying with detainers issued by the De-*
 2 *partment of Homeland Security.*

3 “(4) *Issuing policies in the form of a resolutions,*
 4 *ordinances, administrative actions, general or special*
 5 *orders, or departmental policies that violate Federal*
 6 *law or restrict a State or political subdivision of a*
 7 *State from complying with Federal law or coordi-*
 8 *nating with Federal law enforcement.”; and*

9 (4) *by adding at the end the following:*

10 “(d) **COMPLIANCE.**—

11 “(1) **IN GENERAL.**—A State, or a political sub-
 12 division of a State, that has in effect a statute, policy,
 13 or practice that prohibits law enforcement officers of
 14 the State, or of a political subdivision of the State,
 15 from assisting or cooperating with Federal immigra-
 16 tion law enforcement in the course of carrying out the
 17 officers’ routine law enforcement duties shall not be
 18 eligible to receive—

19 “(A) *any of the funds that would otherwise*
 20 *be allocated to the State or political subdivision*
 21 *under section 241(i) of the Immigration and Na-*
 22 *tionality Act (8 U.S.C. 1231(i)) or the ‘Cops on*
 23 *the Beat’ program under part Q of title I of the*
 24 *Omnibus Crime Control and Safe Streets Act of*
 25 *1968 (42 U.S.C. 3796dd et seq.); or*

1 “(B) *any other law enforcement or Depart-*
2 *ment of Homeland Security grant.*

3 “(2) **ANNUAL DETERMINATION.**—*The Secretary*
4 *shall determine annually which State or political sub-*
5 *division of a State are not in compliance with this*
6 *section and shall report such determinations to Con-*
7 *gress on March 1 of each year.*

8 “(3) **REPORTS.**—*The Attorney General shall*
9 *issue a report concerning the compliance of any par-*
10 *ticular State or political subdivision at the request of*
11 *the House or Senate Judiciary Committee. Any juris-*
12 *isdiction that is found to be out of compliance shall be*
13 *ineligible to receive Federal financial assistance as*
14 *provided in paragraph (1) for a minimum period of*
15 *1 year, and shall only become eligible again after the*
16 *Attorney General certifies that the jurisdiction is in*
17 *compliance.*

18 “(4) **REALLOCATION.**—*Any funds that are not*
19 *allocated to a State or to a political subdivision of a*
20 *State, due to the failure of the State, or of the polit-*
21 *ical subdivision of the State, to comply with sub-*
22 *section (c) shall be reallocated to States, or to polit-*
23 *ical subdivisions of States, that comply with such*
24 *subsection.*

1 “(e) **CONSTRUCTION.**—*Nothing in this section shall re-*
 2 *quire law enforcement officials from States, or from polit-*
 3 *ical subdivisions of States, to report or arrest victims or*
 4 *witnesses of a criminal offense.”.*

5 (b) **EFFECTIVE DATE.**—*The amendments made by this*
 6 *section shall take effect on the date of the enactment of this*
 7 *Act, except that subsection (d) of section 642 of the Illegal*
 8 *Immigration Reform and Immigrant Responsibility Act of*
 9 *1996 (8 U.S.C. 1373), as added by this section, shall take*
 10 *effect beginning one year after the date of the enactment*
 11 *of this Act.*

12 **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

13 *Except as otherwise provided by Federal law or rule*
 14 *of procedure, the Secretary of Homeland Security shall exe-*
 15 *cute all lawful writs, process, and orders issued under the*
 16 *authority of the United States, and shall command all nec-*
 17 *essary assistance to execute the Secretary’s duties.*

18 **TITLE II—NATIONAL SECURITY**

19 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
 20 **RORIST ALIENS.**

21 (a) **ASYLUM.**—*Section 208(b)(2)(A) of the Immigra-*
 22 *tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is*
 23 *amended—*

24 (1) by inserting “or the Secretary of Homeland
 25 Security” after “if the Attorney General”; and

1 (2) *by amending clause (v) to read as follows:*

2 “(v) *the alien is described in subpara-*
3 *graph (B)(i) or (F) of section 212(a)(3), un-*
4 *less, in the case of an alien described in sub-*
5 *paragraph (IV), (V), or (IX) of section*
6 *212(a)(3)(B)(i), the Secretary of Homeland*
7 *Security or the Attorney General deter-*
8 *mines, in the discretion of the Secretary or*
9 *the Attorney General, that there are not rea-*
10 *sonable grounds for regarding the alien as*
11 *a danger to the security of the United*
12 *States; or”.*

13 (b) **CANCELLATION OF REMOVAL.**—Section 240A(c)(4)
14 *of such Act (8 U.S.C. 1229b(c)(4)) is amended—*

15 (1) *by striking “inadmissible under” and insert-*
16 *ing “described in”; and*

17 (2) *by striking “deportable under” and inserting*
18 *“described in”.*

19 (c) **VOLUNTARY DEPARTURE.**—Section 240B(b)(1)(C)
20 *of such Act (8 U.S.C. 1229c(b)(1)(C)) is amended by strik-*
21 *ing “deportable under section 237(a)(2)(A)(iii) or section*
22 *237(a)(4);” and inserting “described in paragraph*
23 *(2)(A)(iii) or (4) of section 237(a);”.*

24 (d) **RESTRICTION ON REMOVAL.**—Section 241(b)(3)(B)
25 *of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—*

1 (1) *by inserting “or the Secretary of Homeland*
 2 *Security” after “Attorney General” each place it ap-*
 3 *pears;*

4 (2) *in clause (iii), by striking “or” at the end;*

5 (3) *in clause (iv), by striking the period at the*
 6 *end and inserting “; or”;*

7 (4) *by inserting after clause (iv) the following:*

8 *“(v) the alien is described in subpara-*
 9 *graph (B)(i) or (F) of section 212(a)(3), un-*
 10 *less, in the case of an alien described in sub-*
 11 *paragraph (IV), (V), or (IX) of section*
 12 *212(a)(3)(B)(i), the Secretary of Homeland*
 13 *Security or the Attorney General deter-*
 14 *mines, in discretion of the Secretary or the*
 15 *Attorney General, that there are not reason-*
 16 *able grounds for regarding the alien as a*
 17 *danger to the security of the United*
 18 *States.”; and*

19 (5) *by striking the final sentence.*

20 (e) **RECORD OF ADMISSION.**—

21 (1) **IN GENERAL.**—Section 249 of such Act (8
 22 U.S.C. 1259) is amended to read as follows:

1 *“RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN*
2 *THE CASE OF CERTAIN ALIENS WHO ENTERED THE*
3 *UNITED STATES PRIOR TO JANUARY 1, 1972*

4 *“SEC. 249. The Secretary of Homeland Security, in*
5 *the discretion of the Secretary and under such regulations*
6 *as the Secretary may prescribe, may enter a record of law-*
7 *ful admission for permanent residence in the case of any*
8 *alien, if no such record is otherwise available and the*
9 *alien—*

10 *“(1) entered the United States before January 1,*
11 *1972;*

12 *“(2) has continuously resided in the United*
13 *States since such entry;*

14 *“(3) has been a person of good moral character*
15 *since such entry;*

16 *“(4) is not ineligible for citizenship;*

17 *“(5) is not described in paragraph (1)(A)(iv),*
18 *(2), (3), (6)(C), (6)(E), or (8) of section 212(a); and*

19 *“(6) did not, at any time, without reasonable*
20 *cause fail or refuse to attend or remain in attendance*
21 *at a proceeding to determine the alien’s inadmis-*
22 *sibility or deportability.*

23 *Such recordation shall be effective as of the date of approval*
24 *of the application or as of the date of entry if such entry*
25 *occurred prior to July 1, 1924.”.*

1 (2) **CLERICAL AMENDMENT.**—*The table of con-*
 2 *tents for such Act is amended by amending the item*
 3 *relating to section 249 to read as follows:*

 “Sec. 249. Record of admission for permanent residence in the case of certain
 aliens who entered the United States prior to January 1, 1972.”.

4 (f) **EFFECTIVE DATE.**—*The amendments made by this*
 5 *section shall take effect on the date of enactment of this Act*
 6 *and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3),*
 7 *and 249 of the Immigration and Nationality Act, as so*
 8 *amended, shall apply to—*

9 (1) *all aliens in removal, deportation, or exclu-*
 10 *sion proceedings;*

11 (2) *all applications pending on, or filed after,*
 12 *the date of the enactment of this Act; and*

13 (3) *with respect to aliens and applications de-*
 14 *scribed in paragraph (1) or (2) of this subsection, acts*
 15 *and conditions constituting a ground for exclusion,*
 16 *deportation, or removal occurring or existing before,*
 17 *on, or after the date of the enactment of this Act.*

18 **SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.**

19 (a) **DEFINITION OF GOOD MORAL CHARACTER.**—*Sec-*
 20 *tion 101(f) of the Immigration and Nationality Act (8*
 21 *U.S.C. 1101(f)) is amended—*

22 (1) *by inserting after paragraph (1) the fol-*
 23 *lowing:*

1 “(2) one who the Secretary of Homeland Secu-
2 rity or Attorney General determines to have been at
3 any time an alien described in section 212(a)(3) or
4 237(a)(4), which determination may be based upon
5 any relevant information or evidence, including clas-
6 sified, sensitive, or national security information;”;

7 (2) in paragraph (8), by inserting “, regardless
8 whether the crime was classified as an aggravated fel-
9 ony at the time of conviction, except that the Sec-
10 retary of Homeland Security or Attorney General
11 may, in the unreviewable discretion of the Secretary
12 or Attorney General, determine that this paragraph
13 shall not apply in the case of a single aggravated fel-
14 ony conviction (other than murder, manslaughter,
15 homicide, rape, or any sex offense when the victim of
16 such sex offense was a minor) for which completion
17 of the term of imprisonment or the sentence (which-
18 ever is later) occurred 10 or more years prior to the
19 date of application” after “(as defined in subsection
20 (a)(43))”; and

21 (3) in the matter following paragraph (9), by
22 striking the first sentence and inserting the following:
23 “The fact that any person is not within any of the
24 foregoing classes shall not preclude a discretionary
25 finding for other reasons that such a person is or was

1 *not of good moral character. The Secretary or the At-*
 2 *torney General shall not be limited to the applicant's*
 3 *conduct during the period for which good moral char-*
 4 *acter is required, but may take into consideration as*
 5 *a basis for determination the applicant's conduct and*
 6 *acts at any time."*

7 *(b) AGGRAVATED FELONS.—Section 509(b) of the Im-*
 8 *migration Act of 1990 (8 U.S.C. 1101 note) is amended*
 9 *to read as follows:*

10 *"(b) EFFECTIVE DATE.—The amendment made by*
 11 *subsection (a) shall take effect on November 29, 1990, and*
 12 *shall apply to convictions occurring before, on or after such*
 13 *date."*

14 *(c) TECHNICAL CORRECTION TO THE INTELLIGENCE*
 15 *REFORM ACT.—Section 5504(2) of the Intelligence Reform*
 16 *and Terrorism Prevention Act of 2004 (Public Law 108–*
 17 *458) is amended by striking "adding at the end" and in-*
 18 *serting "inserting after paragraph (8)".*

19 *(d) EFFECTIVE DATE.—The amendments made by*
 20 *subsections (a) and (b) shall take effect on the date of enact-*
 21 *ment of this Act, shall apply to any act that occurred before,*
 22 *on, or after such date and shall apply to any application*
 23 *for naturalization or any other benefit or relief, or any*
 24 *other case or matter under the immigration laws pending*
 25 *on or filed after such date. The amendments made by sub-*

1 *section (c) shall take effect as if enacted in the Intelligence*
 2 *Reform and Terrorism Prevention Act of 2004 (Public Law*
 3 *108–458).*

4 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

5 *(a) NATURALIZATION OF PERSONS ENDANGERING THE*
 6 *NATIONAL SECURITY.*—Section 316 of the Immigration and
 7 Nationality Act (8 U.S.C. 1426) is amended by adding at
 8 the end the following:

9 “(g) *PERSONS ENDANGERING THE NATIONAL SECU-*
 10 *RITY.*—No person shall be naturalized who the Secretary
 11 of Homeland Security determines to have been at any time
 12 an alien described in section 212(a)(3) or 237(a)(4). Such
 13 determination may be based upon any relevant information
 14 or evidence, including classified, sensitive, or national secu-
 15 rity information.”.

16 *(b) CONCURRENT NATURALIZATION AND REMOVAL*
 17 *PROCEEDINGS.*—Section 318 of the Immigration and Na-
 18 tionality Act (8 U.S.C. 1429) is amended by striking “other
 19 Act;” and inserting “other Act; and no application for nat-
 20 uralization shall be considered by the Secretary of Home-
 21 land Security or any court if there is pending against the
 22 applicant any removal proceeding or other proceeding to
 23 determine the applicant’s inadmissibility or deportability,
 24 or to determine whether the applicant’s lawful permanent
 25 resident status should be rescinded, regardless of when such

1 *proceeding was commenced: Provided, That the findings of*
 2 *the Attorney General in terminating removal proceedings*
 3 *or in canceling the removal of an alien pursuant to the*
 4 *provisions of this Act, shall not be deemed binding in any*
 5 *way upon the Secretary of Homeland Security with respect*
 6 *to the question of whether such person has established his*
 7 *eligibility for naturalization as required by this title;”.*

8 (c) **PENDING DENATURALIZATION OR REMOVAL PRO-**
 9 **CEEDINGS.**—Section 204(b) of the Immigration and Na-
 10 tionality Act (8 U.S.C. 1154(b)) is amended by adding at
 11 the end the following: “No petition shall be approved pursu-
 12 ant to this section if there is any administrative or judicial
 13 proceeding (whether civil or criminal) pending against the
 14 petitioner that could (whether directly or indirectly) result
 15 in the petitioner’s denaturalization or the loss of the peti-
 16 tioner’s lawful permanent resident status.”.

17 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sections
 18 216(e) and section 216A(e) of the Immigration and Nation-
 19 ality Act (8 U.S.C. 1186a(e) and 1186b(e)) are each amend-
 20 ed by striking the period at the end and inserting “, if the
 21 alien has had the conditional basis removed pursuant to
 22 this section.”.

23 (e) **DISTRICT COURT JURISDICTION.**—Subsection
 24 336(b) of the Immigration and Nationality Act (8 U.S.C.
 25 1447(b)) is amended to read as follows:

1 “(b) *If there is a failure to render a final administra-*
2 *tive decision under section 335 before the end of the 180-*
3 *day period after the date on which the Secretary of Home-*
4 *land Security completes all examinations and interviews*
5 *conducted under such section, as such terms are defined by*
6 *the Secretary of Homeland Security pursuant to regula-*
7 *tions, the applicant may apply to the district court for the*
8 *district in which the applicant resides for a hearing on the*
9 *matter. Such court shall only have jurisdiction to review*
10 *the basis for delay and remand the matter to the Secretary*
11 *of Homeland Security for the Secretary’s determination on*
12 *the application.”.*

13 (f) **CONFORMING AMENDMENT.**—Section 310(c) of the
14 *Immigration and Nationality Act (8 U.S.C. 1421(c)) is*
15 *amended—*

16 (1) *by inserting “, not later than the date that*
17 *is 120 days after the Secretary of Homeland Secu-*
18 *riety’s final determination,” after “seek”; and*

19 (2) *by striking the second sentence and inserting*
20 *the following: “The burden shall be upon the peti-*
21 *tioner to show that the Secretary’s denial of the appli-*
22 *cation was not supported by facially legitimate and*
23 *bona fide reasons. Except in a proceeding under sec-*
24 *tion 340, notwithstanding any other provision of law*
25 *(statutory or nonstatutory), including section 2241 of*

1 *title 28, United States Code, or any other habeas cor-*
 2 *pus provision, and sections 1361 and 1651 of such*
 3 *title, no court shall have jurisdiction to determine, or*
 4 *to review a determination of the Secretary made at*
 5 *any time regarding, whether, for purposes of an ap-*
 6 *plication for naturalization, an alien is a person of*
 7 *good moral character, whether the alien understands*
 8 *and is attached to the principles of the Constitution*
 9 *of the United States, or whether an alien is well dis-*
 10 *posed to the good order and happiness of the United*
 11 *States.”.*

12 *(g) **EFFECTIVE DATE.**—The amendments made by this*
 13 *section shall take effect on the date of enactment of this Act,*
 14 *shall apply to any act that occurred before, on, or after such*
 15 *date, and shall apply to any application for naturalization*
 16 *or any other case or matter under the immigration laws*
 17 *pending on, or filed after, such date.*

18 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

19 *(a) **IN GENERAL.**—Section 340 of the Immigration*
 20 *and Nationality Act is amended—*

21 *(1) by redesignating subsections (f) through (h)*
 22 *as subsections (g) through (i), respectively; and*

23 *(2) by inserting after subsection (e) the following:*

24 *“(f)(1) If a person who has been naturalized partici-*
 25 *pates in any act described in paragraph (2), the Attorney*

1 *General is authorized to find that, as of the date of such*
2 *naturalization, such person was not attached to the prin-*
3 *ciples of the Constitution of the United States and was not*
4 *well disposed to the good order and happiness of the United*
5 *States at the time of naturalization, and upon such finding*
6 *shall set aside the order admitting such person to citizen-*
7 *ship and cancel the certificate of naturalization as having*
8 *been obtained by concealment of a material fact or by will-*
9 *ful misrepresentation, and such revocation and setting aside*
10 *of the order admitting such person to citizenship and such*
11 *canceling of certificate of naturalization shall be effective*
12 *as of the original date of the order and certificate, respec-*
13 *tively.*

14 “(2) *The acts described in this paragraph are the fol-*
15 *lowing:*

16 “(A) *Any activity a purpose of which is the op-*
17 *position to, or the control or overthrow of, the Govern-*
18 *ment of the United States by force, violence, or other*
19 *unlawful means.*

20 “(B) *Engaging in a terrorist activity (as defined*
21 *in clauses (iii) and (iv) of section 212(a)(3)(B)).*

22 “(C) *Incitement of terrorist activity under cir-*
23 *cumstances indicating an intention to cause death or*
24 *serious bodily harm.*

1 “(D) *Receiving military-type training (as de-*
 2 *defined in section 2339D(c)(1) of title 18, United States*
 3 *Code) from or on behalf of any organization that, at*
 4 *the time the training was received, was a terrorist or-*
 5 *ganization (as defined in section 212(a)(3)(B)(vi)).”.*

6 (b) **EFFECTIVE DATE.**—*The amendments made by sub-*
 7 *section (a) shall take effect on the date of the enactment*
 8 *of this Act and shall apply to acts that occur on or after*
 9 *such date.*

10 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
 11 **FOR NATIONAL SECURITY PURPOSES.**

12 (a) **SPECIAL AGRICULTURAL WORKERS.**—*Section*
 13 *210(b)(6) of the Immigration and Nationality Act (8*
 14 *U.S.C. 1160(b)(6)) is amended—*

15 (1) *by striking “Attorney General” each place*
 16 *such term appears and inserting “Secretary of Home-*
 17 *land Security”;*

18 (2) *in subparagraph (A), by striking “Depart-*
 19 *ment of Justice,” and inserting “Department of*
 20 *Homeland Security,”;*

21 (3) *by redesignating subparagraphs (C) and (D)*
 22 *as subparagraphs (D) and (E), respectively;*

23 (4) *by inserting after subparagraph (B) the fol-*
 24 *lowing:*

25 “(C) **AUTHORIZED DISCLOSURES.**—

1 “(i) **CENSUS PURPOSE.**—*The Secretary*
 2 *of Homeland Security may provide, in his*
 3 *discretion, for the furnishing of information*
 4 *furnished under this section in the same*
 5 *manner and circumstances as census infor-*
 6 *mation may be disclosed under section 8 of*
 7 *title 13, United States Code.*

8 “(ii) **NATIONAL SECURITY PURPOSE.**—
 9 *The Secretary of Homeland Security may*
 10 *provide, in his discretion, for the fur-*
 11 *nishing, use, publication, or release of infor-*
 12 *mation furnished under this section in any*
 13 *investigation, case, or matter, or for any*
 14 *purpose, relating to terrorism, national in-*
 15 *telligence or the national security.”; and*

16 (5) *in subparagraph (D), as redesignated, by*
 17 *striking “Service” and inserting “Department of*
 18 *Homeland Security”.*

19 (b) **ADJUSTMENT OF STATUS UNDER THE IMMIGRA-**
 20 **TION REFORM AND CONTROL ACT OF 1986.**—*Section*
 21 *245A(c)(5) of the Immigration and Nationality Act (8*
 22 *U.S.C. 1255a(c)(5)), is amended—*

23 (1) *by striking “Attorney General” each place*
 24 *such term appears and inserting “Secretary of Home-*
 25 *land Security”;*

1 (2) in subparagraph (A), by striking “Depart-
2 ment of Justice,” and inserting “Department of
3 Homeland Security,”;

4 (3) by amending subparagraph (C) to read as
5 follows:

6 “(C) **AUTHORIZED DISCLOSURES.**—

7 “(i) **CENSUS PURPOSE.**—The Secretary
8 of Homeland Security may provide, in his
9 discretion, for the furnishing of information
10 furnished under this section in the same
11 manner and circumstances as census infor-
12 mation may be disclosed under section 8 of
13 title 13, United States Code.

14 “(ii) **NATIONAL SECURITY PURPOSE.**—
15 The Secretary of Homeland Security may
16 provide, in his discretion, for the fur-
17 nishing, use, publication, or release of infor-
18 mation furnished under this section in any
19 investigation, case, or matter, or for any
20 purpose, relating to terrorism, national in-
21 telligence or the national security.”; and

22 (4) in subparagraph (D)(i), striking “Service”
23 and inserting “Department of Homeland Security”.

1 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

2 (a) **REQUIREMENT TO COMPLETE BACKGROUND AND**
3 **SECURITY CHECKS.**—Section 103 of the Immigration and
4 Nationality Act (8 U.S.C. 1103) is amended by adding at
5 the end the following:

6 “(h) Notwithstanding any other provision of law (stat-
7 utory or nonstatutory), including but not limited to section
8 309 of Public Law 107–173, sections 1361 and 1651 of title
9 28, United States Code, and section 706(1) of title 5, United
10 States Code, neither the Secretary of Homeland Security,
11 the Attorney General, nor any court may—

12 “(1) grant, or order the grant of or adjudication
13 of an application for adjustment of status to that of
14 an alien lawfully admitted for permanent residence;

15 “(2) grant, or order the grant of or adjudication
16 of an application for United States citizenship or any
17 other status, relief, protection from removal, employ-
18 ment authorization, or other benefit under the immi-
19 gration laws;

20 “(3) grant, or order the grant of or adjudication
21 of, any immigrant or nonimmigrant petition; or

22 “(4) issue or order the issuance of any docu-
23 mentation evidencing or related to any such grant,
24 until such background and security checks as the Sec-
25 retary may in his discretion require have been com-
26 pleted or updated to the satisfaction of the Secretary.

1 “(i) *Notwithstanding any other provision of law (stat-*
2 *utory or nonstatutory), including but not limited to section*
3 *309 of Public Law 107–173, sections 1361 and 1651 of title*
4 *28, United States Code, and section 706(1) of title 5, United*
5 *States Code, neither the Secretary of Homeland Security*
6 *nor the Attorney General may be required to—*

7 “(1) *grant, or order the grant of or adjudication*
8 *of an application for adjustment of status to that of*
9 *an alien lawfully admitted for permanent residence,*

10 “(2) *grant, or order the grant of or adjudication*
11 *of an application for United States citizenship or any*
12 *other status, relief, protection from removal, employ-*
13 *ment authorization, or other benefit under the immi-*
14 *gration laws,*

15 “(3) *grant, or order the grant of or adjudication*
16 *of, any immigrant or nonimmigrant petition, or*

17 “(4) *issue or order the issuance of any docu-*
18 *mentation evidencing or related to any such grant,*
19 *until any suspected or alleged materially false infor-*
20 *mation, material misrepresentation or omission, con-*
21 *cealment of a material fact, fraud or forgery, counter-*
22 *feiting, or alteration, or falsification of a document,*
23 *as determined by the Secretary, relating to the adju-*
24 *dications of an application or petition for any status*
25 *(including the granting of adjustment of status), re-*

1 *lief, protection from removal, or other benefit under*
 2 *this subsection has been investigated and resolved to*
 3 *the Secretary's satisfaction.*

4 “(j) Notwithstanding any other provision of law (stat-
 5 utory or nonstatutory), including section 309 of the En-
 6 hanced Border Security and Visa Entry Reform Act (8
 7 U.S.C. 1738), sections 1361 and 1651 of title 28, United
 8 States Code, and section 706(1) of title 5, United States
 9 Code, no court shall have jurisdiction to require any of the
 10 acts in subsection (h) or (i) to be completed by a certain
 11 time or award any relief for failure to complete or delay
 12 in completing such acts.”.

13 (b) **CONSTRUCTION.**—

14 (1) **IN GENERAL.**—Chapter 4 of title III of the
 15 *Immigration and Nationality Act (8 U.S.C. 1501 et*
 16 *seq.) is amended by adding at the end the following:*

17 “**CONSTRUCTION**

18 “**SEC. 362. (a) IN GENERAL.**—Nothing in this Act or
 19 any other law, except as provided in subsection (d), shall
 20 be construed to require the Secretary of Homeland Security,
 21 the Attorney General, the Secretary of State, the Secretary
 22 of Labor, or a consular officer to grant any application,
 23 approve any petition, or grant or continue any relief, pro-
 24 tection from removal, employment authorization, or any
 25 other status or benefit under the immigration laws by, to,
 26 or on behalf of—

1 “(1) any alien deemed by the Secretary to be de-
2 scribed in section 212(a)(3) or section 237(a)(4); or

3 “(2) any alien with respect to whom a criminal
4 or other proceeding or investigation is open or pend-
5 ing (including, but not limited to, issuance of an ar-
6 rest warrant, detainer, or indictment), where such
7 proceeding or investigation is deemed by the official
8 described in subsection (a) to be material to the
9 alien’s eligibility for the status or benefit sought.

10 “(b) **DENIAL OR WITHHOLDING OF ADJUDICATION.**—

11 An official described in subsection (a) may, in the discre-
12 tion of the official, deny (with respect to an alien described
13 in paragraph (1) or (2) of subsection (a)) or withhold adju-
14 dication of pending resolution of the investigation or case
15 (with respect to an alien described in subsection (a)(2) of
16 this section) any application, petition, relief, protection
17 from removal, employment authorization, status or benefit.

18 “(c) **JURISDICTION.**—Notwithstanding any other pro-
19 vision of law (statutory or nonstatutory), including section
20 309 of the Enhanced Border Security and Visa Entry Re-
21 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title
22 28, United States Code, and section 706(1) of title 5, United
23 States Code, no court shall have jurisdiction to review a
24 decision to deny or withhold adjudication pursuant to sub-
25 section (b) of this section.

1 “(d) **WITHHOLDING OF REMOVAL AND TORTURE CON-**
 2 **VENTION.**—*This section does not limit or modify the appli-*
 3 *cability of section 241(b)(3) or the United Nations Conven-*
 4 *tion Against Torture and Other Cruel, Inhuman or Degrad-*
 5 *ing Treatment or Punishment, subject to any reservations,*
 6 *understandings, declarations and provisos contained in the*
 7 *United States Senate resolution of ratification of the Con-*
 8 *vention, as implemented by section 2242 of the Foreign Af-*
 9 *fairs Reform and Restructuring Act of 1998 (Public Law*
 10 *105–277) with respect to an alien otherwise eligible for pro-*
 11 *tection under such provisions.”.*

12 (2) **CLERICAL AMENDMENT.**—*The table of con-*
 13 *tents for such Act is amended by inserting after the*
 14 *item relating to section 361 the following:*

“Sec. 362. Construction.”.

15 (c) **EFFECTIVE DATE.**—*The amendments made by this*
 16 *section shall take effect on the date of the enactment of this*
 17 *Act and shall apply to applications for immigration bene-*
 18 *fits pending on or after such date.*

19 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
 20 **TELLIGENCE REFORM AND TERRORISM PRE-**
 21 **VENTION ACT OF 2004.**

22 (a) **TRANSIT WITHOUT VISA PROGRAM.**—*Section*
 23 *7209(d) of the Intelligence Reform and Terrorism Preven-*
 24 *tion Act of 2004 (8 U.S.C. 1185 note) is amended by strik-*
 25 *ing “the Secretary, in conjunction with the Secretary of*

1 *Homeland Security,” and inserting “the Secretary of*
 2 *Homeland Security, in consultation with the Secretary of*
 3 *State,”.*

4 *(b) TECHNOLOGY ACQUISITION AND DISSEMINATION*
 5 *PLAN.—Section 7201(c)(1) of such Act is amended by in-*
 6 *serting “and the Department of State” after “used by the*
 7 *Department of Homeland Security”.*

8 ***TITLE III—REMOVAL OF***
 9 ***CRIMINAL ALIENS***

10 ***SEC. 301. DEFINITION OF AGGRAVATED FELONY.***

11 *(a) DEFINITION OF AGGRAVATED FELONY.—Section*
 12 *101(a)(43) of the Immigration and Nationality Act (8*
 13 *U.S.C. 1101(a)(43)) is amended—*

14 *(1) by striking “The term ‘aggravated felony’*
 15 *means—” and inserting “Notwithstanding any other*
 16 *provision of law, the term ‘aggravated felony’ applies*
 17 *to an offense described in this paragraph, whether in*
 18 *violation of Federal or State law, or in violation of*
 19 *the law of a foreign country for which the term of im-*
 20 *prisonment was completed within the previous 15*
 21 *years, even if the length of the term of imprisonment*
 22 *for the offense is based on recidivist or other enhance-*
 23 *ments and regardless of whether the conviction was*
 24 *entered before, on, or after September 30, 1996, and*
 25 *means—”;*

1 (2) in subparagraph (A), by striking “murder,
 2 rape, or sexual abuse of a minor;” and inserting
 3 “murder, manslaughter, homicide, rape (whether the
 4 victim was conscious or unconscious), or any offense
 5 of a sexual nature involving a victim under the age
 6 of 18 years;”;

7 (3) in subparagraph (I), by striking “or 2252”
 8 and inserting “2252, or 2252A”.

9 (4) in subparagraph (F), by striking “at least
 10 one year;” and inserting “is at least one year, except
 11 that if the conviction records do not conclusively es-
 12 tablish whether a crime constitutes a crime of vio-
 13 lence, the Attorney General may consider other evi-
 14 dence related to the conviction that clearly establishes
 15 that the conduct for which the alien was engaged con-
 16 stitutes a crime of violence;”

17 (5) in subparagraph (N)—

18 (A) by striking “paragraph (1)(A) or (2)
 19 of”; and

20 (B) by inserting a semicolon at the end;

21 (6) in subparagraph (O), by striking “section
 22 275(a) or 276 committed by an alien who was pre-
 23 viously deported on the basis of a conviction for an
 24 offense described in another subparagraph of this

1 *paragraph” and inserting “section 275 or 276 for*
 2 *which the term of imprisonment is at least 1 year”;*

3 *(7) in subparagraph (U), by striking “an at-*
 4 *tempt or conspiracy to commit an offense described in*
 5 *this paragraph” and inserting “attempting or con-*
 6 *spiring to commit an offense described in this para-*
 7 *graph, or aiding, abetting, counseling, procuring,*
 8 *commanding, inducing, or soliciting the commission*
 9 *of such an offense”; and*

10 *(8) by striking the undesignated matter following*
 11 *subparagraph (U).*

12 ***(b) EFFECTIVE DATE; APPLICATION OF AMEND-***
 13 ***MENTS.—***

14 ***(1) IN GENERAL.—****The amendments made by*
 15 *subsection (a)—*

16 ***(A)*** *shall take effect on the date of the enact-*
 17 *ment of this Act; and*

18 ***(B)*** *shall apply to any act or conviction*
 19 *that occurred before, on, or after such date.*

20 ***(2) APPLICATION OF IIRIRA AMENDMENTS.—****The*
 21 *amendments to section 101(a)(43) of the Immigration*
 22 *and Nationality Act (8 U.S.C. 1101(a)(43)) made by*
 23 *section 321 of the Illegal Immigration Reform and*
 24 *Immigrant Responsibility Act of 1996 (division C of*
 25 *Public Law 104–208; 110 Stat. 3009-627) shall con-*

1 *tinue to apply, whether the conviction was entered be-*
 2 *fore, on, or after September 30, 1996.*

3 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**
 4 **VICTED OF AGGRAVATED FELONIES OR**
 5 **OTHER SERIOUS OFFENSES.**

6 *(a) INADMISSIBILITY ON CRIMINAL AND RELATED*
 7 *GROUND; WAIVERS.—Section 212 of the Immigration and*
 8 *Nationality Act (8 U.S.C. 1182) is amended—*

9 *(1) in subsection (a)(2)(A)(i)—*

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

12 *(B) in subclause (II), by adding “or” at the*
 13 *end; and*

14 *(C) by inserting after subclause (II) the fol-*
 15 *lowing:*

16 *“(III) a violation of (or a con-*
 17 *spiracy or attempt to violate) an of-*
 18 *fense described in section 408 of title*
 19 *42, United States Code (relating to so-*
 20 *cial security account numbers or social*
 21 *security cards) or section 1028 of title*
 22 *18, United States Code (relating to*
 23 *fraud and related activity in connec-*
 24 *tion with identification documents, au-*

1 *thentication features, and informa-*
 2 *tion),”.*

3 *(2) by adding at the end of subsection (a)(2) the*
 4 *following:*

5 *“(J) **PROCUREMENT OF CITIZENSHIP OR***
 6 ***NATURALIZATION UNLAWFULLY.**—Any alien con-*
 7 *victed of, or who admits having committed, or*
 8 *who admits committing acts which constitute the*
 9 *essential elements of, a violation of, or an at-*
 10 *tempt or a conspiracy to violate, subsection (a)*
 11 *or (b) of section 1425 of title 18, United States*
 12 *Code (relating to the procurement of citizenship*
 13 *or naturalization unlawfully) is inadmissible.*

14 *“(K) **CERTAIN FIREARM OFFENSES.**—Any*
 15 *alien who at any time has been convicted under*
 16 *any law of, or who admits having committed or*
 17 *admits committing acts which constitute the es-*
 18 *sential elements of, purchasing, selling, offering*
 19 *for sale, exchanging, using, owning, possessing,*
 20 *or carrying, or of attempting or conspiring to*
 21 *purchase, sell, offer for sale, exchange, use, own,*
 22 *possess, or carry, any weapon, part, or accessory*
 23 *which is a firearm or destructive device (as de-*
 24 *finied in section 921(a) of title 18, United States*
 25 *Code) in violation of any law is inadmissible.*

1 “(L) *AGGRAVATED FELONS*.—Any alien who
 2 has been convicted of an aggravated felony at
 3 any time is inadmissible.

4 “(M) *CRIMES OF DOMESTIC VIOLENCE,*
 5 *STALKING, OR VIOLATION OF PROTECTION OR-*
 6 *DERS, CRIMES AGAINST CHILDREN*.—

7 “(i) *DOMESTIC VIOLENCE, STALKING,*
 8 *AND CHILD ABUSE*.—Any alien who at any
 9 time is convicted of, or who admits having
 10 committed or admits committing acts which
 11 constitute the essential elements of, a crime
 12 of domestic violence, a crime of stalking, or
 13 a crime of child abuse, child neglect, or
 14 child abandonment is inadmissible. For
 15 purposes of this clause, the term ‘crime of
 16 domestic violence’ means any crime of vio-
 17 lence (as defined in section 16 of title 18,
 18 United States Code) against a person com-
 19 mitted by a current or former spouse of the
 20 person, by an individual with whom the
 21 person shares a child in common, by an in-
 22 dividual who is cohabiting with or has
 23 cohabited with the person as a spouse, by
 24 an individual similarly situated to a spouse
 25 of the person under the domestic or family

1 *violence laws of the jurisdiction where the*
2 *offense occurs, or by any other individual*
3 *against a person who is protected from that*
4 *individual's acts under the domestic or fam-*
5 *ily violence laws of the United States or*
6 *any State, Indian tribal government, or*
7 *unit of local or foreign government.*

8 “(ii) **VIOLATORS OF PROTECTION OR-**
9 **DERs.**—*Any alien who at any time is en-*
10 *joined under a protection order issued by a*
11 *court and whom the court determines has*
12 *engaged in conduct that violates the portion*
13 *of a protection order that involves protec-*
14 *tion against credible threats of violence, re-*
15 *peated harassment, or bodily injury to the*
16 *person or persons for whom the protection*
17 *order was issued is inadmissible. For pur-*
18 *poses of this clause, the term ‘protection*
19 *order’ means any injunction issued for the*
20 *purpose of preventing violent or threatening*
21 *acts of domestic violence, including tem-*
22 *porary or final orders issued by civil or*
23 *criminal courts (other than support or child*
24 *custody orders or provisions) whether ob-*
25 *tained by filing an independent action or*

1 *as a independent order in another pro-*
 2 *ceeding.*

3 “(iii) **WAIVER AUTHORIZED.**—*The*
 4 *waiver authority available under section*
 5 *237(a)(7) with respect to section*
 6 *237(a)(2)(E)(i) shall be available on a com-*
 7 *parable basis with respect to this subpara-*
 8 *graph.*

9 “(iv) **CLARIFICATION.**—*If the convic-*
 10 *tion records do not conclusively establish*
 11 *whether a crime of domestic violence con-*
 12 *stitutes a crime of violence (as defined in*
 13 *section 16 of title 18, United States Code),*
 14 *the Attorney General may consider other*
 15 *evidence related to the conviction that clear-*
 16 *ly establishes that the conduct for which the*
 17 *alien was engaged constitutes a crime of vi-*
 18 *olence.”; and*

19 *(3) in subsection (h)—*

20 *(A) by striking “The Attorney General may,*
 21 *in his discretion, waive the application of sub-*
 22 *paragraphs (A)(i)(I), (B), (D), and (E) of sub-*
 23 *section (a)(2)” and inserting “The Attorney Gen-*
 24 *eral or the Secretary of Homeland Security may,*
 25 *in the discretion of the Attorney General or the*

1 *Secretary, waive the application of subpara-*
 2 *graphs (A)(i)(I), (III), (B), (D), (E), (K), and*
 3 *(M) of subsection (a)(2)”;*

4 *(B) by striking “a criminal act involving*
 5 *torture.” and inserting “a criminal act involving*
 6 *torture, or has been convicted of an aggravated*
 7 *felony.”;*

8 *(C) by striking “if either since the date of*
 9 *such admission the alien has been convicted of*
 10 *an aggravated felony or the alien” and inserting*
 11 *“if since the date of such admission the alien”;*
 12 *and*

13 *(D) by inserting “or Secretary of Homeland*
 14 *Security” after “the Attorney General” each*
 15 *place it appears.*

16 *(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section*
 17 *237(a)(3)(B) of the Immigration and Nationality Act (8*
 18 *U.S.C. 1227(a)(3)(B)) is amended—*

19 *(1) in clause (ii), by striking “or” at the end;*

20 *(2) in clause (iii), by inserting “or” at the end;*

21 *and*

22 *(3) by inserting after clause (iii) the following:*

23 *“(iv) of a violation of, or an attempt*
 24 *or a conspiracy to violate, section 1425(a)*
 25 *or (b) of title 18 (relating to the procure-*

1 *ment of citizenship or naturalization un-*
 2 *lawfully),”.*

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

7 *“(G) FRAUD AND RELATED ACTIVITY ASSO-*
 8 *CIATED WITH SOCIAL SECURITY ACT BENEFITS*
 9 *AND IDENTIFICATION DOCUMENTS.—Any alien*
 10 *who at any time after admission has been con-*
 11 *victed of a violation of (or a conspiracy or at-*
 12 *tempt to violate) section 208 of the Social Secu-*
 13 *rity Act (42 U.S.C. 408) (relating to social secu-*
 14 *rity account numbers or social security cards) or*
 15 *section 1028 of title 18, United States Code (re-*
 16 *lating to fraud and related activity in connec-*
 17 *tion with identification) is deportable.”.*

18 *(d) EFFECTIVE DATE.—The amendments made by this*
 19 *section shall apply—*

20 *(1) to any act that occurred before, on, or after*
 21 *the date of the enactment of this Act; and*

22 *(2) to all aliens who are required to establish ad-*
 23 *missibility on or after such date, and in all removal,*
 24 *deportation, or exclusion proceedings that are filed,*
 25 *pending, or reopened, on or after such date.*

1 (e) **CONSTRUCTION.**—*The amendments made by sub-*
 2 *section (a) shall not be construed to create eligibility for*
 3 *relief from removal under former section 212(c) of the Im-*
 4 *migration and Nationality Act where such eligibility did*
 5 *not exist before these amendments became effective.*

6 **SEC. 303. ESPIONAGE CLARIFICATION.**

7 *Section 212(a)(3)(A) of the Immigration and Nation-*
 8 *ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read as*
 9 *follows:*

10 “(A) **IN GENERAL.**—*Any alien who a con-*
 11 *sular officer, the Attorney General, or the Sec-*
 12 *retary of Homeland Security knows, or has rea-*
 13 *sonable ground to believe, seeks to enter the*
 14 *United States to engage solely, principally, or*
 15 *incidentally in, or who is engaged in, or with re-*
 16 *spect to clauses (i) and (iii) of this subpara-*
 17 *graph has engaged in—*

18 “(i) *any activity—*

19 “(I) *to violate any law of the*
 20 *United States relating to espionage or*
 21 *sabotage; or*

22 “(II) *to violate or evade any law*
 23 *prohibiting the export from the United*
 24 *States of goods, technology, or sensitive*
 25 *information;*

1 “(ii) any other unlawful activity; or
 2 “(iii) any activity a purpose of which
 3 is the opposition to, or the control or over-
 4 throw of, the Government of the United
 5 States by force, violence, or other unlawful
 6 means;
 7 is inadmissible.”.

8 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
 9 **THE POSSESSION OF FIREARMS BY, CERTAIN**
 10 **ALIENS.**

11 Section 922 of title 18, United States Code, is amend-
 12 ed—

13 (1) in subsection (d)(5), in subparagraph (B), by
 14 striking “(y)(2)” and all that follows and inserting
 15 “(y), is in the United States not as an alien lawfully
 16 admitted for permanent residence;”;

17 (2) in subsection (g)(5), in subparagraph (B), by
 18 striking “(y)(2)” and all that follows and inserting
 19 “(y), is in the United States not as an alien lawfully
 20 admitted for permanent residence;”; and

21 (3) in subsection (y)—
 22 (A) in the header, by striking “**ADMITTED**
 23 **UNDER NONIMMIGRANT VISAS.—**” and inserting
 24 “**NOT LAWFULLY ADMITTED FOR PERMANENT**
 25 **RESIDENCE.—**”;

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

3 “(B) the term ‘lawfully admitted for perma-
 4 nent residence’ has the same meaning as in sec-
 5 tion 101(a)(20) of the Immigration and Nation-
 6 ality Act (8 U.S.C. 1101(a)(20)).”.

7 (C) in paragraph (2), by striking “under a
 8 nonimmigrant visa” and inserting “but not law-
 9 fully admitted for permanent residence”; and

10 (D) in paragraph (3)(A), by striking “ad-
 11 mitted to the United States under a non-
 12 immigrant visa” and inserting “lawfully admit-
 13 ted to the United States but not as an alien law-
 14 fully admitted for permanent residence”.

15 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
 16 **TAIN IMMIGRATION, NATURALIZATION, AND**
 17 **PEONAGE OFFENSES.**

18 Section 3291 of title 18, United States Code, is amend-
 19 ed by striking “No person” and all that follows through the
 20 period at the end and inserting the following: “No person
 21 shall be prosecuted, tried, or punished for a violation of any
 22 section of chapters 69 (relating to nationality and citizen-
 23 ship offenses) and 75 (relating to passport, visa, and immi-
 24 gration offenses), or for a violation of any criminal provi-
 25 sion of sections 243, 266, 274, 275, 276, 277, or 278 of the

1 *Immigration and Nationality Act, or for an attempt or con-*
 2 *spiracy to violate any such section, unless the indictment*
 3 *is returned or the information is filed within ten years after*
 4 *the commission of the offense.”.*

5 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
 6 **OF RACKETEERING ACTIVITY.**

7 *Section 1961(1) of title 18, United States Code, is*
 8 *amended by striking “section 1542” through “section 1546*
 9 *(relating to fraud and misuse of visas, permits, and other*
 10 *documents)” and inserting “sections 1541-1548 (relating to*
 11 *passports and visas)”.*

12 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**
 13 **VATED FELONY DEFINITION.**

14 *(a) IN GENERAL.—Subparagraph (P) of section*
 15 *101(a)(43) of the Immigration and Nationality Act (8*
 16 *U.S.C. 1101(a)(43)) is amended—*

17 *(1) by striking “(i) which either is falsely mak-*
 18 *ing, forging, counterfeiting, mutilating, or altering a*
 19 *passport or instrument in violation of section 1543 of*
 20 *title 18, United States Code, or is described in section*
 21 *1546(a) of such title (relating to document fraud) and*
 22 *(ii)” and inserting “which is described in any section*
 23 *of chapter 75 of title 18, United States Code,”; and*

1 (2) by inserting after “first offense” the fol-
 2 lowing: “(i) that is not described in section 1548 of
 3 such title (relating to increased penalties), and (ii)”.

4 (b) **EFFECTIVE DATE.**—The amendment made by sub-
 5 section (a) shall take effect on the date of the enactment
 6 of this Act and shall apply to acts that occur before, on,
 7 or after the date of the enactment of this Act.

8 **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**
 9 **OF STATUS FOR AGGRAVATED FELONS.**

10 (a) **IN GENERAL.**—Section 209(c) of the Immigration
 11 and Nationality Act (8 U.S.C. 1159(c)) is amended by add-
 12 ing at the end thereof the following: “However, an alien
 13 who is convicted of an aggravated felony is not eligible for
 14 a waiver or for adjustment of status under this section.”.

15 (b) **EFFECTIVE DATE.**—The amendment made by sub-
 16 section (a) shall apply—

17 (1) to any act that occurred before, on, or after
 18 the date of the enactment of this Act; and

19 (2) to all aliens who are required to establish ad-
 20 missibility on or after such date, and in all removal,
 21 deportation, or exclusion proceedings that are filed,
 22 pending, or reopened, on or after such date.

1 **SEC. 309. INADMISSIBILITY, DEPORTABILITY, AND DETEN-**
 2 **TION OF DRUNK DRIVERS.**

3 (a) *IN GENERAL.*—Section 101(a)(43) of the Immigra-
 4 tion and Nationality Act (8 U.S.C. 1101(a)(43)) (as
 5 amended by this Act) is further amended—

6 (1) in subparagraph (T), by striking “and”;

7 (2) in subparagraph (U), by striking the period
 8 at the end and inserting “; and”; and

9 (3) by inserting after subparagraph (U) the fol-
 10 lowing:

11 “(V) a second or subsequent conviction for driv-
 12 ing while intoxicated (including a conviction for driv-
 13 ing while under the influence of or impaired by alco-
 14 hol or drugs) without regard to whether the conviction
 15 is classified as a misdemeanor or felony under State
 16 law.”.

17 (b) *DETENTION.*—Section 236(c)(1) of the Immigra-
 18 tion and Nationality Act (8 U.S.C. 1226(c)(1)) is amend-
 19 ed—

20 (1) in subparagraph (C), by striking “or” at the
 21 end;

22 (2) in subparagraph (D), by adding “or” at the
 23 end; and

24 (3) by inserting after subparagraph (D) the fol-
 25 lowing:

1 “(E) is unlawfully present in the United
 2 States and has been convicted one or multiple
 3 times for driving while intoxicated (including a
 4 conviction for driving while under the influence
 5 or impaired by alcohol or drugs) without regard
 6 to whether the conviction is classified as a mis-
 7 demeanor or felony under State law,”.

8 (c) **EFFECTIVE DATE.**—The amendments made by this
 9 section shall take effect on the date of the enactment of this
 10 Act and apply to convictions entered on or after such date.

11 **SEC. 310. DETENTION OF DANGEROUS ALIENS.**

12 (a) **IN GENERAL.**—Section 241(a) of the Immigration
 13 and Nationality Act (8 U.S.C. 1231(a)) is amended—

14 (1) by striking “Attorney General” each place it
 15 appears, except for the first reference in paragraph
 16 (4)(B)(i), and inserting “Secretary of Homeland Se-
 17 curity”;

18 (2) in paragraph (1), by amending subpara-
 19 graph (B) to read as follows:

20 “(B) **BEGINNING OF PERIOD.**—The removal
 21 period begins on the latest of the following:

22 “(i) The date the order of removal be-
 23 comes administratively final.

24 “(ii) If the alien is not in the custody
 25 of the Secretary on the date the order of re-

1 *moval becomes administratively final, the*
 2 *date the alien is taken into such custody.*

3 *“(iii) If the alien is detained or con-*
 4 *fined (except under an immigration proc-*
 5 *ess) on the date the order of removal be-*
 6 *comes administratively final, the date the*
 7 *alien is taken into the custody of the Sec-*
 8 *retary, after the alien is released from such*
 9 *detention or confinement.”;*

10 *(3) in paragraph (1), by amending subpara-*
 11 *graph (C) to read as follows:*

12 *“(C) **SUSPENSION OF PERIOD.**—*

13 *“(i) **EXTENSION.**—The removal period*
 14 *shall be extended beyond a period of 90*
 15 *days and the Secretary may, in the Sec-*
 16 *retary’s sole discretion, keep the alien in de-*
 17 *tention during such extended period if—*

18 *“(I) the alien fails or refuses to*
 19 *make all reasonable efforts to comply*
 20 *with the removal order, or to fully co-*
 21 *operate with the Secretary’s efforts to*
 22 *establish the alien’s identity and carry*
 23 *out the removal order, including mak-*
 24 *ing timely application in good faith*
 25 *for travel or other documents necessary*

1 *to the alien's departure or conspires or*
2 *acts to prevent the alien's removal that*
3 *is subject to an order of removal;*

4 *“(II) a court, the Board of Immi-*
5 *gration Appeals, or an immigration*
6 *judge orders a stay of removal of an*
7 *alien who is subject to an administra-*
8 *tively final order of removal;*

9 *“(III) the Secretary transfers cus-*
10 *tody of the alien pursuant to law to*
11 *another Federal agency or a State or*
12 *local government agency in connection*
13 *with the official duties of such agency;*
14 *or*

15 *“(IV) a court or the Board of Im-*
16 *migration Appeals orders a remand to*
17 *an immigration judge or the Board of*
18 *Immigration Appeals, during the time*
19 *period when the case is pending a deci-*
20 *sion on remand (with the removal pe-*
21 *riod beginning anew on the date that*
22 *the alien is ordered removed on re-*
23 *mand).*

24 *“(ii) **RENEWAL.**—If the removal period*
25 *has been extended under clause (C)(i), a*

1 *new removal period shall be deemed to have*
2 *begun on the date—*

3 “(I) *the alien makes all reasonable*
4 *efforts to comply with the removal*
5 *order, or to fully cooperate with the*
6 *Secretary’s efforts to establish the*
7 *alien’s identity and carry out the re-*
8 *moval order;*

9 “(II) *the stay of removal is no*
10 *longer in effect; or*

11 “(III) *the alien is returned to the*
12 *custody of the Secretary.*

13 “(iii) **MANDATORY DETENTION FOR**
14 **CERTAIN ALIENS.**—*In the case of an alien*
15 *described in subparagraphs (A) through (D)*
16 *of section 236(c)(1), the Secretary shall keep*
17 *that alien in detention during the extended*
18 *period described in clause (i).*

19 “(iv) **SOLE FORM OF RELIEF.**—*An*
20 *alien may seek relief from detention under*
21 *this subparagraph only by filing an appli-*
22 *cation for a writ of habeas corpus in ac-*
23 *cordance with chapter 153 of title 28,*
24 *United States Code. No alien whose period*
25 *of detention is extended under this subpara-*

1 graph shall have the right to seek release on
2 bond.”;

3 (4) in paragraph (3)—

4 (A) by adding after “If the alien does not
5 leave or is not removed within the removal pe-
6 riod” the following: “or is not detained pursuant
7 to paragraph (6) of this subsection”; and

8 (B) by striking subparagraph (D) and in-
9 serting the following:

10 “(D) to obey reasonable restrictions on the
11 alien’s conduct or activities that the Secretary
12 prescribes for the alien, in order to prevent the
13 alien from absconding, for the protection of the
14 community, or for other purposes related to the
15 enforcement of the immigration laws.”;

16 (5) in paragraph (4)(A), by striking “paragraph
17 (2)” and inserting “subparagraph (B)”; and

18 (6) by striking paragraph (6) and inserting the
19 following:

20 “(6) **ADDITIONAL RULES FOR DETENTION OR RE-**
21 **LEASE OF CERTAIN ALIENS.—**

22 “(A) **DETENTION REVIEW PROCESS FOR CO-**
23 **OPERATIVE ALIENS ESTABLISHED.—**For an alien
24 who is not otherwise subject to mandatory deten-
25 tion, who has made all reasonable efforts to com-

1 *ply with a removal order and to cooperate fully*
2 *with the Secretary of Homeland Security's ef-*
3 *forts to establish the alien's identity and carry*
4 *out the removal order, including making timely*
5 *application in good faith for travel or other doc-*
6 *uments necessary to the alien's departure, and*
7 *who has not conspired or acted to prevent re-*
8 *moval, the Secretary shall establish an adminis-*
9 *trative review process to determine whether the*
10 *alien should be detained or released on condi-*
11 *tions. The Secretary shall make a determination*
12 *whether to release an alien after the removal pe-*
13 *riod in accordance with subparagraph (B). The*
14 *determination shall include consideration of any*
15 *evidence submitted by the alien, and may in-*
16 *clude consideration of any other evidence, includ-*
17 *ing any information or assistance provided by*
18 *the Secretary of State or other Federal official*
19 *and any other information available to the Sec-*
20 *retary of Homeland Security pertaining to the*
21 *ability to remove the alien.*

22 **“(B) AUTHORITY TO DETAIN BEYOND RE-**
23 **MOVAL PERIOD.—**

24 **“(i) IN GENERAL.—***The Secretary of*
25 *Homeland Security, in the exercise of the*

1 *Secretary’s sole discretion, may continue to*
 2 *detain an alien for 90 days beyond the re-*
 3 *moval period (including any extension of*
 4 *the removal period as provided in para-*
 5 *graph (1)(C)). An alien whose detention is*
 6 *extended under this subparagraph shall*
 7 *have no right to seek release on bond.*

8 *“(ii) SPECIFIC CIRCUMSTANCES.—The*
 9 *Secretary of Homeland Security, in the ex-*
 10 *ercise of the Secretary’s sole discretion, may*
 11 *continue to detain an alien beyond the 90*
 12 *days authorized in clause (i)—*

13 *“(I) until the alien is removed, if*
 14 *the Secretary, in the Secretary’s sole*
 15 *discretion, determines that there is a*
 16 *significant likelihood that the alien—*

17 *“(aa) will be removed in the*
 18 *reasonably foreseeable future; or*

19 *“(bb) would be removed in*
 20 *the reasonably foreseeable future,*
 21 *or would have been removed, but*
 22 *for the alien’s failure or refusal to*
 23 *make all reasonable efforts to com-*
 24 *ply with the removal order, or to*
 25 *cooperate fully with the Sec-*

1 retary's efforts to establish the
2 alien's identity and carry out the
3 removal order, including making
4 timely application in good faith
5 for travel or other documents nec-
6 essary to the alien's departure, or
7 conspires or acts to prevent re-
8 moval;

9 “(II) until the alien is removed, if
10 the Secretary of Homeland Security
11 certifies in writing—

12 “(aa) in consultation with
13 the Secretary of Health and
14 Human Services, that the alien
15 has a highly contagious disease
16 that poses a threat to public safe-
17 ty;

18 “(bb) after receipt of a writ-
19 ten recommendation from the Sec-
20 retary of State, that release of the
21 alien is likely to have serious ad-
22 verse foreign policy consequences
23 for the United States;

24 “(cc) based on information
25 available to the Secretary of

1 *Homeland Security (including*
2 *classified, sensitive, or national*
3 *security information, and without*
4 *regard to the grounds upon which*
5 *the alien was ordered removed),*
6 *that there is reason to believe that*
7 *the release of the alien would*
8 *threaten the national security of*
9 *the United States; or*

10 *“(dd) that the release of the*
11 *alien will threaten the safety of*
12 *the community or any person,*
13 *conditions of release cannot rea-*
14 *sonably be expected to ensure the*
15 *safety of the community or any*
16 *person, and either (AA) the alien*
17 *has been convicted of one or more*
18 *aggravated felonies (as defined in*
19 *section 101(a)(43)(A)) or of one or*
20 *more crimes identified by the Sec-*
21 *retary of Homeland Security by*
22 *regulation, or of one or more at-*
23 *tempts or conspiracies to commit*
24 *any such aggravated felonies or*
25 *such identified crimes, if the ag-*

1 *gregate term of imprisonment for*
2 *such attempts or conspiracies is*
3 *at least 5 years; or (BB) the alien*
4 *has committed one or more crimes*
5 *of violence (as defined in section*
6 *16 of title 18, United States Code,*
7 *but not including a purely polit-*
8 *ical offense) and, because of a*
9 *mental condition or personality*
10 *disorder and behavior associated*
11 *with that condition or disorder,*
12 *the alien is likely to engage in*
13 *acts of violence in the future; or*

14 *“(III) pending a certification*
15 *under subclause (II), so long as the*
16 *Secretary of Homeland Security has*
17 *initiated the administrative review*
18 *process not later than 30 days after the*
19 *expiration of the removal period (in-*
20 *cluding any extension of the removal*
21 *period, as provided in paragraph*
22 *(1)(C)).*

23 *“(iii) NO RIGHT TO BOND HEARING.—*
24 *An alien whose detention is extended under*
25 *this subparagraph shall have no right to*

1 *seek release on bond, including by reason of*
2 *a certification under clause (ii)(II).*

3 “(C) **RENEWAL AND DELEGATION OF CER-**
4 **TIFICATION.**—

5 “(i) **RENEWAL.**—*The Secretary of*
6 *Homeland Security may renew a certifi-*
7 *cation under subparagraph (B)(ii)(II) every*
8 *6 months, after providing an opportunity*
9 *for the alien to request reconsideration of*
10 *the certification and to submit documents or*
11 *other evidence in support of that request. If*
12 *the Secretary does not renew a certification,*
13 *the Secretary may not continue to detain*
14 *the alien under subparagraph (B)(ii)(II).*

15 “(ii) **DELEGATION.**—*Notwithstanding*
16 *section 103, the Secretary of Homeland Se-*
17 *curity may not delegate the authority to*
18 *make or renew a certification described in*
19 *item (bb), (cc), or (dd) of subparagraph*
20 *(B)(ii)(II) below the level of the Assistant*
21 *Secretary for Immigration and Customs*
22 *Enforcement.*

23 “(iii) **HEARING.**—*The Secretary of*
24 *Homeland Security may request that the*
25 *Attorney General or the Attorney General’s*

1 *designee provide for a hearing to make the*
2 *determination described in item (dd)(BB) of*
3 *subparagraph (B)(ii)(II).*

4 “(D) **RELEASE ON CONDITIONS.**—*If it is de-*
5 *termined that an alien should be released from*
6 *detention by a Federal court, the Board of Immi-*
7 *gration Appeals, or if an immigration judge or-*
8 *ders a stay of removal, the Secretary of Home-*
9 *land Security, in the exercise of the Secretary’s*
10 *discretion, may impose conditions on release as*
11 *provided in paragraph (3).*

12 “(E) **REDETENTION.**—*The Secretary of*
13 *Homeland Security, in the exercise of the Sec-*
14 *retary’s discretion, without any limitations other*
15 *than those specified in this section, may again*
16 *detain any alien subject to a final removal order*
17 *who is released from custody, if removal becomes*
18 *likely in the reasonably foreseeable future, the*
19 *alien fails to comply with the conditions of re-*
20 *lease, or to continue to satisfy the conditions de-*
21 *scribed in subparagraph (A), or if, upon recon-*
22 *sideration, the Secretary, in the Secretary’s sole*
23 *discretion, determines that the alien can be de-*
24 *tained under subparagraph (B). This section*
25 *shall apply to any alien returned to custody pur-*

1 *suant to this subparagraph, as if the removal pe-*
 2 *riod terminated on the day of the redetention.*

3 “(F) **REVIEW OF DETERMINATIONS BY SEC-**
 4 **RETARY.**—*A determination by the Secretary*
 5 *under this paragraph shall not be subject to re-*
 6 *view by any other agency.”.*

7 **(b) DETENTION OF ALIENS DURING REMOVAL PRO-**
 8 **CEEDINGS.**—

9 **(1) CLERICAL AMENDMENT.**—*(A) Section 236 of*
 10 *the Immigration and Nationality Act (8 U.S.C. 1226)*
 11 *is amended by striking “Attorney General” each place*
 12 *it appears (except in the second place that term ap-*
 13 *pears in section 236(a)) and inserting “Secretary of*
 14 *Homeland Security”.*

15 **(B)** *Section 236(a) of such Act (8 U.S.C.*
 16 *1226(a)) is amended by inserting “the Secretary of*
 17 *Homeland Security or” before “the Attorney Gen-*
 18 *eral—”.*

19 **(C)** *Section 236(e) of such Act (8 U.S.C. 1226(e))*
 20 *is amended by striking “Attorney General’s” and in-*
 21 *serting “Secretary of Homeland Security’s”.*

22 **(2) LENGTH OF DETENTION.**—*Section 236 of*
 23 *such Act (8 U.S.C. 1226) is amended by adding at*
 24 *the end the following:*

25 “(f) **LENGTH OF DETENTION.**—

1 “(1) **IN GENERAL.**—Notwithstanding any other
2 provision of this section, an alien may be detained
3 under this section for any period, without limitation,
4 except as provided in subsection (h), until the alien
5 is subject to a final order of removal.

6 “(2) **CONSTRUCTION.**—The length of detention
7 under this section shall not affect detention under sec-
8 tion 241.”.

9 (3) **DETENTION OF CRIMINAL ALIENS.**—Section
10 236(c)(1) of the Immigration and Nationality Act (8
11 U.S.C. 1226(c)(1)) (as added by section 309(b)(3)) is
12 further amended, in the matter following subpara-
13 graph (E) to read as follows:

14 “any time after the alien is released, without regard
15 to whether an alien is released related to any activity,
16 offense, or conviction described in this paragraph; to
17 whether the alien is released on parole, supervised re-
18 lease, or probation; or to whether the alien may be ar-
19 rested or imprisoned again for the same offense. If the
20 activity described in this paragraph does not result in
21 the alien being taken into custody by any person
22 other than the Secretary, then when the alien is
23 brought to the attention of the Secretary or when the
24 Secretary determines it is practical to take such alien

1 *into custody, the Secretary shall take such alien into*
 2 *custody.”.*

3 (4) **ADMINISTRATIVE REVIEW.**—*Section 236 of*
 4 *the Immigration and Nationality Act (8 U.S.C.*
 5 *1226), as amended by paragraph (2), is further*
 6 *amended by adding at the end the following:*

7 “(g) **ADMINISTRATIVE REVIEW.**—

8 “(1) **IN GENERAL.**—*The Attorney General’s re-*
 9 *view of the Secretary’s custody determinations under*
 10 *subsection (a) for the following classes of aliens shall*
 11 *be limited to whether the alien may be detained, re-*
 12 *leased on bond (of at least \$1,500 with security ap-*
 13 *proved by the Secretary), or released with no bond:*

14 “(A) *Aliens in exclusion proceedings.*

15 “(B) *Aliens described in section 212(a)(3)*
 16 *or 237(a)(4).*

17 “(C) *Aliens described in subsection (c).*

18 “(2) **SPECIAL RULE.**—*The Attorney General’s re-*
 19 *view of the Secretary’s custody determinations under*
 20 *subsection (a) for aliens in deportation proceedings*
 21 *subject to section 242(a)(2) of the Act (as in effect*
 22 *prior to April 1, 1997, and as amended by section*
 23 *440(c) of Public Law 104–132) shall be limited to a*
 24 *determination of whether the alien is properly in-*
 25 *cluded in such category.*

1 “(h) **RELEASE ON BOND.**—

2 “(1) **IN GENERAL.**—An alien detained under
3 subsection (a) may seek release on bond. No bond may
4 be granted except to an alien who establishes by clear
5 and convincing evidence that the alien is not a flight
6 risk or a risk to another person or the community.

7 “(2) **CERTAIN ALIENS INELIGIBLE.**—No alien de-
8 tained under subsection (c) may seek release on
9 bond.”.

10 (5) **CLERICAL AMENDMENTS.**—(A) Section
11 236(a)(2)(B) of the Immigration and Nationality Act
12 (8 U.S.C. 1226(a)(2)(B)) is amended by striking
13 “conditional parole” and inserting “recognizance”.

14 (B) Section 236(b) of such Act (8 U.S.C.
15 1226(b)) is amended by striking “parole” and insert-
16 ing “recognizance”.

17 (c) **SEVERABILITY.**—If any of the provisions of this
18 section or any amendment by this section, or the applica-
19 tion of any such provision to any person or circumstance,
20 is held to be invalid for any reason, the remainder of this
21 section and of amendments made by this section, and the
22 application of the provisions and of the amendments made
23 by this section to any other person or circumstance shall
24 not be affected by such holding.

25 (d) **EFFECTIVE DATES.**—

1 (1) *The amendments made by subsection (a)*
 2 *shall take effect upon the date of enactment of this*
 3 *Act, and section 241 of the Immigration and Nation-*
 4 *ality Act, as so amended, shall in addition apply*
 5 *to—*

6 (A) *all aliens subject to a final administra-*
 7 *tive removal, deportation, or exclusion order that*
 8 *was issued before, on, or after the date of the en-*
 9 *actment of this Act; and*

10 (B) *acts and conditions occurring or exist-*
 11 *ing before, on, or after such date.*

12 (2) *The amendments made by subsection (b)*
 13 *shall take effect upon the date of the enactment of this*
 14 *Act, and section 236 of the Immigration and Nation-*
 15 *ality Act, as so amended, shall in addition apply to*
 16 *any alien in detention under provisions of such sec-*
 17 *tion on or after such date.*

18 **SEC. 311. GROUNDS OF INADMISSIBILITY AND DEPORT-**
 19 **ABILITY FOR ALIEN GANG MEMBERS.**

20 (a) **DEFINITION OF GANG MEMBER.**—*Section 101(a)*
 21 *of the Immigration and Nationality Act (8 U.S.C. 1101(a))*
 22 *is amended by adding at the end the following:*

23 “(53)(A) *The term ‘criminal gang’ means an ongoing*
 24 *group, club, organization, or association of 5 or more per-*
 25 *sons that has as one of its primary purposes the commission*

1 of 1 or more of the following criminal offenses and the mem-
 2 bers of which engage, or have engaged within the past 5
 3 years, in a continuing series of such offenses, or that has
 4 been designated as a criminal gang by the Secretary of
 5 Homeland Security, in consultation with the Attorney Gen-
 6 eral, as meeting these criteria. The offenses described, wheth-
 7 er in violation of Federal or State law or foreign law and
 8 regardless of whether the offenses occurred before, on, or
 9 after the date of the enactment of this paragraph, are the
 10 following:

11 “(i) A ‘felony drug offense’ (as defined in section
 12 102 of the Controlled Substances Act (21 U.S.C.
 13 802)).

14 “(ii) An offense under section 274 (relating to
 15 bringing in and harboring certain aliens), section 277
 16 (relating to aiding or assisting certain aliens to enter
 17 the United States), or section 278 (relating to impor-
 18 tation of alien for immoral purpose).

19 “(iii) A crime of violence (as defined in section
 20 16 of title 18, United States Code).

21 “(iv) A crime involving obstruction of justice,
 22 tampering with or retaliating against a witness, vic-
 23 tim, or informant, or burglary.

24 “(v) Any conduct punishable under sections 1028
 25 and 1029 of title 18, United States Code (relating to

1 *fraud and related activity in connection with identi-*
 2 *fication documents or access devices), sections 1581*
 3 *through 1594 of such title (relating to peonage, slav-*
 4 *ery and trafficking in persons), section 1952 of such*
 5 *title (relating to interstate and foreign travel or*
 6 *transportation in aid of racketeering enterprises), sec-*
 7 *tion 1956 of such title (relating to the laundering of*
 8 *monetary instruments), section 1957 of such title (re-*
 9 *lating to engaging in monetary transactions in prop-*
 10 *erty derived from specified unlawful activity), or sec-*
 11 *tions 2312 through 2315 of such title (relating to*
 12 *interstate transportation of stolen motor vehicles or*
 13 *stolen property).*

14 “(vi) *A conspiracy to commit an offense de-*
 15 *scribed in clauses (i) through (v).*

16 “(B) *Notwithstanding any other provision of law (in-*
 17 *cluding any effective date), the term applies regardless of*
 18 *whether the conduct occurred before, on, or after the date*
 19 *of the enactment of this paragraph.”.*

20 (b) **INADMISSIBILITY.**—*Section 212(a)(2) of such Act*
 21 *(8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2) of*
 22 *this Act, is further amended by adding at the end the fol-*
 23 *lowing:*

24 “(N) **ALIENS ASSOCIATED WITH CRIMINAL**
 25 **GANGS.**—*Any alien is inadmissible who a con-*

1 sular officer, the Secretary of Homeland Secu-
 2 rity, or the Attorney General knows or has rea-
 3 son to believe—

4 “(i) to be or to have been a member of
 5 a criminal gang (as defined in section
 6 101(a)(53)); or

7 “(ii) to have participated in the activi-
 8 ties of a criminal gang (as defined in sec-
 9 tion 101(a)(53)), knowing or having reason
 10 to know that such activities will promote,
 11 further, aid, or support the illegal activity
 12 of the criminal gang.”.

13 (c) **DEPORTABILITY.**—Section 237(a)(2) of the Immi-
 14 gration and Nationality Act (8 U.S.C. 1227(a)(2)), as
 15 amended by section 302(c) of this Act, is further amended
 16 by adding at the end the following:

17 “(H) **ALIENS ASSOCIATED WITH CRIMINAL**
 18 **GANGS.**—Any alien is deportable who the Sec-
 19 retary of Homeland Security or the Attorney
 20 General knows or has reason to believe—

21 “(i) is or has been a member of a
 22 criminal gang (as defined in section
 23 101(a)(53)); or

24 “(ii) has participated in the activities
 25 of a criminal gang (as so defined), knowing

1 or having reason to know that such activi-
 2 ties will promote, further, aid, or support
 3 the illegal activity of the criminal gang.”.

4 (d) **DESIGNATION**.—

5 (1) **IN GENERAL**.—Chapter 2 of title II of the
 6 Immigration and Nationality Act (8 U.S.C. 1182) is
 7 amended by inserting after section 219 the following:

8 **“DESIGNATION**

9 **“SEC. 220. (a) IN GENERAL**.—The Secretary of Home-
 10 land Security, in consultation with the Attorney General,
 11 and the Secretary of State may designate a group or asso-
 12 ciation as a criminal street gang if their conduct is de-
 13 scribed in section 101(a)(53) or if the group or association
 14 conduct poses a significant risk that threatens the security
 15 and the public safety of United States nationals or the na-
 16 tional security, homeland security, foreign policy, or econ-
 17 omy of the United States.

18 **“(b) EFFECTIVE DATE**.—Designations under sub-
 19 section (a) shall remain in effect until the designation is
 20 revoked after consultation between the Secretary of Home-
 21 land Security, the Attorney General, and the Secretary of
 22 State or is terminated in accordance with Federal law.”.

23 (2) **CLERICAL AMENDMENT**.—The table of con-
 24 tents for such Act is amended by inserting after the
 25 item relating to section 219 the following:

“220. Designation.”.

1 (e) **MANDATORY DETENTION OF CRIMINAL STREET**
 2 **GANG MEMBERS.**—

3 (1) **IN GENERAL.**—Section 236(c)(1)(D) of the
 4 *Immigration and Nationality Act* (8 U.S.C.
 5 1226(c)(1)(D)) is amended—

6 (A) by inserting “or 212(a)(2)(N)” after
 7 “212(a)(3)(B)”; and

8 (B) by inserting “237(a)(2)(H) or” before
 9 “237(a)(4)(B)”.

10 (2) **ANNUAL REPORT.**—Not later than March 1 of
 11 each year (beginning 1 year after the date of the en-
 12 actment of this Act), the Secretary of Homeland Secu-
 13 rity, after consultation with the appropriate Federal
 14 agencies, shall submit a report to the Committees on
 15 the Judiciary of the House of Representatives and of
 16 the Senate on the number of aliens detained under the
 17 amendments made by paragraph (1).

18 (f) **ASYLUM CLAIMS BASED ON GANG AFFILIATION.**—

19 (1) **INAPPLICABILITY OF RESTRICTION ON RE-**
 20 **MOVAL TO CERTAIN COUNTRIES.**—Section
 21 241(b)(3)(B) of the *Immigration and Nationality Act*
 22 (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter
 23 preceding clause (i), by inserting “who is described in
 24 section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) or
 25 who is” after “to an alien”.

1 (2) *INELIGIBILITY FOR ASYLUM*.—Section
 2 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) (as
 3 amended by this Act) is further amended—

4 (A) in clause (v), by striking “or” at the
 5 end;

6 (B) by redesignating clause (vi) as clause
 7 (vii); and

8 (C) by inserting after clause (v) the fol-
 9 lowing:

10 “(vi) the alien is described in section
 11 212(a)(2)(N)(i) or section 237(a)(2)(H)(i)
 12 (relating to participation in criminal street
 13 gangs); or”.

14 (g) *TEMPORARY PROTECTED STATUS*.—Section 244 of
 15 such Act (8 U.S.C. 1254a) is amended—

16 (1) by striking “Attorney General” each place it
 17 appears and inserting “Secretary of Homeland Secu-
 18 rity”;

19 (2) in subparagraph (c)(2)(B)—

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

22 (B) in clause (ii), by striking the period
 23 and inserting “; or”; and

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

1 “(iii) the alien is, or at any time after
 2 admission has been, a member of a criminal
 3 gang (as defined in section 101(a)(53)).”;
 4 and

5 (3) in subsection (d)—

6 (A) by striking paragraph (3); and

7 (B) in paragraph (4), by adding at the end
 8 the following: “The Secretary of Homeland Secu-
 9 rity may detain an alien provided temporary
 10 protected status under this section whenever ap-
 11 propriate under any other provision of law.”.

12 (h) **EFFECTIVE DATE.**—The amendments made by this
 13 section shall take effect on the date of the enactment of this
 14 Act and shall apply to acts that occur before, on, or after
 15 the date of the enactment of this Act.

16 **SEC. 312. EXTENSION OF IDENTITY THEFT OFFENSES.**

17 (a) **FRAUD AND RELATED ACTIVITIES RELATING TO**
 18 **IDENTIFICATION DOCUMENTS.**—Section 1028 of title 18,
 19 United States Code, is amended in subsection (a)(7), by
 20 striking “of another person” and inserting “that is not his
 21 or her own”.

22 (b) **AGGRAVATED IDENTITY THEFT.**—Section
 23 1028A(a) of title 18, United States Code, is amended by
 24 striking “of another person” both places it appears and in-
 25 serting “that is not his or her own”.

1 **SEC. 313. LAUNDERING OF MONETARY INSTRUMENTS.**

2 (a) **ADDITIONAL PREDICATE OFFENSES.**—Section
3 1956(c)(7)(D) of title 18, United States Code, is amended—

4 (1) by inserting “section 1590 (relating to traf-
5 ficking with respect to peonage, slavery, involuntary
6 servitude, or forced labor),” after “section 1363 (relat-
7 ing to destruction of property within the special mar-
8 itime and territorial jurisdiction),”; and

9 (2) by inserting “section 274(a) of the Immigra-
10 tion and Nationality Act (8 U.S.C.1324(a)) (relating
11 to bringing in and harboring certain aliens),” after
12 “section 590 of the Tariff Act of 1930 (19 U.S.C.
13 1590) (relating to aviation smuggling),”.

14 (b) **INTENT TO CONCEAL OR DISGUISE.**—Section
15 1956(a) of title 18, United States Code, is amended—

16 (1) in paragraph (1) so that subparagraph (B)
17 reads as follows:

18 “(B) knowing that the transaction—

19 “(i) conceals or disguises, or is intended to
20 conceal or disguise, the nature, source, location,
21 ownership, or control of the proceeds of some
22 form of unlawful activity; or

23 “(ii) avoids, or is intended to avoid, a
24 transaction reporting requirement under State
25 or Federal law,”; and

1 (2) in paragraph (2) so that subparagraph (B)
2 reads as follows:

3 “(B) knowing that the monetary instrument or
4 funds involved in the transportation, transmission, or
5 transfer represent the proceeds of some form of unlaw-
6 ful activity, and knowing that such transportation,
7 transmission, or transfer—

8 “(i) conceals or disguises, or is intended to
9 conceal or disguise, the nature, source, location,
10 ownership, or control of the proceeds of some
11 form of unlawful activity; or

12 “(ii) avoids, or is intended to avoid, a
13 transaction reporting requirement under State
14 or Federal law.”.

15 **SEC. 314. INCREASED CRIMINAL PENALTIES RELATING TO**
16 **ALIEN SMUGGLING AND RELATED OFFENSES.**

17 (a) *IN GENERAL.*—Section 274 of the Immigration
18 and Nationality Act (8 U.S.C. 1324), is amended to read
19 as follows:

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

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

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

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

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

18 “(C) transports, moves, harbors, conceals, or
19 shields from detection a person outside of the
20 United States knowing or in reckless disregard of
21 the fact that such person is an alien in unlawful
22 transit from one country to another or on the
23 high seas, under circumstances in which the
24 alien is seeking to enter the United States with-
25 out official permission or lawful authority;

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

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

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

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

21 “(2) **CRIMINAL PENALTIES.**—A person who vio-
22 lates any provision under paragraph (1) shall, for
23 each alien in respect to whom a violation of para-
24 graph (1) occurs—

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

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

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

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

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

1 “(D) be fined under such title, imprisoned
2 not less than 5 years or more than 20 years, or
3 both, if the violation created a substantial and
4 foreseeable risk of death, a substantial and fore-
5 seeable risk of serious bodily injury (as defined
6 in section 2119(2) of title 18, United States
7 Code), or inhumane conditions to another per-
8 son, including—

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

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

15 “(iii) transporting the person in, har-
16 boring the person in, or otherwise subjecting
17 the person to crowded or dangerous condi-
18 tions;

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

24 “(F) be fined under such title and impris-
25 oned for not less than 10 years or more than 30

1 *years if the violation involved an alien who the*
2 *offender knew or had reason to believe was—*

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

5 *“(ii) intending to engage in terrorist*
6 *activity; or*

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

12 *“(3) **LIMITATION.**—It is not a violation of sub-*
13 *paragraph (D), (E), or (F) of paragraph (1) for a re-*
14 *ligious denomination having a bona fide nonprofit,*
15 *religious organization in the United States, or the*
16 *agents or officers of such denomination or organiza-*
17 *tion, to encourage, invite, call, allow, or enable an*
18 *alien who is present in the United States to perform*
19 *the vocation of a minister or missionary for the de-*
20 *nomination or organization in the United States as*
21 *a volunteer who is not compensated as an employee,*
22 *notwithstanding the provision of room, board, travel,*
23 *medical assistance, and other basic living expenses,*
24 *provided the minister or missionary has been a mem-*
25 *ber of the denomination for at least 1 year.*

1 “(4) *EXTRATERRITORIAL JURISDICTION.*—There
 2 is extraterritorial Federal jurisdiction over the of-
 3 fenses described in this subsection.

4 “(b) *SEIZURE AND FORFEITURE.*—

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

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

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

1 or been present in the United States in violation of
2 law may include:

3 “(A) any order, finding, or determination
4 concerning the alien’s status or lack of status
5 made by a Federal judge or administrative adju-
6 dicator (including an immigration judge or im-
7 migration officer) during any judicial or admin-
8 istrative proceeding authorized under Federal
9 immigration law;

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

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

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

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

23 “(2) other officers responsible for the enforcement
24 of Federal criminal laws.

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

9 “(1) the witness was available for cross examina-
 10 tion at the deposition by the party, if any, opposing
 11 admission of the testimony; and

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

14 “(e) **DEFINITIONS.**—In this section:

15 “(1) **CROSS THE BORDER TO THE UNITED**
 16 **STATES.**—The term ‘cross the border’ refers to the
 17 physical act of crossing the border, regardless of
 18 whether the alien is free from official restraint.

19 “(2) **LAWFUL AUTHORITY.**—The term ‘lawful au-
 20 thority’ means permission, authorization, or license
 21 that is expressly provided for in the immigration
 22 laws of the United States or accompanying regula-
 23 tions. The term does not include any such authority
 24 secured by fraud or otherwise obtained in violation of
 25 law or authority sought, but not approved. No alien

1 *shall be deemed to have lawful authority to come to,*
 2 *enter, reside in, remain in, or be in the United States*
 3 *if such coming to, entry, residence, remaining, or*
 4 *presence was, is, or would be in violation of law.*

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

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

14 (b) **CLERICAL AMENDMENT.**—*The table of contents for*
 15 *the Immigration and Nationality Act is amended by strik-*
 16 *ing the item relating to section 274 and inserting the fol-*
 17 *lowing:*

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

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

22 (1) *in paragraph (1)—*

23 (A) *in subparagraph (A)—*

24 (i) *by inserting “, alien smuggling*
 25 *crime,” after “any crime of violence”; and*

1 (ii) by inserting “, alien smuggling
 2 crime,” after “such crime of violence”; and
 3 (B) in subparagraph (D)(ii), by inserting
 4 “, alien smuggling crime,” after “crime of vio-
 5 lence”; and

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

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

11 **SEC. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

12 (a) **IN GENERAL.**—Section 275 of the Immigration
 13 and Nationality Act (8 U.S.C. 1325) is amended to read
 14 as follows:

15 **“ILLEGAL ENTRY OR PRESENCE**

16 **“SEC. 275. (a) IN GENERAL.—**

17 **“(1) ILLEGAL ENTRY.—**An alien shall be subject
 18 to the penalties set forth in paragraph (2) if the alien:

19 **“(A) knowingly enters or crosses the border**
 20 into the United States at any time or place other
 21 than as designated by the Secretary of Homeland
 22 Security;

23 **“(B) knowingly eludes, at any time or**
 24 place, examination or inspection by an author-
 25 ized immigration, customs, or agriculture officer

1 *(including by failing to stop at the command of*
2 *such officer);*

3 *“(C) knowingly enters or crosses the border*
4 *to the United States and, upon examination or*
5 *inspection, knowingly makes a false or mis-*
6 *leading representation or the knowing conceal-*
7 *ment of a material fact (including such represen-*
8 *tation or concealment in the context of arrival,*
9 *reporting, entry, or clearance requirements of the*
10 *customs laws, immigration laws, agriculture*
11 *laws, or shipping laws);*

12 *“(D) knowingly violates the terms or condi-*
13 *tions of the alien’s admission or parole into the*
14 *United States; or*

15 *“(E) knowingly is unlawfully present in the*
16 *United States (as defined in section*
17 *212(a)(9)(B)(ii) subject to the exceptions set for*
18 *in section 212(a)(9)(B)(iii)).*

19 *“(2) **CRIMINAL PENALTIES.**—Any alien who vio-*
20 *lates any provision under paragraph (1):*

21 *“(A) shall, for the first violation, be fined*
22 *under title 18, United States Code, imprisoned*
23 *not more than 6 months, or both;*

24 *“(B) shall, for a second or subsequent viola-*
25 *tion, or following an order of voluntary depar-*

1 *ture, be fined under such title, imprisoned not*
2 *more than 2 years (or not more than 6 months*
3 *in the case of a second or subsequent violation of*
4 *paragraph (1)(E)), or both;*

5 *“(C) if the violation occurred after the alien*
6 *had been convicted of 3 or more misdemeanors or*
7 *for a felony, shall be fined under such title, im-*
8 *prisoned not more than 10 years, or both;*

9 *“(D) if the violation occurred after the alien*
10 *had been convicted of a felony for which the alien*
11 *received a term of imprisonment of not less than*
12 *30 months, shall be fined under such title, im-*
13 *prisoned not more than 15 years, or both; and*

14 *“(E) if the violation occurred after the alien*
15 *had been convicted of a felony for which the alien*
16 *received a term of imprisonment of not less than*
17 *60 months, such alien shall be fined under such*
18 *title, imprisoned not more than 20 years, or*
19 *both.*

20 *“(3) PRIOR CONVICTIONS.—The prior convictions*
21 *described in subparagraphs (C) through (E) of para-*
22 *graph (2) are elements of the offenses described and*
23 *the penalties in such subparagraphs shall apply only*
24 *in cases in which the conviction or convictions that*
25 *form the basis for the additional penalty are—*

1 “(A) *alleged in the indictment or informa-*
2 *tion; and*

3 “(B) *proven beyond a reasonable doubt at*
4 *trial or admitted by the defendant.*

5 “(4) *DURATION OF OFFENSE.—An offense under*
6 *this subsection continues until the alien is discovered*
7 *within the United States by an immigration, cus-*
8 *toms, or agriculture officer.*

9 “(5) *ATTEMPT.—Whoever attempts to commit*
10 *any offense under this section shall be punished in the*
11 *same manner as for a completion of such offense.*

12 “(b) *IMPROPER TIME OR PLACE; CIVIL PENALTIES.—*
13 *Any alien who is apprehended while entering, attempting*
14 *to enter, or knowingly crossing or attempting to cross the*
15 *border to the United States at a time or place other than*
16 *as designated by immigration officers shall be subject to a*
17 *civil penalty, in addition to any criminal or other civil*
18 *penalties that may be imposed under any other provision*
19 *of law, in an amount equal to—*

20 “(1) *not less than \$50 or more than \$250 for*
21 *each such entry, crossing, attempted entry, or at-*
22 *tempted crossing; or*

23 “(2) *twice the amount specified in paragraph (1)*
24 *if the alien had previously been subject to a civil pen-*
25 *alty under this subsection.”.*

1 (b) **CLERICAL AMENDMENT.**—*The table of contents for*
 2 *the Immigration and Nationality Act is amended by strik-*
 3 *ing the item relating to section 275 and inserting the fol-*
 4 *lowing:*

“Sec. 275. *Illegal entry or presence.*”.

5 **SEC. 316. ILLEGAL REENTRY.**

6 Section 276 of the Immigration and Nationality Act
 7 (8 U.S.C. 1326) is amended to read as follows:

8 **“REENTRY OF REMOVED ALIEN**

9 **“SEC. 276. (a) REENTRY AFTER REMOVAL.**—*Any*
 10 *alien who has been denied admission, excluded, deported,*
 11 *or removed, or who has departed the United States while*
 12 *an order of exclusion, deportation, or removal is out-*
 13 *standing, and subsequently enters, attempts to enter, crosses*
 14 *the border to, attempts to cross the border to, or is at any*
 15 *time found in the United States, shall be fined under title*
 16 *18, United States Code, imprisoned not more than 2 years,*
 17 *or both.*

18 **“(b) REENTRY OF CRIMINAL OFFENDERS.**—*Notwith-*
 19 *standing the penalty provided in subsection (a), if an alien*
 20 *described in that subsection was convicted before such re-*
 21 *moval or departure—*

22 **“(1) for 3 or more misdemeanors or for a felony,**
 23 *the alien shall be fined under title 18, United States*
 24 *Code, imprisoned not more than 10 years, or both;*

1 “(2) for a felony for which the alien was sen-
2 tenced to a term of imprisonment of not less than 30
3 months, the alien shall be fined under such title, im-
4 prisoned not less than 2 years and not more than 15
5 years, or both;

6 “(3) for a felony for which the alien was sen-
7 tenced to a term of imprisonment of not less than 60
8 months, the alien shall be fined under such title, im-
9 prisoned not less than 4 years and not more than 20
10 years, or both; or

11 “(4) for murder, rape, kidnapping, or a felony
12 offense described in chapter 77 (relating to peonage
13 and slavery) or 113B (relating to terrorism) of such
14 title, or for 3 or more felonies of any kind, the alien
15 shall be fined under such title, imprisoned not less
16 than 5 years and not more than 25 years, or both.

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

24 “(d) **PROOF OF PRIOR CONVICTIONS.**—The prior con-
25 victions described in subsection (b) are elements of the

1 *crimes described, and the penalties in that subsection shall*
 2 *apply only in cases in which the conviction or convictions*
 3 *that form the basis for the additional penalty are—*

4 “(1) *alleged in the indictment or information;*
 5 *and*

6 “(2) *proven beyond a reasonable doubt at trial*
 7 *or admitted by the defendant.*

8 “(e) **AFFIRMATIVE DEFENSES.**—*It shall be an affirma-*
 9 *tive defense to a violation of this section that—*

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

14 “(2) *with respect to an alien previously denied*
 15 *admission and removed, the alien—*

16 “(A) *was not required to obtain such ad-*
 17 *vance consent under the Immigration and Na-*
 18 *tionality Act or any prior Act; and*

19 “(B) *had complied with all other laws and*
 20 *regulations governing the alien’s admission into*
 21 *the United States.*

22 “(f) **LIMITATION ON COLLATERAL ATTACK ON UNDER-**
 23 **LYING REMOVAL ORDER.**—*In a criminal proceeding under*
 24 *this section, an alien may not challenge the validity of any*
 25 *prior removal order concerning the alien.*

1 “(g) **REENTRY OF ALIEN REMOVED PRIOR TO COM-**
2 **PLETION OF TERM OF IMPRISONMENT.**—Any alien removed
3 pursuant to section 241(a)(4) who enters, attempts to enter,
4 crosses the border to, attempts to cross the border to, or is
5 at any time found in, the United States shall be incarcer-
6 ated for the remainder of the sentence of imprisonment
7 which was pending at the time of deportation without any
8 reduction for parole or supervised release unless the alien
9 affirmatively demonstrates that the Secretary of Homeland
10 Security has expressly consented to the alien’s reentry. Such
11 alien shall be subject to such other penalties relating to the
12 reentry of removed aliens as may be available under this
13 section or any other provision of law.

14 “(h) **DEFINITIONS.**—For purposes of this section and
15 section 275, the following definitions shall apply:

16 “(1) **CROSSES THE BORDER TO THE UNITED**
17 **STATES.**—The term ‘crosses the border’ refers to the
18 physical act of crossing the border, regardless of
19 whether the alien is free from official restraint.

20 “(2) **FELONY.**—The term ‘felony’ means any
21 criminal offense punishable by a term of imprison-
22 ment of more than 1 year under the laws of the
23 United States, any State, or a foreign government.

24 “(3) **MISDEMEANOR.**—The term ‘misdemeanor’
25 means any criminal offense punishable by a term of

1 *imprisonment of not more than 1 year under the ap-*
 2 *plicable laws of the United States, any State, or a*
 3 *foreign government.*

4 “(4) **REMOVAL.**—The term ‘removal’ includes
 5 *any denial of admission, exclusion, deportation, or re-*
 6 *moval, or any agreement by which an alien stipulates*
 7 *or agrees to exclusion, deportation, or removal.*

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

12 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
 13 **FRAUD OFFENSES.**

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

16 **“CHAPTER 75—PASSPORTS AND VISAS**

 “Sec.

 “1541. Issuance without authority.

 “1542. False statement in application and use of passport.

 “1543. Forgery or false use of passport.

 “1544. Misuse of a passport.

 “1545. Schemes to defraud aliens.

 “1546. Immigration and visa fraud.

 “1547. Attempts and conspiracies.

 “1548. Alternative penalties for certain offenses.

 “1549. Definitions.

17 **“§ 1541. Issuance without authority**

18 “(a) **IN GENERAL.**—Whoever—

19 “(1) *acting or claiming to act in any office or*
 20 *capacity under the United States, or a State, without*

1 *lawful authority grants, issues, or verifies any pass-*
 2 *port or other instrument in the nature of a passport*
 3 *to or for any person; or*

4 *“(2) being a consular officer authorized to grant,*
 5 *issue, or verify passports, knowingly grants, issues, or*
 6 *verifies any such passport to or for any person not*
 7 *owing allegiance, to the United States, whether a cit-*
 8 *izen or not;*

9 *shall be fined under this title or imprisoned not more than*
 10 *15 years, or both.*

11 *“(b) DEFINITION.—In this section, the term ‘State’*
 12 *means a State of the United States, the District of Colum-*
 13 *bia, and any commonwealth, territory, or possession of the*
 14 *United States.*

15 **“§ 1542. False statement in application and use of**
 16 ***passport***

17 *“Whoever knowingly—*

18 *“(1) makes any false statement in an applica-*
 19 *tion for passport with intent to induce or secure the*
 20 *issuance of a passport under the authority of the*
 21 *United States, either for his own use or the use of an-*
 22 *other, contrary to the laws regulating the issuance of*
 23 *passports or the rules prescribed pursuant to such*
 24 *laws; or*

1 “(2) uses or attempts to use, or furnishes to an-
2 other for use any passport the issue of which was se-
3 cured in any way by reason of any false statement;
4 shall be fined under this title or imprisoned not more than
5 15 years, or both.

6 **“§ 1543. Forgery or false use of passport**

7 “Whoever—

8 “(1) falsely makes, forges, counterfeits, mutilates,
9 or alters any passport or instrument purporting to be
10 a passport, with intent that the same may be used;
11 or

12 “(2) knowingly uses, or attempts to use, or fur-
13 nishes to another for use any such false, forged, coun-
14 terfeited, mutilated, or altered passport or instrument
15 purporting to be a passport, or any passport validly
16 issued which has become void by the occurrence of any
17 condition therein prescribed invalidating the same;
18 shall be fined under this title or imprisoned not more than
19 15 years, or both.

20 **“§ 1544. Misuse of a passport**

21 “Whoever knowingly—

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

24 “(2) uses any passport in violation of the condi-
25 tions or restrictions therein contained, or in violation

1 *of the laws, regulations, or rules governing the*
2 *issuance and use of the passport;*

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

8 *“(4) violates the terms and conditions of any*
9 *safe conduct duly obtained and issued under the au-*
10 *thority of the United States;*

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

13 **“§ 1545. Schemes to defraud aliens**

14 *“Whoever inside the United States, or in or affecting*
15 *interstate or foreign commerce, in connection with any mat-*
16 *ter that is authorized by or arises under the immigration*
17 *laws of the United States or any matter the offender claims*
18 *or represents is authorized by or arises under the immigra-*
19 *tion laws of the United States, knowingly executes a scheme*
20 *or artifice—*

21 *“(1) to defraud any person, or*

22 *“(2) to obtain or receive money or anything else*
23 *of value from any person by means of false or fraudu-*
24 *lent pretenses, representations, or promises;*

1 *shall be fined under this title, imprisoned not more than*
2 *15 years, or both.*

3 ***“§ 1546. Immigration and visa fraud***

4 *“Whoever knowingly—*

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

7 *“(2) forges, counterfeits, alters, or falsely makes*
8 *any immigration document;*

9 *“(3) mails, prepares, presents, or signs any im-*
10 *migration document knowing it to contain any mate-*
11 *rially false statement or representation;*

12 *“(4) secures, possesses, uses, transfers, receives,*
13 *buys, sells, or distributes any immigration document*
14 *knowing it to be forged, counterfeited, altered, falsely*
15 *made, stolen, procured by fraud, or produced or*
16 *issued without lawful authority;*

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

19 *“(6) transfers or furnishes, without lawful au-*
20 *thority, an immigration document to another person*
21 *for use by a person other than the person for whom*
22 *the immigration document was issued or designed; or*

23 *“(7) produces, issues, authorizes, or verifies,*
24 *without lawful authority, an immigration document;*

1 *shall be fined under this title, imprisoned not more than*
 2 *15 years, or both.*

3 **“§ 1547. Attempts and conspiracies**

4 *“Whoever attempts or conspires to violate this chapter*
 5 *shall be punished in the same manner as a person who com-*
 6 *pletes that violation.*

7 **“§ 1548. Alternative penalties for certain offenses**

8 *“(a) **TERRORISM.**—Whoever violates any section in*
 9 *this chapter to facilitate an act of international terrorism*
 10 *or domestic terrorism (as such terms are defined in section*
 11 *2331), shall be fined under this title or imprisoned not more*
 12 *than 25 years, or both.*

13 *“(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-*
 14 *lates any section in this chapter to facilitate a drug traf-*
 15 *ficking crime (as defined in section 929(a)) shall be fined*
 16 *under this title or imprisoned not more than 20 years, or*
 17 *both.*

18 **“§ 1549. Definitions**

19 *“In this chapter:*

20 *“(1) An ‘application for a United States pass-*
 21 *port’ includes any document, photograph, or other*
 22 *piece of evidence attached to or submitted in support*
 23 *of the application.*

24 *“(2) The term ‘immigration document’ means*
 25 *any instrument on which is recorded, by means of let-*

1 *ters, figures, or marks, matters which may be used to*
 2 *fulfill any requirement of the Immigration and Na-*
 3 *tionality Act.”.*

4 **SEC. 318. FORFEITURE.**

5 *Section 981(a)(1) of title 18, United States Code, is*
 6 *amended by adding at the end the following:*

7 *“(I) Any property, real or personal, that has*
 8 *been used to commit or facilitate the commission of*
 9 *a violation of chapter 75, the gross proceeds of such*
 10 *violation, and any property traceable to any such*
 11 *property or proceeds.”.*

12 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
 13 **ON CRIMINAL OR SECURITY GROUNDS.**

14 *(a) IN GENERAL.—Section 238(b) of the Immigration*
 15 *and Nationality Act (8 U.S.C. 1228(b)) is amended—*

16 *(1) in paragraph (1)—*

17 *(A) by striking “Attorney General” and in-*
 18 *serting “Secretary of Homeland Security in the*
 19 *exercise of discretion”; and*

20 *(B) by striking “set forth in this subsection*
 21 *or” and inserting “set forth in this subsection, in*
 22 *lieu of removal proceedings under”;*

23 *(2) in paragraph (3), by striking “paragraph (1)*
 24 *until 14 calendar days” and inserting “paragraph*
 25 *(1) or (3) until 7 calendar days”;*

1 (3) by striking “Attorney General” each place it
2 appears in paragraphs (3) and (4) and inserting
3 “Secretary of Homeland Security”;

4 (4) in paragraph (5)—

5 (A) by striking “described in this section”
6 and inserting “described in paragraph (1) or
7 (2)”; and

8 (B) by striking “the Attorney General may
9 grant in the Attorney General’s discretion” and
10 inserting “the Secretary of Homeland Security
11 or the Attorney General may grant, in the dis-
12 cretion of the Secretary or Attorney General, in
13 any proceeding”;

14 (5) by redesignating paragraphs (3), (4), and (5)
15 as paragraphs (4), (5), and (6), respectively; and

16 (6) by inserting after paragraph (2) the fol-
17 lowing new paragraph:

18 “(3) The Secretary of Homeland Security in the
19 exercise of discretion may determine inadmissibility
20 under section 212(a)(2) (relating to criminal offenses)
21 and issue an order of removal pursuant to the proce-
22 dures set forth in this subsection, in lieu of removal
23 proceedings under section 240, with respect to an
24 alien who

25 “(A) has not been admitted or paroled;

1 “(B) has not been found to have a credible
2 fear of persecution pursuant to the procedures set
3 forth in section 235(b)(1)(B); and

4 “(C) is not eligible for a waiver of inadmis-
5 sibility or relief from removal.”.

6 (b) **EFFECTIVE DATE.**—The amendments made by sub-
7 section (a) shall take effect on the date of the enactment
8 of this Act but shall not apply to aliens who are in removal
9 proceedings under section 240 of the Immigration and Na-
10 tionality Act as of such date.

11 **SEC. 320. INCREASED PENALTIES BARRING THE ADMISSION**
12 **OF CONVICTED SEX OFFENDERS FAILING TO**
13 **REGISTER AND REQUIRING DEPORTATION OF**
14 **SEX OFFENDERS FAILING TO REGISTER.**

15 (a) **INADMISSIBILITY.**—Section 212(a)(2)(A)(i) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1182(a)(2)(A)(i)), as amended by section 302(a) of this Act,
18 is further amended—

19 (1) in subclause (II), by striking “or” at the end;

20 (2) in subclause (III), by adding “or” at the end;

21 and

22 (3) by inserting after subclause (III) the fol-
23 lowing:

24 “(IV) a violation of section 2250
25 of title 18, United States Code (relat-

1 *ing to failure to register as a sex of-*
 2 *fender),”.*

3 *(b) DEPORTABILITY.—Section 237(a)(2) of such Act (8*
 4 *U.S.C. 1227(a)(2)), as amended by sections 302(c) and*
 5 *311(c) of this Act, is further amended—*

6 *(1) in subparagraph (A), by striking clause (v);*
 7 *and*

8 *(2) by adding at the end the following:*

9 *“(I) FAILURE TO REGISTER AS A SEX OF-*
 10 *FENDER.—Any alien convicted of, or who admits*
 11 *having committed, or who admits committing*
 12 *acts which constitute the essential elements of a*
 13 *violation of section 2250 of title 18, United*
 14 *States Code (relating to failure to register as a*
 15 *sex offender) is deportable.”.*

16 *(c) EFFECTIVE DATE.—The amendments made by this*
 17 *section shall take effect on the date of the enactment of this*
 18 *Act and shall apply to acts that occur before, on, or after*
 19 *the date of the enactment of this Act.*

20 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED SEX**
 21 **OFFENDERS.**

22 *(a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-*
 23 *tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-*
 24 *ed—*

1 (1) in subparagraph (A), by amending clause
2 (viii) to read as follows:

3 “(viii) Clause (i) shall not apply to a citizen of the
4 United States who has been convicted of an offense described
5 in subparagraph (A), (I), or (K) of section 101(a)(43), un-
6 less the Secretary of Homeland Security, in the Secretary’s
7 sole and unreviewable discretion, determines that the citizen
8 poses no risk to the alien with respect to whom a petition
9 described in clause (i) is filed.”; and

10 (2) in subparagraph (B)(i)—

11 (A) by redesignating the second subclause
12 (I) as subclause (II); and

13 (B) by amending such subclause (II) to read
14 as follows:

15 “(II) Subclause (I) shall not apply in the case of an
16 alien admitted for permanent residence who has been con-
17 victed of an offense described in subparagraph (A), (I), or
18 (K) of section 101(a)(43), unless the Secretary of Homeland
19 Security, in the Secretary’s sole and unreviewable discre-
20 tion, determines that the alien lawfully admitted for perma-
21 nent residence poses no risk to the alien with respect to
22 whom a petition described in subclause (I) is filed.”.

23 (b) **NONIMMIGRANTS**.—Section 101(a)(15)(K) of such
24 Act (8 U.S.C. 1101(a)(15)(K)), is amended by striking

1 “204(a)(1)(A)(viii)(I)” each place such term appears and
 2 inserting “204(a)(1)(A)(viii)”.

3 (c) **EFFECTIVE DATE.**—The amendments made by this
 4 section shall take effect on the date of the enactment of this
 5 Act and shall apply to petitions filed on or after such date.

6 **SEC. 322. CLARIFICATION TO CRIMES OF VIOLENCE AND**
 7 **CRIMES INVOLVING MORAL TURPITUDE.**

8 (a) **INADMISSIBLE ALIENS.**—Section 212(a)(2)(A) of
 9 the Immigration and Nationality Act (8 U.S.C.
 10 1182(a)(2)(A)) is amended by adding at the end the fol-
 11 lowing:

12 “(iii) **CLARIFICATION.**—If the convic-
 13 tion records do not conclusively establish
 14 whether a crime constitutes a crime involv-
 15 ing moral turpitude, the Attorney General
 16 may consider other evidence related to the
 17 conviction that clearly establishes that the
 18 conduct for which the alien was engaged
 19 constitutes a crime involving moral turpi-
 20 tude.”.

21 (b) **DEPORTABLE ALIENS.**—

22 (1) **GENERAL CRIMES.**—Section 237(a)(2)(A) of
 23 such Act (8 U.S.C. 1227(a)(2)(A)), as amended by
 24 section 320(b) of this Act, is further amended by in-
 25 serting after clause (iv) the following:

1 “(v) **CRIMES INVOLVING MORAL TURPI-**
 2 **TUDE.**—*If the conviction records do not*
 3 *conclusively establish whether a crime con-*
 4 *stitutes a crime involving moral turpitude,*
 5 *the Attorney General may consider other*
 6 *evidence related to the conviction that clear-*
 7 *ly establishes that the conduct for which the*
 8 *alien was engaged constitutes a crime in-*
 9 *volving moral turpitude.”.*

10 (2) **DOMESTIC VIOLENCE.**—*Section 237(a)(2)(E)*
 11 *of such Act (8 U.S.C. 1227(a)(2)(E)) is amended by*
 12 *adding at the end the following:*

13 “(iii) **CRIMES OF VIOLENCE.**—*If the*
 14 *conviction records do not conclusively estab-*
 15 *lish whether a crime of domestic violence*
 16 *constitutes a crime of violence (as defined in*
 17 *section 16 of title 18, United States Code),*
 18 *the Attorney General may consider other*
 19 *evidence related to the conviction that clear-*
 20 *ly establishes that the conduct for which the*
 21 *alien was engaged constitutes a crime of vi-*
 22 *olence.”.*

23 (c) **EFFECTIVE DATE.**—*The amendments made by this*
 24 *section shall take effect on the date of the enactment of this*

1 *Act and shall apply to acts that occur before, on, or after*
 2 *the date of the enactment of this Act.*

3 **SEC. 323. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
 4 **DERs.**

5 *(a) IN GENERAL.—Section 243(a) of the Immigration*
 6 *and Nationality Act (8 U.S.C. 1253(a)) is amended—*

7 *(1) in the matter preceding subparagraph (A) of*
 8 *paragraph (1), by inserting “212(a) or” before*
 9 *“237(a),” ; and*

10 *(2) by striking paragraph (3).*

11 *(b) EFFECTIVE DATE.—The amendments made by sub-*
 12 *section (a) shall take effect on the date of the enactment*
 13 *of this Act and shall apply to acts that are described in*
 14 *subparagraphs (A) through (D) of section 243(a)(1) of the*
 15 *Immigration and Nationality Act (8 U.S.C. 1253(a)(1))*
 16 *that occur on or after the date of the enactment of this Act.*

17 **SEC. 324. PARDONS.**

18 *(a) DEFINITION.—Section 101(a) of the Immigration*
 19 *and Nationality Act (8 U.S.C. 1101(a)), as amended by sec-*
 20 *tion 311(a) of this Act, is further amended by adding at*
 21 *the end the following:*

22 *“(54) The term ‘pardon’ means a full and uncondi-*
 23 *tional pardon granted by the President of the United States,*
 24 *Governor of any of the several States or constitutionally rec-*
 25 *ognized body.”.*

1 (b) *DEPORTABILITY*.—Section 237(a) of such Act (8
2 U.S.C. 1227(a)) is amended—

3 (1) in paragraph (2)(A), by striking clause (vi);
4 and

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

6 “(8) *PARDONS*.—In the case of an alien who has
7 been convicted of a crime and is subject to removal
8 due to that conviction, if the alien, subsequent to re-
9 ceiving the criminal conviction, is granted a pardon,
10 the alien shall not be deportable by reason of that
11 criminal conviction.”.

12 (c) *EFFECTIVE DATE*.—The amendments made by this
13 section shall take effect on the date of the enactment of this
14 Act and shall apply to a pardon granted before, on, or after
15 such date.

16 ***TITLE IV—VISA SECURITY***

17 ***SEC. 401. CANCELLATION OF ADDITIONAL VISAS.***

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

20 (1) in paragraph (1)—

21 (A) by striking “Attorney General” and in-
22 serting “Secretary”; and

23 (B) by inserting “and any other non-
24 immigrant visa issued by the United States that

1 *is in the possession of the alien” after “such*
 2 *visa”; and*

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

10 ***(b) EFFECTIVE DATE.***—*The amendment made by sub-*
 11 *section (a) shall take effect on the date of the enactment*
 12 *of this Act and shall apply to a visa issued before, on, or*
 13 *after such date.*

14 **SEC. 402. VISA INFORMATION SHARING.**

15 ***(a) IN GENERAL.***—*Section 222(f) of the Immigration*
 16 *and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—*

17 *(1) by striking “issuance or refusal” and insert-*
 18 *ing “issuance, refusal, or revocation”;*

19 *(2) in paragraph (2), in the matter preceding*
 20 *subparagraph (A), by striking “and on the basis of*
 21 *reciprocity”;*

22 *(3) in paragraph (2)(A)—*

23 *(A) by inserting “(i)” after “for the purpose*
 24 *of”; and*

1 (B) by striking “illicit weapons; or” and
 2 inserting “illicit weapons, or (ii) determining a
 3 person’s deportability or eligibility for a visa,
 4 admission, or other immigration benefit;”;
 5 (4) in paragraph (2)(B)—

6 (A) by striking “for the purposes” and in-
 7 serting “for one of the purposes”; and

8 (B) by striking “or to deny visas to persons
 9 who would be inadmissible to the United States.”
 10 and inserting “; or”; and

11 (5) in paragraph (2), by adding at the end the
 12 following:

13 “(C) with regard to any or all aliens in the
 14 database specified data elements from each
 15 record, if the Secretary of State determines that
 16 it is in the national interest to provide such in-
 17 formation to a foreign government.”.

18 (b) **EFFECTIVE DATE.**—The amendments made by sub-
 19 section (a) shall take effect 60 days after the date of the
 20 enactment of the Act.

21 **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

22 Section 222(h) of the Immigration and Nationality
 23 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

1 (1) in paragraph (1)(C), by inserting “, in con-
2 sultation with the Secretary of Homeland Security,”
3 after “if the Secretary”;

4 (2) in paragraph (1)(C)(i), by inserting “, where
5 such national interest shall not include facilitation of
6 travel of foreign nationals to the United States, reduc-
7 tion of visa application processing times, or the allo-
8 cation of consular resources” before the semicolon at
9 the end;

10 (3) in paragraph (2)—

11 (A) by striking “or” at the end of subpara-
12 graph (E);

13 (B) by striking the period at the end of sub-
14 paragraph (F) and inserting “; or”; and

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

16 “(G) is an individual—

17 “(i) determined to be in a class of
18 aliens determined by the Secretary of
19 Homeland Security to be threats to national
20 security;

21 “(ii) identified by the Secretary of
22 Homeland Security as a person of concern;
23 or

24 “(iii) applying for a visa in a visa
25 category with respect to which the Secretary

1 of Homeland Security has determined that
 2 a waiver of the visa interview would create
 3 a high risk of degradation of visa program
 4 integrity.”.

5 **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**
 6 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
 7 **APPLICANTS.**

8 (a) *IN GENERAL.*—Section 222(h)(1) of the Immigra-
 9 tion and Nationality Act (8 U.S.C. 1202(h)(1)) is amended
 10 by inserting “the alien is determined by the Secretary of
 11 State to be ineligible for a visa based upon review of the
 12 application or” after “unless”.

13 (b) *GUIDANCE.*—Not later than 90 days after the date
 14 of the enactment of this Act, the Secretary of State shall
 15 issue guidance to consular officers on the standards and
 16 processes for implementing the authority to deny visa ap-
 17 plications without interview in cases where the alien is de-
 18 termined by the Secretary of State to be ineligible for a
 19 visa based upon review of the application.

20 (c) *REPORTS.*—Not less frequently than once each
 21 quarter, the Secretary of State shall submit to the Congress
 22 a report on the denial of visa applications without inter-
 23 view, including—

- 24 (1) the number of such denials; and
 25 (2) a post-by-post breakdown of such denials.

1 **SEC. 405. VISA REFUSAL AND REVOCATION.**

2 *(a) AUTHORITY OF THE SECRETARY OF HOMELAND*
 3 *SECURITY AND THE SECRETARY OF STATE.—*

4 *(1) IN GENERAL.—Section 428 of the Homeland*
 5 *Security Act of 2002 (6 U.S.C. 236) is amended by*
 6 *striking subsections (b) and (c) and inserting the fol-*
 7 *lowing:*

8 *“(b) AUTHORITY OF THE SECRETARY OF HOMELAND*
 9 *SECURITY.—*

10 *“(1) IN GENERAL.—Notwithstanding section*
 11 *104(a) of the Immigration and Nationality Act (8*
 12 *U.S.C. 1104(a)) or any other provision of law, and*
 13 *except as provided in subsection (c) and except for the*
 14 *authority of the Secretary of State under subpara-*
 15 *graphs (A) and (G) of section 101(a)(15) of the Immi-*
 16 *gration and Nationality Act (8 U.S.C. 1101(a)(15)),*
 17 *the Secretary—*

18 *“(A) shall have exclusive authority to issue*
 19 *regulations, establish policy, and administer and*
 20 *enforce the provisions of the Immigration and*
 21 *Nationality Act (8 U.S.C. 1101 et seq.) and all*
 22 *other immigration or nationality laws relating*
 23 *to the functions of consular officers of the United*
 24 *States in connection with the granting and re-*
 25 *fusal of a visa; and*

1 “(B) may refuse or revoke any visa to any
 2 alien or class of aliens if the Secretary, or des-
 3 ignee, determines that such refusal or revocation
 4 is necessary or advisable in the security interests
 5 of the United States.

6 “(2) **EFFECT OF REVOCATION.**—The revocation
 7 of any visa under paragraph (1)(B)—

8 “(A) shall take effect immediately; and

9 “(B) shall automatically cancel any other
 10 valid visa that is in the alien’s possession.

11 “(3) **JUDICIAL REVIEW.**—Notwithstanding any
 12 other provision of law, including section 2241 of title
 13 28, United States Code, or any other habeas corpus
 14 provision, and sections 1361 and 1651 of such title,
 15 no court shall have jurisdiction to review a decision
 16 by the Secretary of Homeland Security to refuse or
 17 revoke a visa, and no court shall have jurisdiction to
 18 hear any claim arising from, or any challenge to,
 19 such a refusal or revocation.

20 “(c) **AUTHORITY OF THE SECRETARY OF STATE.**—

21 “(1) **IN GENERAL.**—The Secretary of State may
 22 direct a consular officer to refuse a visa requested by
 23 an alien if the Secretary of State determines such re-
 24 fusal to be necessary or advisable in the interests of
 25 the United States.

1 “(2) ***LIMITATION.***—No decision by the Secretary
 2 of State to approve a visa may override a decision by
 3 the Secretary of Homeland Security under subsection
 4 (b).”.

5 (2) ***CONFORMING AMENDMENT.***—Section
 6 237(a)(1)(B) of the Immigration and Nationality Act
 7 (8 U.S.C. 1227(a)(1)(B)) is amended by striking
 8 “under section 221(i)”.

9 (3) ***EFFECTIVE DATE.***—The amendment made by
 10 paragraph (1) shall take effect on the date of the en-
 11 actment of this Act and shall apply to visa refusals
 12 and revocations occurring before, on, or after such
 13 date.

14 (b) ***TECHNICAL CORRECTIONS TO THE HOMELAND SE-***
 15 ***CURITY ACT.***—Section 428(a) of the Homeland Security Act
 16 of 2002 (6 U.S.C. 236(a)) is amended by—

17 (1) striking “subsection” and inserting “section”;
 18 and

19 (2) striking “consular office” and inserting “con-
 20 sular officer”.

21 **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

22 (a) ***IN GENERAL.***—The Department of State and Re-
 23 lated Agency Appropriations Act, 2005 (title IV of division
 24 B of Public Law 108–447) is amended, in the fourth para-
 25 graph under the heading “Diplomatic and Consular Pro-

1 grams”, by striking “Beginning” and all that follows
2 through the period at the end and inserting the following:
3 “Beginning in fiscal year 2005 and thereafter, the Sec-
4 retary of State is authorized to charge surcharges related
5 to consular services in support of enhanced border security
6 that are in addition to the immigrant visa fees in effect
7 on January 1, 2004: Provided, That funds collected pursu-
8 ant to this authority shall be credited to the appropriation
9 for U.S. Immigration and Customs Enforcement for the fis-
10 cal year in which the fees were collected, and shall be avail-
11 able until expended for the funding of the Visa Security
12 Program established by the Secretary of Homeland Security
13 under section 428(e) of the Homeland Security Act of 2002
14 (Public Law 107–296): Provided further, That such sur-
15 charges shall be 10 percent of the fee assessed on immigrant
16 visa applications.”.

17 (b) **REPAYMENT OF APPROPRIATED FUNDS.**—Twenty
18 percent of the funds collected each fiscal year under the
19 heading “Diplomatic and Consular Programs” in the De-
20 partment of State and Related Agency Appropriations Act,
21 2005 (title IV of division B of Public Law 108–447), as
22 amended by subsection (a), shall be deposited into the gen-
23 eral fund of the Treasury as repayment of funds appro-
24 priated pursuant to section 407(c) of this Act until the en-
25 tire appropriated sum has been repaid.

1 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**
2 **PROGRAM TO HIGH-RISK POSTS.**

3 (a) *IN GENERAL.*—Section 428(i) of the Homeland Se-
4 curity Act of 2002 (6 U.S.C. 236(i)) is amended to read
5 as follows:

6 “(i) **VISA ISSUANCE AT DESIGNATED HIGH-RISK**
7 **POSTS.**—Notwithstanding any other provision of law, the
8 Secretary of Homeland Security shall conduct an on-site
9 review of all visa applications and supporting documenta-
10 tion before adjudication at the top 30 visa-issuing posts des-
11 ignated jointly by the Secretaries of State and Homeland
12 Security as high-risk posts.”.

13 (b) *ASSIGNMENT OF PERSONNEL.*—Not later than one
14 year after the date of enactment of this section, the Sec-
15 retary of Homeland Security shall assign personnel to the
16 visa-issuing posts referenced in section 428(i) of the Home-
17 land Security Act of 2002 (6 U.S.C. 236(i)), as amended
18 by this section, and communicate such assignments to the
19 Secretary of State.

20 (c) *APPROPRIATIONS.*—There is authorized to be ap-
21 propriated \$60,000,000 for each of the fiscal years 2014 and
22 2015, which shall be used to expedite the implementation
23 of section 428(i) of the Homeland Security Act, as amended
24 by this section.

1 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**
 2 **PARTMENT OF HOMELAND SECURITY PER-**
 3 **SONNEL AT OVERSEAS EMBASSIES AND CON-**
 4 **SULAR POSTS.**

5 *Section 428 of the Homeland Security Act of 2002 (6*
 6 *U.S.C. 236) is amended by adding at the end the following:*

7 *“(j) EXPEDITED CLEARANCE AND PLACEMENT OF DE-*
 8 *PARTMENT OF HOMELAND SECURITY PERSONNEL AT OVER-*
 9 *SEAS EMBASSIES AND CONSULAR POSTS.—Notwith-*
 10 *standing any other provision of law, and the processes set*
 11 *forth in National Security Defense Directive 38 (dated June*
 12 *2, 1982) or any successor Directive, the Chief of Mission*
 13 *of a post to which the Secretary of Homeland Security has*
 14 *assigned personnel under subsection (e) or (i) shall ensure,*
 15 *not later than one year after the date on which the Sec-*
 16 *retary of Homeland Security communicates such assign-*
 17 *ment to the Secretary of State, that such personnel have*
 18 *been stationed and accommodated at post and are able to*
 19 *carry out their duties.”.*

20 **SEC. 409. ACCREDITATION REQUIREMENTS.**

21 *(a) COLLEGES, UNIVERSITIES, AND LANGUAGE TRAIN-*
 22 *ING PROGRAMS.—Section 101(a) of the Immigration and*
 23 *Nationality Act (8 U.S.C. 1101(a)) is amended—*

24 *(1) in paragraph (15)(F)(i)—*

25 *(A) by striking “section 214(l) at an estab-*
 26 *lished college, university, seminary, conservatory,*

1 *academic high school, elementary school, or other*
2 *academic institution or in an accredited lan-*
3 *guage training program in the United States”*
4 *and inserting “section 214(m) at an accredited*
5 *college, university, or language training pro-*
6 *gram, or at an established seminary, conserv-*
7 *atory, academic high school, elementary school,*
8 *or other academic institution in the United*
9 *States”;*

10 *(B) by striking “Attorney General” each*
11 *place such term appears and inserting “Sec-*
12 *retary of Homeland Security”;* and

13 *(C) by striking “and if any such institution*
14 *of learning or place of study fails to make re-*
15 *ports promptly the approval shall be with-*
16 *drawn,” and inserting “and if any such institu-*
17 *tion of learning of place of study fails to make*
18 *reports promptly or fails to comply with any ac-*
19 *creditation requirement (including deadlines for*
20 *submitting accreditation applications or obtain-*
21 *ing accreditation) the approval shall be with-*
22 *drawn,”;* and

23 *(2) by amending paragraph (52) to read as fol-*
24 *lows:*

1 “(52) *Except as provided in section 214(m)(4), the*
 2 *term ‘accredited college, university, or language training*
 3 *program’ means a college, university, or language training*
 4 *program that is accredited by an accrediting agency recog-*
 5 *nized by the Secretary of Education.”.*

6 (b) **OTHER ACADEMIC INSTITUTIONS.**—Section
 7 214(m) of the Immigration and Nationality Act (8 U.S.C.
 8 1184(m)) is amended by adding at the end the following:
 9 “(3) *The Secretary of Homeland Security shall require*
 10 *accreditation of an academic institution (except for sem-*
 11 *inaries or other religious institutions) for purposes of sec-*
 12 *tion 101(a)(15)(F) if—*

13 “(A) *that institution is not already required to*
 14 *be accredited under section 101(a)(15)(F)(i); and*

15 “(B) *an appropriate accrediting agency recog-*
 16 *nized by the Secretary of Education is able to provide*
 17 *such accreditation.*

18 “(4) *The Secretary of Homeland Security, in the Sec-*
 19 *retary’s discretion, may waive the accreditation require-*
 20 *ment in paragraph (3) or section 101(a)(15)(F)(i) with re-*
 21 *spect to an institution if such institution—*

22 “(A) *is otherwise in compliance with the require-*
 23 *ments of section 101(a)(15)(F)(i); and*

24 “(B) *has been a candidate for accreditation for*
 25 *at least 1 year and continues to progress toward ac-*

1 *creditation by an accrediting agency recognized by*
 2 *the Secretary of Education.”.*

3 (c) **EFFECTIVE DATE.**—

4 (1) **IN GENERAL.**—*Except as provided in para-*
 5 *graph (2), the amendments made by this section*
 6 *shall—*

7 (A) *take effect on the date that is 180 days*
 8 *after the date of enactment of this Act; and*

9 (B) *apply with respect to applications for*
 10 *nonimmigrant visas that are filed on or after the*
 11 *effective date described in subparagraph (A).*

12 (2) **TEMPORARY EXCEPTION.**—*During the 3-year*
 13 *period beginning on the effective date described in*
 14 *paragraph (1)(A), an institution that is newly re-*
 15 *quired to be accredited under this section may con-*
 16 *tinue to participate in the Student and Exchange*
 17 *Visitor Program notwithstanding the institution’s*
 18 *lack of accreditation if the institution—*

19 (A) *was certified under the Student and*
 20 *Exchange Visitor Program on such date;*

21 (B) *submitted an application for accredita-*
 22 *tion to an accrediting agency recognized by the*
 23 *Secretary of Education during the 6-month pe-*
 24 *riod ending on such date; and*

1 (C) continues to progress toward accredita-
 2 tion by such accrediting agency.

3 **SEC. 410. VISA FRAUD.**

4 (a) **TEMPORARY SUSPENSION OF SEVIS ACCESS.**—
 5 Section 641(d) of the Illegal Immigration Reform and Im-
 6 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is
 7 amended—

8 (1) in paragraph (1)(A), by striking “institu-
 9 tion,,” and inserting “institution,”; and

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

11 “(3) **EFFECT OF REASONABLE SUSPICION OF**
 12 **FRAUD.**—If the Secretary of Homeland Security has
 13 reasonable suspicion that an owner of, or a des-
 14 ignated school official at, an approved institution of
 15 higher education, an other approved educational in-
 16 stitution, or a designated exchange visitor program
 17 has committed fraud or attempted to commit fraud
 18 relating to any aspect of the Student and Exchange
 19 Visitor Program, the Secretary may immediately sus-
 20 pend, without notice, such official’s or such school’s
 21 access to the Student and Exchange Visitor Informa-
 22 tion System (SEVIS), including the ability to issue
 23 Form I–20s, pending a final determination by the
 24 Secretary with respect to the institution’s certification
 25 under the Student and Exchange Visitor Program.”.

1 (b) *EFFECT OF CONVICTION FOR VISA FRAUD.*—Such
 2 section 641(d), as amended by subsection (a)(2), is further
 3 amended by adding at the end the following:

4 “(4) **PERMANENT DISQUALIFICATION FOR**
 5 **FRAUD.**—A designated school official at, or an owner
 6 of, an approved institution of higher education, an
 7 other approved educational institution, or a des-
 8 ignated exchange visitor program who is convicted for
 9 fraud relating to any aspect of the Student and Ex-
 10 change Visitor Program shall be permanently dis-
 11 qualified from filing future petitions and from having
 12 an ownership interest or a management role, includ-
 13 ing serving as a principal, owner, officer, board mem-
 14 ber, general partner, designated school official, or any
 15 other position of substantive authority for the oper-
 16 ations or management of the institution, in any
 17 United States educational institution that enrolls
 18 nonimmigrant alien students described in subpara-
 19 graph (F) or (M) of section 101(a)(15) the Immigra-
 20 tion and Nationality Act (8 U.S.C. 1101(a)(15)).”.

21 **SEC. 411. BACKGROUND CHECKS.**

22 (a) *IN GENERAL.*—Section 641(d) of the Illegal Immi-
 23 gration Reform and Immigrant Responsibility Act of 1996
 24 (8 U.S.C. 1372(d)), as amended by section 411(b) of this
 25 Act, is further amended by adding at the end the following:

1 “(5) **BACKGROUND CHECK REQUIREMENT.**—

2 “(A) **IN GENERAL.**—*An individual may not*
3 *serve as a designated school official or be granted*
4 *access to SEVIS unless the individual is a na-*
5 *tional of the United States or an alien lawfully*
6 *admitted for permanent residence and during the*
7 *most recent 3-year period—*

8 “(i) *the Secretary of Homeland Secu-*
9 *rity has—*

10 “(I) *conducted a thorough back-*
11 *ground check on the individual, includ-*
12 *ing a review of the individual’s crimi-*
13 *nal and sex offender history and the*
14 *verification of the individual’s immi-*
15 *gration status; and*

16 “(II) *determined that the indi-*
17 *vidual has not been convicted of any*
18 *violation of United States immigration*
19 *law and is not a risk to national secu-*
20 *rity of the United States; and*

21 “(ii) *the individual has successfully*
22 *completed an on-line training course on*
23 *SEVP and SEVIS, which has been devel-*
24 *oped by the Secretary.*

1 “(B) *INTERIM DESIGNATED SCHOOL OFFI-*
2 *CIAL.*—

3 “(i) *IN GENERAL.*—*An individual may*
4 *serve as an interim designated school offi-*
5 *cial during the period that the Secretary is*
6 *conducting the background check required*
7 *by subparagraph (A)(i)(I).*

8 “(ii) *REVIEWS BY THE SECRETARY.*—
9 *If an individual serving as an interim des-*
10 *ignated school official under clause (i) does*
11 *not successfully complete the background*
12 *check required by subparagraph (A)(i)(I),*
13 *the Secretary shall review each Form I–20*
14 *issued by such interim designated school of-*
15 *ficial.*

16 “(6) *FEE.*—*The Secretary is authorized to collect*
17 *a fee from an approved school for each background*
18 *check conducted under paragraph (6)(A)(i). The*
19 *amount of such fee shall be equal to the average*
20 *amount expended by the Secretary to conduct such*
21 *background checks.”.*

22 “(b) *EFFECTIVE DATE.*—*The amendment made by sub-*
23 *section (a) shall take effect on the date that is 1 year after*
24 *the date of the enactment of this Act.*

1 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

2 *Section 641(d) of the Illegal Immigration Reform and*
 3 *Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)),*
 4 *as amended by section 412(a) of this Act, is further amend-*
 5 *ed by adding at the end the following:*

6 “(7) **NUMBER OF DESIGNATED SCHOOL OFFI-**
 7 **CIALS.**—*School officials may nominate as many Des-*
 8 *ignated School Officials (DSOs) in addition to the*
 9 *school’s Principal Designated School Official (PDSO)*
 10 *as they determine necessary to adequately provide rec-*
 11 *ommendations to students enrolled at the school re-*
 12 *garding maintenance of nonimmigrant status under*
 13 *subparagraph (F) or (M) of section 101(a)(15) and to*
 14 *support timely and complete recordkeeping and re-*
 15 *porting to the Secretary of Homeland Security, as re-*
 16 *quired by this section, except that a school may not*
 17 *have less than one DSO per every 200 students who*
 18 *have nonimmigrant status pursuant to subparagraph*
 19 *(F), (J), or (M) of such section. School officials shall*
 20 *not permit a DSO or PDSO nominee access to*
 21 *SEVIS until the Secretary approves the nomina-*
 22 *tion.”.*

23 **SEC. 413. REPORTING REQUIREMENT.**

24 *Section 442(a) of the Homeland Security Act of 2002*
 25 *(6 U.S.C. 252(a)) is amended—*

1 (1) *by redesignating paragraph (5) as para-*
2 *graph (6); and*

3 (2) *by inserting after paragraph (4) the fol-*
4 *lowing:*

5 “(5) **STUDENT AND EXCHANGE VISITOR PRO-**
6 **GRAM.**—*In administering the program under para-*
7 *graph (4), the Secretary shall, not later than one year*
8 *after the date of the enactment of this paragraph, pre-*
9 *scribe regulations to require an institution or ex-*
10 *change visitor program sponsor participating in the*
11 *Student Exchange Visitor Program to ensure that*
12 *each student or exchange visitor who has non-*
13 *immigrant status pursuant to subparagraph (F), (J),*
14 *or (M) of section 101(a)(15) of the Immigration and*
15 *Nationality Act (8 U.S.C. 1101(a)(15)) enrolled at*
16 *the institution or attending the exchange visitor pro-*
17 *gram is reported to the Department within 10 days*
18 *of—*

19 “(A) *transferring to another institution or*
20 *program;*

21 “(B) *changing academic majors; or*

22 “(C) *any other changes to information re-*
23 *quired to be maintained in the system described*
24 *in paragraph (4).”.*

1 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

2 (a) *IN GENERAL.*—Except as provided in subsection
3 (b), the Secretary of Homeland Security shall prohibit any
4 flight school in the United States from accessing SEVIS or
5 issuing a Form I–20 to an alien seeking a student visa pur-
6 suant to subparagraph (F)(i) or (M)(i) of section
7 101(a)(15) of the Immigration and Nationality Act (8
8 U.S.C. 1101(a)(15)) if the flight school has not been cer-
9 tified to the satisfaction of the Secretary and by the Federal
10 Aviation Administration pursuant to part 141 or part 142
11 of title 14, Code of Federal Regulations (or similar successor
12 regulations).

13 (b) *TEMPORARY EXCEPTION.*—During the 5-year pe-
14 riod beginning on the date of the enactment of this Act,
15 the Secretary may waive the requirement under subsection
16 (a) that a flight school be certified by the Federal Aviation
17 Administration if such flight school—

18 (1) was certified under the Student and Ex-
19 change Visitor Program on the date of the enactment
20 of this Act;

21 (2) submitted an application for certification
22 with the Federal Aviation Administration during the
23 1-year period beginning on such date; and

24 (3) continues to progress toward certification by
25 the Federal Aviation Administration.

1 **SEC. 415. REVOCATION OF ACCREDITATION.**

2 *At the time an accrediting agency or association is re-*
3 *quired to notify the Secretary of Education and the appro-*
4 *priate State licensing or authorizing agency of the final de-*
5 *nial, withdrawal, suspension, or termination of accredita-*
6 *tion of an institution pursuant to section 496 of the Higher*
7 *Education Act of 1965 (20 U.S.C. 1099b), such accrediting*
8 *agency or association shall notify the Secretary of Home-*
9 *land Security of such determination and the Secretary of*
10 *Homeland Security shall immediately withdraw the school*
11 *from the SEVP and prohibit the school from accessing*
12 *SEVIS.*

13 **SEC. 416. REPORT ON RISK ASSESSMENT.**

14 *Not later than 180 days after the date of the enactment*
15 *of this Act, the Secretary of Homeland Security shall sub-*
16 *mit to the Committee on the Judiciary of the Senate and*
17 *the Committee on the Judiciary of the House of Representa-*
18 *tives a report that contains the risk assessment strategy that*
19 *will be employed by the Secretary to identify, investigate,*
20 *and take appropriate action against schools and school offi-*
21 *cials that are facilitating the issuance of Form I-20 and*
22 *the maintenance of student visa status in violation of the*
23 *immigration laws of the United States.*

24 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

25 *Not later than 180 days after the date of the enactment*
26 *of this act, the Secretary of Homeland Security shall submit*

1 *to the Committee on the Judiciary of the Senate and the*
2 *Committee on the Judiciary of the House of Representatives*
3 *a report that describes—*

4 *(1) the process in place to identify and assess*
5 *risks in the SEVP;*

6 *(2) a risk assessment process to allocate SEVP's*
7 *resources based on risk;*

8 *(3) the procedures in place for consistently en-*
9 *surving a school's eligibility, including consistently*
10 *verifying in lieu of letters;*

11 *(4) how SEVP identified and addressed missing*
12 *school case files;*

13 *(5) a plan to develop and implement a process*
14 *to monitor state licensing and accreditation status of*
15 *all SEVP-certified schools;*

16 *(6) whether all flight schools that have not been*
17 *certified to the satisfaction of the Secretary and by*
18 *the Federal Aviation Administration have been re-*
19 *moved from the program and have been restricted*
20 *from accessing SEVIS;*

21 *(7) the standard operating procedures that gov-*
22 *ern coordination among SEVP, Counterterrorism and*
23 *Criminal Exploitation Unit, and U.S. Immigration*
24 *and Customs Enforcement field offices; and*

1 (8) *the established criteria for referring cases of*
 2 *a potentially criminal nature from SEVP to the*
 3 *counterterrorism and intelligence community.*

4 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

5 *Not later than 2 years after the date of the enactment*
 6 *of this Act, the Secretary of Homeland Security shall com-*
 7 *plete the deployment of both phases of the 2nd generation*
 8 *Student and Exchange Visitor Information System (com-*
 9 *monly known as “SEVIS II”).*

10 **SEC. 419. DEFINITIONS.**

11 (a) **DEFINITIONS.**—*For purposes of this title:*

12 (1) **SEVIS.**—*The term “SEVIS” means the Stu-*
 13 *dent and Exchange Visitor Information System of the*
 14 *Department of Homeland Security.*

15 (2) **SEVP.**—*The term “SEVP” means the Stu-*
 16 *dent and Exchange Visitor Program of the Depart-*
 17 *ment of Homeland Security.*

18 **TITLE V—AID TO U.S. IMMIGRA-**
 19 **TION AND CUSTOMS EN-**
 20 **FORCEMENT OFFICERS**

21 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

22 (a) **IN GENERAL.**—*The Secretary of Homeland Secu-*
 23 *rity shall authorize all immigration enforcement agents and*
 24 *deportation officers of the Department of Homeland Secu-*

1 rity who have successfully completed basic immigration law
 2 enforcement training to exercise the powers conferred by—

3 (1) section 287(a)(5)(A) of the Immigration and
 4 Nationality Act to arrest for any offense against the
 5 United States;

6 (2) section 287(a)(5)(B) of such Act to arrest for
 7 any felony;

8 (3) section 274(a) of such Act to arrest for bring-
 9 ing in, transporting, or harboring certain aliens, or
 10 inducing them to enter;

11 (4) section 287(a) of such Act to execute war-
 12 rants of arrest for administrative immigration viola-
 13 tions issued under section 236 of the Act or to execute
 14 warrants of criminal arrest issued under the author-
 15 ity of the United States; and

16 (5) section 287(a) of such Act to carry firearms,
 17 provided that they are individually qualified by
 18 training and experience to handle and safely operate
 19 the firearms they are permitted to carry, maintain
 20 proficiency in the use of such firearms, and adhere to
 21 the provisions of the enforcement standard governing
 22 the use of force.

23 (b) **ARREST POWERS.**—Section 287(a)(2) of the Immi-
 24 gration and Nationality Act (8 U.S.C. 1357(a)(2)) is
 25 amended by striking “regulation and is likely to escape be-

1 *fore a warrant can be obtained for his arrest,” and insert-*
 2 *ing “regulation,”.*

3 (c) *PAY.*—*Immigration enforcement agents shall be*
 4 *paid on the same scale as Immigration and Customs En-*
 5 *forcement deportation officers and shall receive the same*
 6 *benefits.*

7 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

8 (a) *AUTHORIZATION.*—*The Secretary of Homeland Se-*
 9 *curity is authorized to hire 2,500 Immigration and Cus-*
 10 *toms Enforcement detention enforcement officers.*

11 (b) *DUTIES.*—*Immigration and Customs Enforcement*
 12 *detention enforcement officers who have successfully com-*
 13 *pleted detention enforcement officers’ basic training shall*
 14 *be responsible for—*

15 (1) *taking and maintaining custody of any per-*
 16 *son who has been arrested by an immigration officer;*

17 (2) *transporting and guarding immigration de-*
 18 *tainees;*

19 (3) *securing Department of Homeland Security*
 20 *detention facilities; and*

21 (4) *assisting in the processing of detainees.*

22 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**
 23 **AGENTS.**

24 (a) *BODY ARMOR.*—*The Secretary of Homeland Secu-*
 25 *rity shall ensure that every Immigration and Customs En-*

1 *forcement deportation officer and immigration enforcement*
2 *agent on duty is issued high-quality body armor that is*
3 *appropriate for the climate and risks faced by the agent.*
4 *Enough body armor must be purchased to cover every agent*
5 *in the field.*

6 (b) **WEAPONS.**—*Such Secretary shall ensure that Im-*
7 *migration and Customs Enforcement deportation officers*
8 *and immigration enforcement agents are equipped with*
9 *weapons that are reliable and effective to protect themselves,*
10 *their fellow agents, and innocent third parties from the*
11 *threats posed by armed criminals. Such weapons shall in-*
12 *clude, at a minimum, standard-issue handguns, M–4 (or*
13 *equivalent) rifles, and Tasers.*

14 (c) **EFFECTIVE DATE.**—*This section shall take effect*
15 *90 days after the date of the enactment of this Act.*

16 **SEC. 504. ICE ADVISORY COUNCIL.**

17 (a) **ESTABLISHMENT.**—*An ICE Advisory Council shall*
18 *be established not later than 3 months after the date of the*
19 *enactment of this Act.*

20 (b) **MEMBERSHIP.**—*The ICE Advisor Council shall be*
21 *comprised of 7 members.*

22 (c) **APPOINTMENT.**—*Members shall to be appointed in*
23 *the following manner:*

24 (1) *One member shall be appointed by the Presi-*
25 *dent;*

1 (2) *One member shall be appointed by the Chair-*
 2 *man of the Judiciary Committee of the House of Rep-*
 3 *resentatives;*

4 (3) *One member shall be appointed by the Chair-*
 5 *man of the Judiciary Committee of the Senate;*

6 (4) *One member shall be appointed by the Local*
 7 *511, the ICE prosecutor's union; and*

8 (5) *Three members shall be appointed by the Na-*
 9 *tional Immigration and Customs Enforcement Coun-*
 10 *cil.*

11 (d) **TERM.**—*Members shall serve renewable, 2-year*
 12 *terms.*

13 (e) **VOLUNTARY.**—*Membership shall be voluntary and*
 14 *non-remunerated, except that members will receive reim-*
 15 *bursement from the Secretary of Homeland Security for*
 16 *travel and other related expenses.*

17 (f) **RETALIATION PROTECTION.**—*Members who are em-*
 18 *ployed by the Secretary of Homeland Security shall be pro-*
 19 *tected from retaliation by their supervisors, managers, and*
 20 *other Department of Homeland Security employees for their*
 21 *participation on the Council.*

22 (g) **PURPOSE.**—*The purpose of the Council is to advise*
 23 *the Congress and the Secretary of Homeland Security on*
 24 *issues including the following:*

1 (1) *The current status of immigration enforce-*
2 *ment efforts, including prosecutions and removals, the*
3 *effectiveness of such efforts, and how enforcement*
4 *could be improved;*

5 (2) *The effectiveness of cooperative efforts between*
6 *the Secretary of Homeland Security and other law*
7 *enforcement agencies, including additional types of*
8 *enforcement activities that the Secretary should be en-*
9 *gaged in, such as State and local criminal task forces;*

10 (3) *Personnel, equipment, and other resource*
11 *needs of field personnel;*

12 (4) *Improvements that should be made to the or-*
13 *ganizational structure of the Department of Home-*
14 *land Security, including whether the position of im-*
15 *migration enforcement agent should be merged into*
16 *the deportation officer position; and*

17 (5) *The effectiveness of specific enforcement poli-*
18 *cies and regulations promulgated by the Secretary of*
19 *Homeland Security, and whether other enforcement*
20 *priorities should be considered.*

21 (h) **REPORTS.**—*The Council shall provide quarterly*
22 *reports to the Chairmen and Ranking Members of the Judi-*
23 *ciary Committees of the Senate and the House of Represent-*
24 *atives and to the Secretary of Homeland Security. The*
25 *Council members shall meet directly with the Chairmen and*

1 *Ranking Members (or their designated representatives) and*
 2 *with the Secretary to discuss their reports every 6 months.*

3 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
 4 **ESSING.**

5 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
 6 *rity shall establish a pilot program in at least five of the*
 7 *10 Immigration and Customs Enforcement field offices with*
 8 *the largest removal caseloads to allow Immigration and*
 9 *Customs deportation officers and immigration enforcement*
 10 *agents to—*

11 *(1) electronically process and serve charging doc-*
 12 *uments, including Notices to Appear, while in the*
 13 *field; and*

14 *(2) electronically process and place detainers*
 15 *while in the field.*

16 *(b) DUTIES.—The pilot program described in sub-*
 17 *section (a) shall be designed to allow deportation officers*
 18 *and immigration enforcement agents to use handheld or ve-*
 19 *hicle-mounted computers to—*

20 *(1) enter any required data, including personal*
 21 *information about the alien subject and the reason for*
 22 *issuing the document;*

23 *(2) apply the electronic signature of the issuing*
 24 *officer or agent;*

1 (3) *set the date the alien is required to appear*
2 *before an immigration judge, in the case of Notices to*
3 *Appear;*

4 (4) *print any documents the alien subject may*
5 *be required to sign, along with additional copies of*
6 *documents to be served on the alien; and*

7 (5) *interface with the ENFORCE database so*
8 *that all data is stored and retrievable.*

9 (c) **CONSTRUCTION.**—*The pilot program described in*
10 *subsection (a) shall be designed to replace, to the extent pos-*
11 *sible, the current paperwork and data-entry process used*
12 *for issuing such charging documents and detainers.*

13 (d) **DEADLINE.**—*The Secretary shall initiate the pilot*
14 *program described in subsection (a) within 6 months of the*
15 *date of enactment of this Act.*

16 (e) **REPORT.**—*The Government Accountability Office*
17 *shall report to the Judiciary Committee of the Senate and*
18 *the House of Representatives no later than 18 months after*
19 *the date of enactment of this Act on the effectiveness of the*
20 *pilot program and provide recommendations for improving*
21 *it.*

22 (f) **ADVISORY COUNCIL.**—*The ICE Advisory Council*
23 *established by section 504 shall include an recommenda-*
24 *tions on how the pilot program should work in the first*
25 *quarterly report of the Council, and shall include assess-*

1 *ments of the program and recommendations for improve-*
2 *ment in each subsequent report.*

3 *(g) **EFFECTIVE DATE.**—This section shall take effect*
4 *180 days after the date of the enactment of this Act.*

5 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
6 **SUPPORT STAFF.**

7 *(a) **IN GENERAL.**—The Secretary of Homeland Secu-*
8 *rity shall, subject to the availability of appropriations for*
9 *such purpose, increase the number of positions for full-time*
10 *active-duty Immigration and Customs Enforcement depor-*
11 *tation officers by 5,000 above the number of full-time posi-*
12 *tions for which funds were appropriated for fiscal year*
13 *2013. The Secretary will determine the rate at which the*
14 *additional officers will be added with due regard to filling*
15 *the positions as expeditiously as possible without making*
16 *any compromises in the selection or the training of the ad-*
17 *ditional officers.*

18 *(b) **SUPPORT STAFF.**—The Secretary shall, subject to*
19 *the availability of appropriations for such purpose, increase*
20 *the number of positions for full-time support staff for Immi-*
21 *gration and Customs Enforcement deportation officers by*
22 *700 above the number of full-time positions for which funds*
23 *were appropriated for fiscal year 2013.*

1 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

2 *The Secretary of Homeland Security shall increase by*
 3 *60 the number of full-time trial attorneys working for the*
 4 *Immigration and Customs Enforcement Office of the Prin-*
 5 *cipal Legal Advisor.*

6 **TITLE VI—MISCELLANEOUS**
 7 **ENFORCEMENT PROVISIONS**

8 **SEC. 601. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.**

9 *(a) IN GENERAL.—Section 240B of the Immigration*
 10 *and Nationality Act (8 U.S.C. 1229c) is amended—*

11 *(1) in subsection (a)—*

12 *(A) by amending paragraph (1) to read as*
 13 *follows:*

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

21 *(B) by striking paragraph (3);*

22 *(C) by redesignating paragraph (2) as*
 23 *paragraph (3);*

24 *(D) by adding after paragraph (1) the fol-*
 25 *lowing:*

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

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

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

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

22 (ii) by redesignating subparagraphs
 23 (B), (C), and (D) as subparagraphs (C),
 24 (D), and (E), respectively;

1 (iii) by adding after subparagraph (A)
2 the following:

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

23 (iv) in subparagraph (C), as redesign-
24 ated, by striking “subparagraphs (C) and

1 (D)(ii)” and inserting “subparagraphs (D)
2 and (E)(ii)”;

3 (v) in subparagraph (D), as redesign-
4 ated, by striking “subparagraph (B)” each
5 place that term appears and inserting “sub-
6 paragraph (C)”;

7 (vi) in subparagraph (E), as redesign-
8 ated, by striking “subparagraph (B)” each
9 place that term appears and inserting “sub-
10 paragraph (C)”;

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

14 (2) in subsection (b)(2), by striking “a period ex-
15 ceeding 60 days” and inserting “any period in excess
16 of 45 days”;

17 (3) by amending subsection (c) to read as fol-
18 lows:

19 “(c) **CONDITIONS ON VOLUNTARY DEPARTURE.**—

20 “(1) **VOLUNTARY DEPARTURE AGREEMENT.**—Vol-
21 untary departure may only be granted as part of an
22 affirmative agreement by the alien. A voluntary de-
23 parture agreement under subsection (b) shall include
24 a waiver of the right to any further motion, appeal,

1 *application, petition, or petition for review relating*
2 *to removal or relief or protection from removal.*

3 “(2) **CONCESSIONS BY THE SECRETARY.**—*In con-*
4 *nection with the alien’s agreement to depart volun-*
5 *tarily under paragraph (1), the Secretary of Home-*
6 *land Security may agree to a reduction in the period*
7 *of inadmissibility under subparagraph (A) or (B)(i)*
8 *of section 212(a)(9).*

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

16 “(4) **FAILURE TO COMPLY WITH AGREEMENT.**—

17 “(A) **IN GENERAL.**—*If an alien agrees to*
18 *voluntary departure under this section and fails*
19 *to depart the United States within the time al-*
20 *lowed for voluntary departure or fails to comply*
21 *with any other terms of the agreement (including*
22 *failure to timely post any required bond), the*
23 *alien is—*

24 “(i) *ineligible for the benefits of the*
25 *agreement;*

1 “(ii) subject to the penalties described
2 in subsection (d); and

3 “(iii) subject to an alternate order of
4 removal if voluntary departure was granted
5 under subsection (a)(2) or (b).

6 “(B) **EFFECT OF FILING TIMELY APPEAL.**—
7 If, after agreeing to voluntary departure, the
8 alien files a timely appeal of the immigration
9 judge’s decision granting voluntary departure,
10 the alien may pursue the appeal instead of the
11 voluntary departure agreement. Such appeal op-
12 erates to void the alien’s voluntary departure
13 agreement and the consequences of such agree-
14 ment, but precludes the alien from another grant
15 of voluntary departure while the alien remains
16 in the United States.

17 “(5) **VOLUNTARY DEPARTURE PERIOD NOT AF-**
18 **FFECTED.**—Except as expressly agreed to by the Sec-
19 retary in writing in the exercise of the Secretary’s
20 discretion before the expiration of the period allowed
21 for voluntary departure, no motion, appeal, applica-
22 tion, petition, or petition for review shall affect, rein-
23 state, enjoin, delay, stay, or toll the alien’s obligation
24 to depart from the United States during the period
25 agreed to by the alien and the Secretary.”;

1 (4) by amending subsection (d) to read as fol-
2 lows:

3 “(d) **PENALTIES FOR FAILURE TO DEPART.**—If an
4 alien is permitted to voluntarily depart under this section
5 and fails to voluntarily depart from the United States with-
6 in the time period specified or otherwise violates the terms
7 of a voluntary departure agreement, the alien will be subject
8 to the following penalties:

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

21 “(2) **INELIGIBILITY FOR RELIEF.**—The alien
22 shall be ineligible during the time the alien remains
23 in the United States and for a period of 10 years
24 after the alien’s departure for any further relief under
25 this section and sections 240A, 245, 248, and 249.

1 *The order permitting the alien to depart voluntarily*
 2 *shall inform the alien of the penalties under this sub-*
 3 *section.*

4 “(3) **REOPENING.**—*The alien shall be ineligible*
 5 *to reopen the final order of removal that took effect*
 6 *upon the alien’s failure to depart, or upon the alien’s*
 7 *other violations of the conditions for voluntary depart-*
 8 *ture, during the period described in paragraph (2).*
 9 *This paragraph does not preclude a motion to reopen*
 10 *to seek withholding of removal under section 241(b)(3)*
 11 *or protection against torture, if the motion—*

12 “(A) *presents material evidence of changed*
 13 *country conditions arising after the date of the*
 14 *order granting voluntary departure in the coun-*
 15 *try to which the alien would be removed; and*

16 “(B) *makes a sufficient showing to the sat-*
 17 *isfaction of the Attorney General that the alien*
 18 *is otherwise eligible for such protection.”;*

19 (5) *by amending subsection (e) to read as fol-*
 20 *lows:*

21 “(e) **ELIGIBILITY.**—

22 “(1) **PRIOR GRANT OF VOLUNTARY DEPART-**
 23 **TURE.**—*An alien shall not be permitted to voluntarily*
 24 *depart under this section if the Secretary of Home-*

1 *land Security or the Attorney General previously per-*
 2 *mitted the alien to depart voluntarily.*

3 “(2) **RULEMAKING.**—*The Secretary may promul-*
 4 *gate regulations to limit eligibility or impose addi-*
 5 *tional conditions for voluntary departure under sub-*
 6 *section (a)(1) for any class of aliens. The Secretary*
 7 *or Attorney General may by regulation limit eligi-*
 8 *bility or impose additional conditions for voluntary*
 9 *departure under subsections (a)(2) or (b) of this sec-*
 10 *tion for any class or classes of aliens.”; and*

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

19 (b) **RULEMAKING.**—*The Secretary shall within one*
 20 *year of the date of enactment of this Act promulgate regula-*
 21 *tions to provide for the imposition and collection of pen-*
 22 *alties for failure to depart under section 240B(d) of the Im-*
 23 *migration and Nationality Act (8 U.S.C. 1229c(d)).*

24 (c) **EFFECTIVE DATES.**—

1 (1) *IN GENERAL.*—*Except as provided in para-*
 2 *graph (2), the amendments made by this section shall*
 3 *apply with respect to all orders granting voluntary*
 4 *departure under section 240B of the Immigration and*
 5 *Nationality Act (8 U.S.C. 1229c) made on or after*
 6 *the date that is 180 days after the enactment of this*
 7 *Act.*

8 (2) *EXCEPTION.*—*The amendment made by sub-*
 9 *section (a)(6) shall take effect on the date of the enact-*
 10 *ment of this Act and shall apply with respect to any*
 11 *petition for review which is filed on or after such*
 12 *date.*

13 **SEC. 602. DETERRING ALIENS ORDERED REMOVED FROM**
 14 **REMAINING IN THE UNITED STATES UNLAW-**
 15 **FULLY.**

16 (a) *INADMISSIBLE ALIENS.*—*Section 212(a)(9)(A) of*
 17 *the Immigration and Nationality Act (8 U.S.C.*
 18 *1182(a)(9)(A)) is amended—*

19 (1) *in clause (i), by striking “seeks admission*
 20 *within 5 years of the date of such removal (or within*
 21 *20 years” and inserting “seeks admission not later*
 22 *than 5 years after the date of the alien’s removal (or*
 23 *not later than 20 years after the alien’s removal”;*
 24 *and*

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

7 **(b) BAR ON DISCRETIONARY RELIEF.**—Section 274D
 8 *of such Act (8 U.S.C. 324d) is amended—*

9 (1) *in subsection (a), by striking “Commis-*
 10 *sioner” and inserting “Secretary of Homeland Secu-*
 11 *rity”; and*

12 (2) *by adding at the end the following:*

13 **“(c) INELIGIBILITY FOR RELIEF.**—

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

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

1 “(A) presents material evidence of changed
 2 country conditions arising after the date of the
 3 final order of removal in the country to which
 4 the alien would be removed; and

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

8 (c) **EFFECTIVE DATES.**—The amendments made by
 9 this section shall take effect on the date of the enactment
 10 of this Act with respect to aliens who are subject to a final
 11 order of removal entered before, on, or after such date.

12 **SEC. 603. REINSTATEMENT OF REMOVAL ORDERS.**

13 (a) **IN GENERAL.**—Section 241(a)(5) of the Immigra-
 14 tion and Nationality Act (8 U.S.C. 1231(a)(5)) is amended
 15 to read as follows:

16 “(5) **REINSTATEMENT OF REMOVAL ORDERS**
 17 **AGAINST ALIENS ILLEGALLY REENTERING.**—If the
 18 Secretary of Homeland Security finds that an alien
 19 has entered the United States illegally after having
 20 been removed, deported, or excluded or having de-
 21 parted voluntarily, under an order of removal, depor-
 22 tation, or exclusion, regardless of the date of the origi-
 23 nal order or the date of the illegal entry—

24 “(A) the order of removal, deportation, or
 25 exclusion is reinstated from its original date and

1 *is not subject to being reopened or reviewed not-*
 2 *withstanding section 242(a)(2)(D);*

3 *“(B) the alien is not eligible and may not*
 4 *apply for any relief under this Act, regardless of*
 5 *the date that an application or request for such*
 6 *relief may have been filed or made; and*

7 *“(C) the alien shall be removed under the*
 8 *order of removal, deportation, or exclusion at*
 9 *any time after the illegal entry.*

10 *Reinstatement under this paragraph shall not require*
 11 *proceedings under section 240 or other proceedings be-*
 12 *fore an immigration judge.”.*

13 ***(b) JUDICIAL REVIEW.***—*Section 242 of the Immigra-*
 14 *tion and Nationality Act (8 U.S.C. 1252) is amended by*
 15 *adding at the end the following:*

16 ***“(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER***
 17 ***SECTION 241(a)(5).***—

18 ***“(1) REVIEW OF REINSTATEMENT.***—*Judicial re-*
 19 *view of determinations under section 241(a)(5) is*
 20 *available in an action under subsection (a).*

21 ***“(2) NO REVIEW OF ORIGINAL ORDER.***—*Notwith-*
 22 *standing any other provision of law (statutory or*
 23 *nonstatutory), including section 2241 of title 28,*
 24 *United States Code, any other habeas corpus provi-*
 25 *sion, or sections 1361 and 1651 of such title, no court*

1 *shall have jurisdiction to review any cause or claim,*
 2 *arising from, or relating to, any challenge to the*
 3 *original order.”.*

4 (c) **EFFECTIVE DATE.**—*The amendments made by sub-*
 5 *sections (a) and (b) shall take effect as if enacted on April*
 6 *1, 1997, and shall apply to all orders reinstated or after*
 7 *that date by the Secretary of Homeland Security (or by*
 8 *the Attorney General prior to March 1, 2003), regardless*
 9 *of the date of the original order.*

10 **SEC. 604. CLARIFICATION WITH RESPECT TO DEFINITION**
 11 **OF ADMISSION.**

12 *Section 101(a)(13)(A) of the Immigration and Nation-*
 13 *ality Act (8 U.S.C. 1101(a)(13)(A)) is amended by adding*
 14 *at the end the following: “An alien’s adjustment of status*
 15 *to that of lawful permanent resident status under any pro-*
 16 *vision of this Act, or under any other provision of law, shall*
 17 *be considered an ‘admission’ for any purpose under this*
 18 *Act, even if the adjustment of status occurred while the alien*
 19 *was present in the United States.”.*

20 **SEC. 605. REPORTS TO CONGRESS ON THE EXERCISE AND**
 21 **ABUSE OF PROSECUTORIAL DISCRETION.**

22 (a) **IN GENERAL.**—*Not later than 180 days after the*
 23 *end of each fiscal year, the Secretary of Homeland Security*
 24 *and the Attorney General shall each provide to the Commit-*

1 *tees on the Judiciary of the House of Representatives and*
2 *of the Senate a report on the following:*

3 *(1) Aliens apprehended or arrested by State or*
4 *local law enforcement agencies who were identified by*
5 *the Department of Homeland Security in the previous*
6 *fiscal year and for whom the Department of Home-*
7 *land Security did not issue detainers and did not*
8 *take into custody despite the Department of Home-*
9 *land Security's findings that the aliens were inadmis-*
10 *sible or deportable.*

11 *(2) Aliens who were applicants for admission in*
12 *the previous fiscal year but not clearly and beyond a*
13 *doubt entitled to be admitted by an immigration offi-*
14 *cer and who were not detained as required pursuant*
15 *to section 235(b)(2)(A) of the Immigration and Na-*
16 *tionality Act (8 U.S.C. 1225(b)(2)(A)).*

17 *(3) Aliens who in the previous fiscal year were*
18 *found by Department of Homeland Security officials*
19 *performing duties related to the adjudication of appli-*
20 *cations for immigration benefits or the enforcement of*
21 *the immigration laws to be inadmissible or deportable*
22 *who were not issued notices to appear pursuant to*
23 *section 239 of such Act (8 U.S.C. 1229) or placed into*
24 *removal proceedings pursuant to section 240 (8*
25 *U.S.C. 1229a), unless the aliens were placed into ex-*

1 *pedited removal proceedings pursuant to section*
2 *235(b)(1)(A)(i) (8 U.S.C. 1225(b)(1)(A)(5)) or section*
3 *238 (8 U.S.C. 1228), were granted voluntary depart-*
4 *ture pursuant to section 240B, were granted relief*
5 *from removal pursuant to statute, were granted legal*
6 *nonimmigrant or immigrant status pursuant to stat-*
7 *ute, or were determined not to be inadmissible or de-*
8 *portable.*

9 *(4) Aliens issued notices to appear that were*
10 *cancelled in the previous fiscal year despite the De-*
11 *partment of Homeland Security's findings that the*
12 *aliens were inadmissible or deportable, unless the*
13 *aliens were granted relief from removal pursuant to*
14 *statute, were granted voluntary departure pursuant to*
15 *section 240B of such Act (8 U.S.C. 1229c), or were*
16 *granted legal nonimmigrant or immigrant status*
17 *pursuant to statute.*

18 *(5) Aliens who were placed into removal pro-*
19 *ceedings, whose removal proceedings were terminated*
20 *in the previous fiscal year prior to their conclusion,*
21 *unless the aliens were granted relief from removal*
22 *pursuant to statute, were granted voluntary departure*
23 *pursuant to section 240B, were granted legal non-*
24 *immigrant or immigrant status pursuant to statute,*

1 or were determined not to be inadmissible or deport-
2 able.

3 (6) *Aliens granted parole pursuant to section*
4 *212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).*

5 (7) *Aliens granted deferred action, extended vol-*
6 *untary departure or any other type of relief from re-*
7 *moval not specified in the Immigration and Nation-*
8 *ality Act or where determined not to be inadmissible*
9 *or deportable.*

10 **(b) CONTENTS OF REPORT.**—*The report shall include*
11 *a listing of each alien described in each paragraph of sub-*
12 *section (a), including when in the possession of the Depart-*
13 *ment of Homeland Security their names, fingerprint identi-*
14 *fication numbers, alien registration numbers, and reason*
15 *why each was granted the type of prosecutorial discretion*
16 *received. The report shall also include current criminal his-*
17 *tories on each alien from the Federal Bureau of Investiga-*
18 *tion.*

19 **SEC. 606. WAIVER OF FEDERAL LAWS WITH RESPECT TO**
20 **BORDER SECURITY ACTIONS ON DEPART-**
21 **MENT OF THE INTERIOR AND DEPARTMENT**
22 **OF AGRICULTURE LANDS.**

23 **(a) PROHIBITION ON SECRETARIES OF THE INTERIOR**
24 **AND AGRICULTURE.**—*The Secretary of the Interior or the*
25 *Secretary of Agriculture shall not impede, prohibit, or re-*

1 *strict activities of U.S. Customs and Border Protection on*
2 *Federal land located within 100 miles of an international*
3 *land border that is under the jurisdiction of the Secretary*
4 *of the Interior or the Secretary of Agriculture, to execute*
5 *search and rescue operations and to prevent all unlawful*
6 *entries into the United States, including entries by terror-*
7 *ists, other unlawful aliens, instruments of terrorism, nar-*
8 *cotics, and other contraband through the international land*
9 *borders of the United States.*

10 *(b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND*
11 *BORDER PROTECTION.—U.S. Customs and Border Protec-*
12 *tion shall have immediate access to Federal land within 100*
13 *miles of the international land border under the jurisdiction*
14 *of the Secretary of the Interior or the Secretary of Agri-*
15 *culture for purposes of conducting the following activities*
16 *on such land that prevent all unlawful entries into the*
17 *United States, including entries by terrorists, other unlaw-*
18 *ful aliens, instruments of terrorism, narcotics, and other*
19 *contraband through the international land borders of the*
20 *United States:*

- 21 *(1) Construction and maintenance of roads.*
22 *(2) Construction and maintenance of barriers.*
23 *(3) Use of vehicles to patrol, apprehend, or res-*
24 *cue.*

1 (4) *Installation, maintenance, and operation of*
2 *communications and surveillance equipment and sen-*
3 *sors.*

4 (5) *Deployment of temporary tactical infrastruc-*
5 *ture.*

6 (c) **CLARIFICATION RELATING TO WAIVER AUTHOR-**
7 **ITY.—**

8 (1) **IN GENERAL.**—*Notwithstanding any other*
9 *provision of law (including any termination date re-*
10 *lating to the waiver referred to in this subsection), the*
11 *waiver by the Secretary of Homeland Security on*
12 *April 1, 2008, under section 102(c)(1) of the Illegal*
13 *Immigration Reform and Immigrant Responsibility*
14 *Act of 1996 (8 U.S.C. 1103 note; Public Law 104–*
15 *208) of the laws described in paragraph (2) with re-*
16 *spect to certain sections of the international border*
17 *between the United States and Mexico and between*
18 *the United States and Canada shall be considered to*
19 *apply to all Federal land under the jurisdiction of the*
20 *Secretary of the Interior or the Secretary of Agri-*
21 *culture within 100 miles of the international land*
22 *borders of the United States for the activities of U.S.*
23 *Customs and Border Protection described in sub-*
24 *section (c).*

1 (2) *DESCRIPTION OF LAWS WAIVED.*—*The laws*
2 *referred to in paragraph (1) are limited to the Wil-*
3 *derness Act (16 U.S.C. 1131 et seq.), the National En-*
4 *vironmental Policy Act of 1969 (42 U.S.C. 4321 et*
5 *seq.), the Endangered Species Act of 1973 (16 U.S.C.*
6 *1531 et seq.), the National Historic Preservation Act*
7 *(16 U.S.C. 470 et seq.), Public Law 86–523 (16*
8 *U.S.C. 469 et seq.), the Act of June 8, 1906 (com-*
9 *monly known as the “Antiquities Act of 1906”; 16*
10 *U.S.C. 431 et seq.), the Wild and Scenic Rivers Act*
11 *(16 U.S.C. 1271 et seq.), the Federal Land Policy and*
12 *Management Act of 1976 (43 U.S.C. 1701 et seq.), the*
13 *National Wildlife Refuge System Administration Act*
14 *of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wild-*
15 *life Act of 1956 (16 U.S.C. 742a et seq.), the Fish and*
16 *Wildlife Coordination Act (16 U.S.C. 661 et seq.),*
17 *subchapter II of chapter 5, and chapter 7, of title 5,*
18 *United States Code (commonly known as the “Admin-*
19 *istrative Procedure Act”), the National Park Service*
20 *Organic Act (16 U.S.C. 1 et seq.), the General Au-*
21 *thorities Act of 1970 (Public Law 91–383) (16 U.S.C.*
22 *1a–1 et seq.), sections 401(7), 403, and 404 of the Na-*
23 *tional Parks and Recreation Act of 1978 (Public Law*
24 *95–625, 92 Stat. 3467), and the Arizona Desert Wil-*

1 *derness Act of 1990 (16 U.S.C. 1132 note; Public Law*
 2 *101–628).*

3 *(d) PROTECTION OF LEGAL USES.—This section shall*
 4 *not be construed to provide—*

5 *(1) authority to restrict legal uses, such as graz-*
 6 *ing, hunting, mining, or public-use recreational and*
 7 *backcountry airstrips on land under the jurisdiction*
 8 *of the Secretary of the Interior or the Secretary of Ag-*
 9 *riculture; or*

10 *(2) any additional authority to restrict legal ac-*
 11 *cess to such land.*

12 *(e) EFFECT ON STATE AND PRIVATE LAND.—This Act*
 13 *shall—*

14 *(1) have no force or effect on State or private*
 15 *lands; and*

16 *(2) not provide authority on or access to State*
 17 *or private lands.*

18 *(f) TRIBAL SOVEREIGNTY.—Nothing in this section su-*
 19 *persedes, replaces, negates, or diminishes treaties or other*
 20 *agreements between the United States and Indian tribes.*

21 *(g) REPORT.—Not later than 1 year after the date of*
 22 *the enactment of this Act, and annually thereafter, the Sec-*
 23 *retary of Homeland Security shall submit to the appro-*
 24 *priate committees of Congress a report describing the extent*
 25 *to which implementation of this section has affected the op-*

1 *erations of U.S. Customs and Border Protection in the year*
2 *preceding the report.*

3 **SEC. 607. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

4 *(a) IN GENERAL.—Not later than two years after the*
5 *date of the enactment of this Act, the Secretary of Homeland*
6 *Security shall establish the biometric entry and exit data*
7 *system required by section 7208 of the Intelligence Reform*
8 *and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b).*

9 *(b) REQUIREMENTS.—In addition to the features re-*
10 *quired by such section 7208, the Secretary shall ensure that*
11 *the biometric entry and exit data system is established and*
12 *in operation at each port of entry to the United States.*

13 **SEC. 608. CERTAIN ACTIVITIES RESTRICTED.**

14 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
15 *rity may not finalize, implement, administer, or enforce the*
16 *documents described in subsection (b).*

17 *(b) DOCUMENTS DESCRIBED.—For purposes of this*
18 *section, the documents described in this subsection are the*
19 *following:*

20 *(1) Policy Number 10072.1, published on March*
21 *2, 2011.*

22 *(2) Policy Number 10075.1, published on June*
23 *17, 2011.*

24 *(3) Policy Number 10076.1, published on June*
25 *17, 2011.*

1 (4) *The Memorandum of November 17, 2011,*
 2 *from the Principal Legal Advisor of United States*
 3 *Immigration and Customs Enforcement pertaining to*
 4 *“Case-by-Case Review of Incoming and Certain Pend-*
 5 *ing Cases”.*

6 (5) *The Memorandum of June 15, 2012, from the*
 7 *Secretary of Homeland Security pertaining to “Exer-*
 8 *cising Prosecutorial Discretion with Respect to Indi-*
 9 *viduals Who Came to the United States as Children”.*

10 (6) *The Memorandum of December 21, 2012,*
 11 *from the Director of United States Immigration and*
 12 *Customs Enforcement pertaining to “Civil Immigra-*
 13 *tion Enforcement: Guidance on the Use of Detainers*
 14 *in the Federal, State, Local, and Tribal Criminal*
 15 *Justice Systems”.*

16 (7) *The Memorandum of June 15, 2012, from the*
 17 *Director of United States Immigration and Customs*
 18 *Enforcement pertaining to “Secretary Napolitano’s*
 19 *Memorandum Concerning the Exercise of Prosecu-*
 20 *torial Discretion for Certain Removable Individuals*
 21 *Who Entered the United States as a Child”.*

22 **SEC. 609. BORDER PATROL MOBILE AND RAPID RESPONSE**
 23 **TEAMS.**

24 (a) *FINDINGS.*—*The Congress finds as follows:*

1 (1) *It is possible for agents of U.S. Immigration*
2 *and Customs Enforcement to use mobile rapid re-*
3 *sponse teams.*

4 (2) *If such agents are in the field near the border*
5 *and encounter trouble, they should be able to call a*
6 *mobile response team if they cannot get help quickly*
7 *enough by other means.*

8 (b) *PLAN.*—*Not later than 90 days after the date of*
9 *the enactment of this Act, the Secretary of Homeland Secu-*
10 *rity shall submit to the appropriate congressional commit-*
11 *tees a plan for developing and deploying mobile rapid re-*
12 *sponse teams to achieve the following objectives, and submit*
13 *progress reports on the program every 90 days after it has*
14 *been implemented:*

15 (1) *Expand the Border Control Tactical Team*
16 *program to make emergency assistance available to*
17 *law enforcement officers in border areas along the*
18 *Mexican border that are not designated as high traffic*
19 *locations, including officers who operate on Tribal*
20 *land.*

21 (2) *Provide helicopters and other military trans-*
22 *ports to ensure that the teams can deploy quickly to*
23 *where they are needed.*

24 (3) *Maintain airborne patrols of these units to*
25 *facilitate quick deployment when they are called.*

1 (4) *Provide a similar airborne force of regular*
2 *border patrol officers who will provide the same emer-*
3 *gency response service for ranchers, farmers, and*
4 *other people who live or work in these border areas.*

5 (c) **IMPLEMENTATION.**—*The Secretary of Homeland*
6 *Security shall implement the plan described in subsection*
7 *(a) not later than 120 days after the date on which the*
8 *plan is submitted.*

9 **SEC. 610. GAO STUDY ON DEATHS IN CUSTODY.**

10 *The Comptroller General of the United States shall*
11 *submit to Congress within 6 months after the date of the*
12 *enactment of this Act, a report on the deaths in custody*
13 *of detainees held by the Department of Homeland Security.*
14 *The report shall include the following information with re-*
15 *spect to any such deaths and in connection therewith:*

16 (1) *Whether any such deaths could have been*
17 *prevented by the delivery of medical treatment ad-*
18 *ministered while the detainee is in the custody of the*
19 *Department of Homeland Security.*

20 (2) *Whether Department practice and procedures*
21 *were properly followed and obeyed.*

22 (3) *Whether such practice and procedures are*
23 *sufficient to protect the health and safety of such de-*
24 *tainees.*

180

- 1 (4) *Whether reports of such deaths were made to*
- 2 *the Deaths in Custody Reporting Program.*

Union Calendar No. 509

**113TH CONGRESS
2D SESSION**

H. R. 2278

[Report No. 113-678, Part I]

A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

DECEMBER 16, 2014

Reported from the Committee on the Judiciary with an amendment

DECEMBER 16, 2014

The Committees on Homeland Security, Agriculture, and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

II

Calendar No. 428

113TH CONGRESS
2^D SESSION

H. R. 4660

IN THE SENATE OF THE UNITED STATES

JUNE 2, 2014

Received

JUNE 10, 2014

Read twice and placed on the calendar

AN ACT

Making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2015, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2015, and for other pur-
6 poses, namely:

1 TITLE I
2 DEPARTMENT OF COMMERCE
3 INTERNATIONAL TRADE ADMINISTRATION
4 OPERATIONS AND ADMINISTRATION

5 For necessary expenses for international trade activi-
6 ties of the Department of Commerce provided for by law,
7 and for engaging in trade promotional activities abroad,
8 including expenses of grants and cooperative agreements
9 for the purpose of promoting exports of United States
10 firms, without regard to sections 3702 and 3703 of title
11 44, United States Code; full medical coverage for depend-
12 ent members of immediate families of employees stationed
13 overseas and employees temporarily posted overseas; travel
14 and transportation of employees of the International
15 Trade Administration between two points abroad, without
16 regard to section 40118 of title 49, United States Code;
17 employment of citizens of the United States and aliens by
18 contract for services; rental of space abroad for periods
19 not exceeding 10 years, and expenses of alteration, repair,
20 or improvement; purchase or construction of temporary
21 demountable exhibition structures for use abroad; pay-
22 ment of tort claims, in the manner authorized in the first
23 paragraph of section 2672 of title 28, United States Code,
24 when such claims arise in foreign countries; not to exceed
25 \$294,300 for official representation expenses abroad; pur-

1 chase of passenger motor vehicles for official use abroad,
2 not to exceed \$45,000 per vehicle; obtaining insurance on
3 official motor vehicles; and rental of tie lines,
4 \$473,000,000 (reduced by \$3,000,000) (reduced by \$1),
5 to remain available until September 30, 2016, of which
6 \$10,000,000 is to be derived from fees to be retained and
7 used by the International Trade Administration, notwith-
8 standing section 3302 of title 31, United States Code: *Pro-*
9 *vided*, That, of amounts provided under this heading, not
10 less than \$16,400,000 shall be for China antidumping and
11 countervailing duty enforcement and compliance activities:
12 *Provided further*, That the provisions of the first sentence
13 of section 105(f) and all of section 108(c) of the Mutual
14 Educational and Cultural Exchange Act of 1961 (22
15 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out
16 these activities; and that for the purpose of this Act, con-
17 tributions under the provisions of the Mutual Educational
18 and Cultural Exchange Act of 1961 shall include payment
19 for assessments for services provided as part of these ac-
20 tivities.

21 BUREAU OF INDUSTRY AND SECURITY

22 OPERATIONS AND ADMINISTRATION

23 For necessary expenses for export administration and
24 national security activities of the Department of Com-
25 merce, including costs associated with the performance of

1 export administration field activities both domestically and
2 abroad; full medical coverage for dependent members of
3 immediate families of employees stationed overseas; em-
4 ployment of citizens of the United States and aliens by
5 contract for services abroad; payment of tort claims, in
6 the manner authorized in the first paragraph of section
7 2672 of title 28, United States Code, when such claims
8 arise in foreign countries; not to exceed \$13,500 for offi-
9 cial representation expenses abroad; awards of compensa-
10 tion to informers under the Export Administration Act of
11 1979, and as authorized by section 1(b) of the Act of June
12 15, 1917 (40 Stat. 223; 22 U.S.C. 401(b)); and purchase
13 of passenger motor vehicles for official use and motor vehi-
14 cles for law enforcement use with special requirement vehi-
15 cles eligible for purchase without regard to any price limi-
16 tation otherwise established by law, \$103,500,000 (in-
17 creased by \$1) (reduced by \$5,000,000) (increased by
18 \$5,000,000), to remain available until expended: *Provided*,
19 That the provisions of the first sentence of section 105(f)
20 and all of section 108(c) of the Mutual Educational and
21 Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and
22 2458(c)) shall apply in carrying out these activities: *Pro-*
23 *vided further*, That payments and contributions collected
24 and accepted for materials or services provided as part of
25 such activities may be retained for use in covering the cost

1 of such activities, and for providing information to the
2 public with respect to the export administration and na-
3 tional security activities of the Department of Commerce
4 and other export control programs of the United States
5 and other governments.

6 **ECONOMIC DEVELOPMENT ADMINISTRATION**

7 **ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS**

8 For grants for economic development assistance as
9 provided by the Public Works and Economic Development
10 Act of 1965, for trade adjustment assistance, for the cost
11 of loan guarantees authorized by section 26 of the Steven-
12 son-Wydler Technology Innovation Act of 1980 (15 U.S.C.
13 3721), and for grants, \$210,500,000, to remain available
14 until expended; of which \$5,000,000 shall be for projects
15 to facilitate the relocation, to the United States, of a
16 source of employment located outside the United States;
17 and of which \$5,000,000 shall be for loan guarantees
18 under such section 26: *Provided*, That the costs for loan
19 guarantees, including the cost of modifying such loans,
20 shall be as defined in section 502 of the Congressional
21 Budget Act of 1974: *Provided further*, That these funds
22 for loan guarantees under such section 26 are available
23 to subsidize total loan principal, any part of which is to
24 be guaranteed, not to exceed \$70,000,000.

1 **SALARIES AND EXPENSES**

2 For necessary expenses of administering the eco-
3 nomic development assistance programs as provided for by
4 law, \$37,000,000: *Provided*, That these funds may be used
5 to monitor projects approved pursuant to title I of the
6 Public Works Employment Act of 1976, title II of the
7 Trade Act of 1974, and the Community Emergency
8 Drought Relief Act of 1977.

9 **MINORITY BUSINESS DEVELOPMENT AGENCY**

10 **MINORITY BUSINESS DEVELOPMENT**

11 For necessary expenses of the Department of Com-
12 merce in fostering, promoting, and developing minority
13 business enterprise, including expenses of grants, con-
14 tracts, and other agreements with public or private organi-
15 zations, \$30,000,000.

16 **ECONOMIC AND STATISTICAL ANALYSIS**

17 **SALARIES AND EXPENSES**

18 For necessary expenses, as authorized by law, of eco-
19 nomic and statistical analysis programs of the Department
20 of Commerce, \$99,000,000, to remain available until Sep-
21 tember 30, 2016.

22 **BUREAU OF THE CENSUS**

23 **SALARIES AND EXPENSES**

24 For necessary expenses for collecting, compiling, ana-
25 lyzing, preparing and publishing statistics, provided for by

1 law, \$248,000,000: *Provided*, That, from amounts pro-
2 vided herein, funds may be used for promotion, outreach,
3 and marketing activities: *Provided further*, That the Bu-
4 reau of the Census shall collect data for the Annual Social
5 and Economic Supplement to the Current Population Sur-
6 vey using the same health insurance questions included
7 in previous years, prior to the revised questions imple-
8 mented in the Current Population Survey beginning in
9 February 2014.

10 **PERIODIC CENSUSES AND PROGRAMS**

11 For necessary expenses for collecting, compiling, ana-
12 lyzing, preparing and publishing statistics for periodic cen-
13 suses and programs provided for by law, \$858,500,000
14 (reduced by \$110,000,000) (reduced by \$4,000,000) (re-
15 duced by \$4,000,000) (reduced by \$3,000,000) (reduced
16 by \$12,000,000), to remain available until September 30,
17 2016: *Provided*, That, from amounts provided herein,
18 funds may be used for promotion, outreach, and mar-
19 keting activities: *Provided further*, That within the
20 amounts appropriated, \$1,551,000 shall be transferred to
21 the “Office of Inspector General” account for activities as-
22 sociated with carrying out investigations and audits re-
23 lated to the Bureau of the Census.

1 NATIONAL TELECOMMUNICATIONS AND INFORMATION

2 ADMINISTRATION

3 SALARIES AND EXPENSES

4 For necessary expenses, as provided for by law, of
5 the National Telecommunications and Information Ad-
6 ministration (NTIA), \$36,700,000, to remain available
7 until September 30, 2016: *Provided*, That, notwith-
8 standing 31 U.S.C. 1535(d), the Secretary of Commerce
9 shall charge Federal agencies for costs incurred in spec-
10 trum management, analysis, operations, and related serv-
11 ices, and such fees shall be retained and used as offsetting
12 collections for costs of such spectrum services, to remain
13 available until expended: *Provided further*, That the Sec-
14 retary of Commerce is authorized to retain and use as off-
15 setting collections all funds transferred, or previously
16 transferred, from other Government agencies for all costs
17 incurred in telecommunications research, engineering, and
18 related activities by the Institute for Telecommunication
19 Sciences of NTIA, in furtherance of its assigned functions
20 under this paragraph, and such funds received from other
21 Government agencies shall remain available until ex-
22 pended.

1 PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING
2 AND CONSTRUCTION

3 For the administration of prior-year grants, recov-
4 eries and unobligated balances of funds previously appro-
5 priated are available for the administration of all open
6 grants until their expiration.

7 UNITED STATES PATENT AND TRADEMARK OFFICE
8 SALARIES AND EXPENSES
9 (INCLUDING TRANSFERS OF FUNDS)

10 For necessary expenses of the United States Patent
11 and Trademark Office (USPTO) provided for by law, in-
12 cluding defense of suits instituted against the Under Sec-
13 retary of Commerce for Intellectual Property and Director
14 of the USPTO, \$3,458,000,000, to remain available until
15 expended: *Provided*, That the sum herein appropriated
16 from the general fund shall be reduced as offsetting collec-
17 tions of fees and surcharges assessed and collected by the
18 USPTO under any law are received during fiscal year
19 2015, so as to result in a fiscal year 2015 appropriation
20 from the general fund estimated at \$0: *Provided further*,
21 That during fiscal year 2015, should the total amount of
22 such offsetting collections be less than \$3,458,000,000
23 this amount shall be reduced accordingly: *Provided fur-*
24 *ther*, That any amount received in excess of
25 \$3,458,000,000 in fiscal year 2015 and deposited in the

1 Patent and Trademark Fee Reserve Fund shall remain
2 available until expended: *Provided further*, That the Direc-
3 tor of USPTO shall submit a spending plan to the Com-
4 mittees on Appropriations of the House of Representatives
5 and the Senate for any amounts made available by the
6 preceding proviso and such spending plan shall be treated
7 as a reprogramming under section 505 of this Act and
8 shall not be available for obligation or expenditure except
9 in compliance with the procedures set forth in that section:
10 *Provided further*, That any amounts reprogrammed in ac-
11 cordance with the preceding proviso shall be transferred
12 to the United States Patent and Trademark Office Sala-
13 ries and Expenses account: *Provided further*, That from
14 amounts provided herein, not to exceed \$900 shall be
15 made available in fiscal year 2015 for official reception
16 and representation expenses: *Provided further*, That in fis-
17 cal year 2015 from the amounts made available for “Sala-
18 ries and Expenses” for the USPTO, the amounts nec-
19 essary to pay (1) the difference between the percentage
20 of basic pay contributed by the USPTO and employees
21 under section 8334(a) of title 5, United States Code, and
22 the normal cost percentage (as defined by section
23 8331(17) of that title) as provided by the Office of Per-
24 sonnel Management (OPM) for USPTO’s specific use, of
25 basic pay, of employees subject to subchapter III of chap-

1 ter 83 of that title, and (2) the present value of the other-
2 wise unfunded accruing costs, as determined by OPM for
3 USPTO's specific use of post-retirement life insurance
4 and post-retirement health benefits coverage for all
5 USPTO employees who are enrolled in Federal Employees
6 Health Benefits (FEHB) and Federal Employees Group
7 Life Insurance (FEGLI), shall be transferred to the Civil
8 Service Retirement and Disability Fund, the FEGLI
9 Fund, and the FEHB Fund, as appropriate, and shall be
10 available for the authorized purposes of those accounts:
11 *Provided further*, That any differences between the present
12 value factors published in OPM's yearly 300 series benefit
13 letters and the factors that OPM provides for USPTO's
14 specific use shall be recognized as an imputed cost on
15 USPTO's financial statements, where applicable: *Provided*
16 *further*, That, notwithstanding any other provision of law,
17 all fees and surcharges assessed and collected by USPTO
18 are available for USPTO only pursuant to section 42(c)
19 of title 35, United States Code: *Provided further*, That
20 within the amounts appropriated, \$2,000,000 shall be
21 transferred to the "Office of Inspector General" account
22 for activities associated with carrying out investigations
23 and audits related to the USPTO.

1 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
2 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

3 For necessary expenses of the National Institute of
4 Standards and Technology (NIST), \$670,500,000, to re-
5 main available until expended, of which not to exceed
6 \$9,000,000 may be transferred to the “Working Capital
7 Fund”: *Provided*, That not to exceed \$5,000 shall be for
8 official reception and representation expenses: *Provided*
9 *further*, That NIST may provide local transportation for
10 summer undergraduate research fellowship program par-
11 ticipants.

12 INDUSTRIAL TECHNOLOGY SERVICES

13 For necessary expenses of the Hollings Manufac-
14 turing Extension Partnership of the National Institute of
15 Standards and Technology, \$130,000,000, to remain
16 available until expended.

17 CONSTRUCTION OF RESEARCH FACILITIES

18 For construction of new research facilities, including
19 architectural and engineering design, and for renovation
20 and maintenance of existing facilities, not otherwise pro-
21 vided for the National Institute of Standards and Tech-
22 nology, as authorized by sections 13 through 15 of the
23 National Institute of Standards and Technology Act (15
24 U.S.C. 278c–278e), \$55,300,000, to remain available until
25 expended: *Provided*, That the Secretary of Commerce shall

1 include in the budget justification materials that the Sec-
2 retary submits to Congress in support of the Department
3 of Commerce budget (as submitted with the budget of the
4 President under section 1105(a) of title 31, United States
5 Code) an estimate for each National Institute of Stand-
6 ards and Technology construction project having a total
7 multi-year program cost of more than \$5,000,000 and si-
8 multaneously the budget justification materials shall in-
9 clude an estimate of the budgetary requirements for each
10 such project for each of the 5 subsequent fiscal years.

11 **NATIONAL OCEANIC AND ATMOSPHERIC**

12 **ADMINISTRATION**

13 **OPERATIONS, RESEARCH, AND FACILITIES**

14 **(INCLUDING TRANSFER OF FUNDS)**

15 For necessary expenses of activities authorized by law
16 for the National Oceanic and Atmospheric Administration,
17 including maintenance, operation, and hire of aircraft and
18 vessels; grants, contracts, or other payments to nonprofit
19 organizations for the purposes of conducting activities
20 pursuant to cooperative agreements; and relocation of fa-
21 cilities, \$3,089,480,000 (increased by \$12,000,000), to re-
22 main available until September 30, 2016, except that
23 funds provided for cooperative enforcement shall remain
24 available until September 30, 2017: *Provided*, That fees
25 and donations received by the National Ocean Service for

1 the management of national marine sanctuaries may be
2 retained and used for the salaries and expenses associated
3 with those activities, notwithstanding section 3302 of title
4 31, United States Code: *Provided further*, That in addi-
5 tion, \$116,000,000 shall be derived by transfer from the
6 fund entitled “Promote and Develop Fishery Products and
7 Research Pertaining to American Fisheries”: *Provided*
8 *further*, That of the \$3,220,480,000 provided for in direct
9 obligations under this heading \$3,089,480,000 is appro-
10 priated from the general fund, \$116,000,000 is provided
11 by transfer, and \$15,000,000 is derived from recoveries
12 of prior year obligations: *Provided further*, That the total
13 amount available for National Oceanic and Atmospheric
14 Administration corporate services administrative support
15 costs shall not exceed \$215,654,000: *Provided further*,
16 That any deviation from the amounts designated for spe-
17 cific activities in the report accompanying this Act, or any
18 use of deobligated balances of funds provided under this
19 heading in previous years, shall be subject to the proce-
20 dures set forth in section 505 of this Act: *Provided further*,
21 That in addition, for necessary retired pay expenses under
22 the Retired Serviceman’s Family Protection and Survivor
23 Benefits Plan, and for payments for the medical care of
24 retired personnel and their dependents under the Depend-

1 ents Medical Care Act (10 U.S.C. 55), such sums as may
2 be necessary.

3 **PROCUREMENT, ACQUISITION AND CONSTRUCTION**

4 For procurement, acquisition and construction of
5 capital assets, including alteration and modification costs,
6 of the National Oceanic and Atmospheric Administration,
7 \$2,176,290,000, to remain available until September 30,
8 2017, except that funds provided for construction of facili-
9 ties shall remain available until expended: *Provided*, That
10 of the \$2,189,290,000 provided for in direct obligations
11 under this heading, \$2,176,290,000 is appropriated from
12 the general fund and \$13,000,000 is provided from recov-
13 eries of prior year obligations: *Provided further*, That any
14 deviation from the amounts designated for specific activi-
15 ties in the report accompanying this Act, or any use of
16 deobligated balances of funds provided under this heading
17 in previous years, shall be subject to the procedures set
18 forth in section 505 of this Act: *Provided further*, That
19 the Secretary of Commerce shall include in budget jus-
20 tification materials that the Secretary submits to Congress
21 in support of the Department of Commerce budget (as
22 submitted with the budget of the President under section
23 1105(a) of title 31, United States Code) an estimate for
24 each National Oceanic and Atmospheric Administration
25 procurement, acquisition or construction project having a

1 total of more than \$5,000,000 and simultaneously the
2 budget justification shall include an estimate of the budg-
3 etary requirements for each such project for each of the
4 5 subsequent fiscal years: *Provided further*, That within
5 the amounts appropriated, \$1,302,000 shall be transferred
6 to the “Office of Inspector General” account for activities
7 associated with carrying out investigations and audits re-
8 lated to satellite procurement, acquisition and construc-
9 tion.

10 **PACIFIC COASTAL SALMON RECOVERY**

11 For necessary expenses associated with the restora-
12 tion of Pacific salmon populations, \$65,000,000, to re-
13 main available until September 30, 2016: *Provided*, That,
14 of the funds provided herein, the Secretary of Commerce
15 may issue grants to the States of Washington, Oregon,
16 Idaho, Nevada, California, and Alaska, and to the Feder-
17 ally recognized tribes of the Columbia River and Pacific
18 Coast (including Alaska), for projects necessary for con-
19 servation of salmon and steelhead populations that are
20 listed as threatened or endangered, or that are identified
21 by a State as at-risk to be so listed, for maintaining popu-
22 lations necessary for exercise of tribal treaty fishing rights
23 or native subsistence fishing, or for conservation of Pacific
24 coastal salmon and steelhead habitat, based on guidelines
25 to be developed by the Secretary of Commerce: *Provided*

1 *further*, That all funds shall be allocated based on sci-
2 entific and other merit principles and shall not be available
3 for marketing activities: *Provided further*, That funds dis-
4 bursed to States shall be subject to a matching require-
5 ment of funds or documented in-kind contributions of at
6 least 33 percent of the Federal funds.

7 **FISHERMEN'S CONTINGENCY FUND**

8 For carrying out the provisions of title IV of Public
9 Law 95-372, not to exceed \$350,000, to be derived from
10 receipts collected pursuant to that Act, to remain available
11 until expended.

12 **FISHERIES FINANCE PROGRAM ACCOUNT**

13 Subject to section 502 of the Congressional Budget
14 Act of 1974, during fiscal year 2015, obligations of direct
15 loans may not exceed \$24,000,000 for Individual Fishing
16 Quota loans and not to exceed \$100,000,000 for tradi-
17 tional direct loans as authorized by the Merchant Marine
18 Act of 1936.

19 **DEPARTMENTAL MANAGEMENT**

20 **SALARIES AND EXPENSES**

21 For necessary expenses for the management of the
22 Department of Commerce provided for by law, including
23 not to exceed \$4,500 for official reception and representa-
24 tion, \$54,000,000 (reduced by \$1,000,000): *Provided*,
25 That the Secretary of Commerce shall maintain a task

1 force on job repatriation and manufacturing growth and
2 shall produce an annual report on related incentive strate-
3 gies, implementation plans and program results.

4 **RENOVATION AND MODERNIZATION**

5 For necessary expenses for the renovation and mod-
6 ernization of Department of Commerce facilities,
7 \$4,000,000, to remain available until expended.

8 **OFFICE OF INSPECTOR GENERAL**

9 For necessary expenses of the Office of Inspector
10 General in carrying out the provisions of the Inspector
11 General Act of 1978 (5 U.S.C. App.), \$30,596,000.

12 **GENERAL PROVISIONS—DEPARTMENT OF COMMERCE**

13 **SEC. 101.** During the current fiscal year, applicable
14 appropriations and funds made available to the Depart-
15 ment of Commerce by this Act shall be available for the
16 activities specified in the Act of October 26, 1949 (15
17 U.S.C. 1514), to the extent and in the manner prescribed
18 by the Act, and, notwithstanding 31 U.S.C. 3324, may
19 be used for advanced payments not otherwise authorized
20 only upon the certification of officials designated by the
21 Secretary of Commerce that such payments are in the
22 public interest.

23 **SEC. 102.** During the current fiscal year, appropria-
24 tions made available to the Department of Commerce by
25 this Act for salaries and expenses shall be available for

1 hire of passenger motor vehicles as authorized by 31
2 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C.
3 3109; and uniforms or allowances therefor, as authorized
4 by law (5 U.S.C. 5901–5902).

5 SEC. 103. Not to exceed 5 percent of any appropria-
6 tion made available for the current fiscal year for the De-
7 partment of Commerce in this Act may be transferred be-
8 tween such appropriations, but no such appropriation shall
9 be increased by more than 10 percent by any such trans-
10 fers: *Provided*, That any transfer pursuant to this section
11 shall be treated as a reprogramming of funds under sec-
12 tion 505 of this Act and shall not be available for obliga-
13 tion or expenditure except in compliance with the proce-
14 dures set forth in that section: *Provided further*, That the
15 Secretary of Commerce shall notify the Committees on Ap-
16 propriations at least 15 days in advance of the acquisition
17 or disposal of any capital asset (including land, structures,
18 and equipment) not specifically provided for in this Act
19 or any other law appropriating funds for the Department
20 of Commerce.

21 SEC. 104. The requirements set forth by section 105
22 of the Commerce, Justice, Science, and Related Agencies
23 Appropriations Act, 2012 (Public Law 112–55), as
24 amended by section 105 of title I of division B of Public

1 Law 113–6, are hereby adopted by reference and made
2 applicable with respect to fiscal year 2015.

3 **SEC. 105.** Notwithstanding any other provision of
4 law, the Secretary may furnish services (including but not
5 limited to utilities, telecommunications, and security serv-
6 ices) necessary to support the operation, maintenance, and
7 improvement of space that persons, firms, or organizations
8 are authorized, pursuant to the Public Buildings Coopera-
9 tive Use Act of 1976 or other authority, to use or occupy
10 in the Herbert C. Hoover Building, Washington, DC, or
11 other buildings, the maintenance, operation, and protec-
12 tion of which has been delegated to the Secretary from
13 the Administrator of General Services pursuant to the
14 Federal Property and Administrative Services Act of 1949
15 on a reimbursable or non-reimbursable basis. Amounts re-
16 ceived as reimbursement for services provided under this
17 section or the authority under which the use or occupancy
18 of the space is authorized, up to \$200,000, shall be cred-
19 ited to the appropriation or fund which initially bears the
20 costs of such services.

21 **SEC. 106.** Nothing in this title shall be construed to
22 prevent a grant recipient from deterring child pornog-
23 raphy, copyright infringement, or any other unlawful ac-
24 tivity over its networks.

1 SEC. 107. The Administrator of the National Oceanic
2 and Atmospheric Administration is authorized to use, with
3 their consent, with reimbursement and subject to the lim-
4 its of available appropriations, the land, services, equip-
5 ment, personnel, and facilities of any department, agency,
6 or instrumentality of the United States, or of any State,
7 local government, Indian tribal government, Territory, or
8 possession, or of any political subdivision thereof, or of
9 any foreign government or international organization, for
10 purposes related to carrying out the responsibilities of any
11 statute administered by the National Oceanic and Atmos-
12 pheric Administration.

13 SEC. 108. The Department of Commerce shall pro-
14 vide a monthly report to the Committees on Appropria-
15 tions of the House of Representatives and the Senate on
16 any official travel to China by any employee of the U.S.
17 Department of Commerce, including the purpose of such
18 travel.

19 This title may be cited as the “Department of Com-
20 merce Appropriations Act, 2015”.

1 TITLE II
 2 DEPARTMENT OF JUSTICE
 3 GENERAL ADMINISTRATION
 4 SALARIES AND EXPENSES

5 For expenses necessary for the administration of the
 6 Department of Justice, \$103,851,000 (reduced by
 7 \$1,000,000) (reduced by \$1,000,000) (reduced by
 8 \$1,000,000) (reduced by \$1,500,000) (reduced by
 9 \$2,000,000) (reduced by \$1,044,445) (reduced by
 10 \$5,000,000) (increased by \$5,000,000), of which not to
 11 exceed \$4,000,000 for security and construction of De-
 12 partment of Justice facilities shall remain available until
 13 expended.

14 JUSTICE INFORMATION SHARING TECHNOLOGY

15 For necessary expenses for information sharing tech-
 16 nology, including planning, development, deployment and
 17 departmental direction, \$25,842,000 (reduced by
 18 \$2,500,000) (reduced by \$3,000,000), to remain available
 19 until expended: *Provided*, That the Attorney General may
 20 transfer up to \$35,400,000 to this account, from funds
 21 available to the Department of Justice for information
 22 technology, for enterprise-wide information technology ini-
 23 tiatives: *Provided further*, That the transfer authority in
 24 the preceding proviso is in addition to any other transfer
 25 authority contained in this Act.

ADMINISTRATIVE REVIEW AND APPEALS**(INCLUDING TRANSFER OF FUNDS)**

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, \$335,000,000 (increased by \$1,000,000), of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account: *Provided*, That, of the amount provided, not to exceed \$10,000,000 is for the Executive Office for Immigration Review for courthouse operations, language services and automated system requirements and shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$88,000,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

UNITED STATES PAROLE COMMISSION**SALARIES AND EXPENSES**

For necessary expenses of the United States Parole Commission as authorized, \$13,308,000.

LEGAL ACTIVITIES**SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, includ-

1 ing not to exceed \$20,000 for expenses of collecting evi-
2 dence, to be expended under the direction of, and to be
3 accounted for solely under the certificate of, the Attorney
4 General; and rent of private or Government-owned space
5 in the District of Columbia, \$893,000,000 (reduced by
6 \$866,000) (reduced by \$8,000,000), of which not to ex-
7 ceed \$20,000,000 for litigation support contracts shall re-
8 main available until expended: *Provided*, That of the total
9 amount appropriated, not to exceed \$9,000 shall be avail-
10 able to INTERPOL Washington for official reception and
11 representation expenses: *Provided further*, That notwith-
12 standing section 205 of this Act, upon a determination
13 by the Attorney General that emergent circumstances re-
14 quire additional funding for litigation activities of the Civil
15 Division, the Attorney General may transfer such amounts
16 to “Salaries and Expenses, General Legal Activities” from
17 available appropriations for the current fiscal year for the
18 Department of Justice as may be necessary to respond
19 to such circumstances: *Provided further*, That any transfer
20 pursuant to the preceding proviso shall be treated as a
21 reprogramming under section 505 of this Act and shall
22 not be available for obligation or expenditure except in
23 compliance with the procedures set forth in that section:
24 *Provided further*, That of the amount appropriated, such
25 sums as may be necessary shall be available to the Civil

1 Rights Division for salaries and expenses associated with
2 the election monitoring program under section 8 of the
3 Voting Rights Act of 1965 (42 U.S.C. 1973f) and to reim-
4 burse the Office of Personnel Management for such sala-
5 ries and expenses: *Provided further*, That of the amounts
6 provided under this heading for the election monitoring
7 program, \$3,390,000 shall remain available until ex-
8 pended.

9 In addition, for reimbursement of expenses of the De-
10 partment of Justice associated with processing cases
11 under the National Childhood Vaccine Injury Act of 1986,
12 not to exceed \$7,833,000, to be appropriated from the
13 Vaccine Injury Compensation Trust Fund.

14 **SALARIES AND EXPENSES, ANTITRUST DIVISION**

15 For expenses necessary for the enforcement of anti-
16 trust and kindred laws, \$162,246,000, to remain available
17 until expended: *Provided*, That notwithstanding any other
18 provision of law, fees collected for premerger notification
19 filings under the Hart-Scott-Rodino Antitrust Improve-
20 ments Act of 1976 (15 U.S.C. 18a), regardless of the year
21 of collection (and estimated to be \$100,000,000 in fiscal
22 year 2015), shall be retained and used for necessary ex-
23 penses in this appropriation, and shall remain available
24 until expended: *Provided further*, That the sum herein ap-
25 propriated from the general fund shall be reduced as such

1 offsetting collections are received during fiscal year 2015,
2 so as to result in a final fiscal year 2015 appropriation
3 from the general fund estimated at \$62,246,000.

4 **SALARIES AND EXPENSES, UNITED STATES ATTORNEYS**

5 For necessary expenses of the Offices of the United
6 States Attorneys, including inter-governmental and coop-
7 erative agreements, \$1,970,000,000 (increased by
8 \$1,000,000): *Provided*, That of the total amount appro-
9 priated, not to exceed \$7,200 shall be available for official
10 reception and representation expenses: *Provided further*,
11 That not to exceed \$25,000,000 shall remain available
12 until expended: *Provided further*, That each United States
13 Attorney shall establish or participate in a United States
14 Attorney-led task force on human trafficking.

15 **UNITED STATES TRUSTEE SYSTEM FUND**

16 For necessary expenses of the United States Trustee
17 Program, as authorized, \$225,908,000, to remain avail-
18 able until expended and to be derived from the United
19 States Trustee System Fund: *Provided*, That, notwith-
20 standing any other provision of law, deposits to the Fund
21 shall be available in such amounts as may be necessary
22 to pay refunds due depositors: *Provided further*, That, not-
23 withstanding any other provision of law, \$225,908,000 of
24 offsetting collections pursuant to section 589a(b) of title
25 28, United States Code, shall be retained and used for

1 necessary expenses in this appropriation and shall remain
2 available until expended: *Provided further*, That the sum
3 herein appropriated from the Fund shall be reduced as
4 such offsetting collections are received during fiscal year
5 2015, so as to result in a final fiscal year 2015 appropria-
6 tion from the Fund estimated at \$0.

7 **SALARIES AND EXPENSES, FOREIGN CLAIMS**

8 **SETTLEMENT COMMISSION**

9 For expenses necessary to carry out the activities of
10 the Foreign Claims Settlement Commission, including
11 services as authorized by section 3109 of title 5, United
12 States Code, \$2,326,000.

13 **FEES AND EXPENSES OF WITNESSES**

14 For fees and expenses of witnesses, for expenses of
15 contracts for the procurement and supervision of expert
16 witnesses, for private counsel expenses, including ad-
17 vances, and for expenses of foreign counsel, \$270,000,000,
18 to remain available until expended, of which not to exceed
19 \$16,000,000 is for construction of buildings for protected
20 witness safesites; not to exceed \$3,000,000 is for the pur-
21 chase and maintenance of armored and other vehicles for
22 witness security caravans; and not to exceed \$11,000,000
23 is for the purchase, installation, maintenance, and up-
24 grade of secure telecommunications equipment and a se-

1 cure automated information network to store and retrieve
2 the identities and locations of protected witnesses.

3 **SALARIES AND EXPENSES, COMMUNITY RELATIONS**

4 **SERVICE**

5 For necessary expenses of the Community Relations
6 Service, \$12,000,000: *Provided*, That notwithstanding sec-
7 tion 205 of this Act, upon a determination by the Attorney
8 General that emergent circumstances require additional
9 funding for conflict resolution and violence prevention ac-
10 tivities of the Community Relations Service, the Attorney
11 General may transfer such amounts to the Community Re-
12 lations Service, from available appropriations for the cur-
13 rent fiscal year for the Department of Justice, as may be
14 necessary to respond to such circumstances: *Provided fur-*
15 *ther*, That any transfer pursuant to the preceding proviso
16 shall be treated as a reprogramming under section 505
17 of this Act and shall not be available for obligation or ex-
18 penditure except in compliance with the procedures set
19 forth in that section.

20 **ASSETS FORFEITURE FUND**

21 For expenses authorized by subparagraphs (B), (F),
22 and (G) of section 524(c)(1) of title 28, United States
23 Code, \$20,514,000, to be derived from the Department
24 of Justice Assets Forfeiture Fund.

1 UNITED STATES MARSHALS SERVICE

2 SALARIES AND EXPENSES

3 For necessary expenses of the United States Mar-
4 shals Service, \$1,199,000,000, of which not to exceed
5 \$6,000 shall be available for official reception and rep-
6 resentation expenses, and not to exceed \$15,000,000 shall
7 remain available until expended.

8 CONSTRUCTION

9 For construction in space controlled, occupied or uti-
10 lized by the United States Marshals Service for prisoner
11 holding and related support, \$9,800,000, to remain avail-
12 able until expended.

13 FEDERAL PRISONER DETENTION

14 (INCLUDING TRANSFER OF FUNDS)

15 For necessary expenses related to United States pris-
16 oners in the custody of the United States Marshals Service
17 as authorized by section 4013 of title 18, United States
18 Code, \$1,595,307,000, to remain available until expended:
19 *Provided*, That not to exceed \$20,000,000 shall be consid-
20 ered “funds appropriated for State and local law enforce-
21 ment assistance” pursuant to section 4013(b) of title 18,
22 United States Code: *Provided further*, That the United
23 States Marshals Service shall be responsible for managing
24 the Justice Prisoner and Alien Transportation System:
25 *Provided further*, That any unobligated balances available

1 from funds appropriated under the heading ‘General Ad-
2 ministration, Detention Trustee’ shall be transferred to
3 and merged with the appropriation under this heading.

4 **NATIONAL SECURITY DIVISION**

5 **SALARIES AND EXPENSES**

6 For expenses necessary to carry out the activities of
7 the National Security Division, \$94,800,000, of which not
8 to exceed \$5,000,000 for information technology systems
9 shall remain available until expended: *Provided*, That not-
10 withstanding section 205 of this Act, upon a determina-
11 tion by the Attorney General that emergent circumstances
12 require additional funding for the activities of the National
13 Security Division, the Attorney General may transfer such
14 amounts to this heading from available appropriations for
15 the current fiscal year for the Department of Justice as
16 may be necessary to respond to such circumstances: *Pro-*
17 *vided further*, That any transfer pursuant to the preceding
18 proviso shall be treated as a reprogramming under section
19 505 of this Act and shall not be available for obligation
20 or expenditure except in compliance with the procedures
21 set forth in that section.

22 **INTERAGENCY LAW ENFORCEMENT**

23 **INTERAGENCY CRIME AND DRUG ENFORCEMENT**

24 For necessary expenses for the identification, inves-
25 tigation, and prosecution of individuals associated with the

1 most significant drug trafficking and affiliated money
2 laundering organizations not otherwise provided for, to in-
3 clude inter-governmental agreements with State and local
4 law enforcement agencies engaged in the investigation and
5 prosecution of individuals involved in organized crime drug
6 trafficking, \$515,000,000 (increased by \$4,000,000), of
7 which \$50,000,000 shall remain available until expended:
8 *Provided*, That any amounts obligated from appropria-
9 tions under this heading may be used under authorities
10 available to the organizations reimbursed from this appro-
11 priation.

12 **FEDERAL BUREAU OF INVESTIGATION**

13 **SALARIES AND EXPENSES**

14 For necessary expenses of the Federal Bureau of In-
15 vestigation for detection, investigation, and prosecution of
16 crimes against the United States, \$8,356,857,000, of
17 which not less than \$8,500,000 shall be for the National
18 Gang and Human Trafficking Intelligence Center, and of
19 which not to exceed \$216,900,000 shall remain available
20 until expended: *Provided*, That not to exceed \$184,500
21 shall be available for official reception and representation
22 expenses: *Provided further*, That up to \$1,000,000 shall
23 be for a comprehensive review of the implementation of
24 the recommendations related to the Federal Bureau of In-
25 vestigation that were proposed in the report issued by the

1 National Commission on Terrorist Attacks Upon the
2 United States.

3 **CONSTRUCTION**

4 For necessary expenses, to include the cost of equip-
5 ment, furniture, and information technology requirements,
6 related to construction or acquisition of buildings, facili-
7 ties and sites by purchase, or as otherwise authorized by
8 law; conversion, modification and extension of Federally-
9 owned buildings; preliminary planning and design of
10 projects; and operation and maintenance of secure work
11 environment facilities and secure networking capabilities;
12 \$110,982,000, to remain available until expended.

13 **DRUG ENFORCEMENT ADMINISTRATION**

14 **SALARIES AND EXPENSES**

15 For necessary expenses of the Drug Enforcement Ad-
16 ministration, including not to exceed \$70,000 to meet un-
17 foreseen emergencies of a confidential character pursuant
18 to section 530C of title 28, United States Code; and ex-
19 penses for conducting drug education and training pro-
20 grams, including travel and related expenses for partici-
21 pants in such programs and the distribution of items of
22 token value that promote the goals of such programs,
23 \$2,053,320,000 (reduced by \$5,000,000); of which not to
24 exceed \$75,000,000 shall remain available until expended

1 and not to exceed \$90,000 shall be available for official
2 reception and representation expenses.

3 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND
4 EXPLOSIVES
5 SALARIES AND EXPENSES

6 For necessary expenses of the Bureau of Alcohol, To-
7 bacco, Firearms and Explosives, for training of State and
8 local law enforcement agencies with or without reimburse-
9 ment, including training in connection with the training
10 and acquisition of canines for explosives and fire
11 accelerants detection; and for provision of laboratory as-
12 sistance to State and local law enforcement agencies, with
13 or without reimbursement, \$1,200,000,000 (reduced by
14 \$6,000,000), of which not to exceed \$36,000 shall be for
15 official reception and representation expenses, not to ex-
16 ceed \$1,000,000 shall be available for the payment of at-
17 torneys' fees as provided by section 924(d)(2) of title 18,
18 United States Code, and not to exceed \$20,000,000 shall
19 remain available until expended: *Provided*, That none of
20 the funds appropriated herein shall be available to inves-
21 tigate or act upon applications for relief from Federal fire-
22 arms disabilities under section 925(c) of title 18, United
23 States Code: *Provided further*, That such funds shall be
24 available to investigate and act upon applications filed by
25 corporations for relief from Federal firearms disabilities

1 under section 925(c) of title 18, United States Code: *Pro-*
 2 *vided further*, That no funds made available by this or any
 3 other Act may be used to transfer the functions, missions,
 4 or activities of the Bureau of Alcohol, Tobacco, Firearms
 5 and Explosives to other agencies or Departments: *Pro-*
 6 *vided further*, That the Federal Building at 99 New York
 7 Avenue, NE, Washington, DC, headquarters of the Bu-
 8 reau of Alcohol, Tobacco, Firearms and Explosives, shall
 9 hereafter be known and designated as the Ariel Rios Fed-
 10 eral Building.

11 **FEDERAL PRISON SYSTEM**

12 **SALARIES AND EXPENSES**

13 **(INCLUDING TRANSFER OF FUNDS)**

14 For necessary expenses of the Federal Prison System
 15 for the administration, operation, and maintenance of
 16 Federal penal and correctional institutions, and for the
 17 provision of technical assistance and advice on corrections
 18 related issues to foreign governments, \$6,865,000,000 (re-
 19 duced by \$500,000) (reduced by \$500,000) (reduced by
 20 \$1,000,000): *Provided*, That the Attorney General may
 21 transfer to the Health Resources and Services Administra-
 22 tion such amounts as may be necessary for direct expendi-
 23 tures by that Administration for medical relief for inmates
 24 of Federal penal and correctional institutions: *Provided*
 25 *further*, That the Director of the Federal Prison System,

1 where necessary, may enter into contracts with a fiscal
2 agent or fiscal intermediary claims processor to determine
3 the amounts payable to persons who, on behalf of the Fed-
4 eral Prison System, furnish health services to individuals
5 committed to the custody of the Federal Prison System:
6 *Provided further*, That not to exceed \$5,400 shall be avail-
7 able for official reception and representation expenses:
8 *Provided further*, That not to exceed \$50,000,000 shall re-
9 main available for necessary operations until September
10 30, 2016: *Provided further*, That, of the amounts provided
11 for contract confinement, not to exceed \$20,000,000 shall
12 remain available until expended to make payments in ad-
13 vance for grants, contracts and reimbursable agreements,
14 and other expenses: *Provided further*, That the Director
15 of the Federal Prison System may accept donated prop-
16 erty and services relating to the operation of the prison
17 card program from a not-for-profit entity which has oper-
18 ated such program in the past, notwithstanding the fact
19 that such not-for-profit entity furnishes services under
20 contracts to the Federal Prison System relating to the op-
21 eration of pre-release services, halfway houses, or other
22 custodial facilities.

23 **BUILDINGS AND FACILITIES**

24 For planning, acquisition of sites and construction of
25 new facilities; purchase and acquisition of facilities and re-

1 modeling, and equipping of such facilities for penal and
2 correctional use, including all necessary expenses incident
3 thereto, by contract or force account; and constructing,
4 remodeling, and equipping necessary buildings and facili-
5 ties at existing penal and correctional institutions, includ-
6 ing all necessary expenses incident thereto, by contract or
7 force account, \$115,000,000 (reduced by \$2,200,000) (re-
8 duced by \$5,500,000), to remain available until expended,
9 of which \$25,000,000 (reduced by \$5,500,000) shall be
10 available only for costs related to construction of new fa-
11 cilities, of which not less than \$76,000,000 (reduced by
12 \$2,200,000) shall be available only for modernization,
13 maintenance and repair, and of which not to exceed
14 \$14,000,000 shall be available to construct areas for in-
15 mate work programs: *Provided*, That labor of United
16 States prisoners may be used for work performed under
17 this appropriation.

18 **FEDERAL PRISON INDUSTRIES, INCORPORATED**

19 The Federal Prison Industries, Incorporated, is here-
20 by authorized to make such expenditures within the limits
21 of funds and borrowing authority available, and in accord
22 with the law, and to make such contracts and commit-
23 ments without regard to fiscal year limitations as provided
24 by section 9104 of title 31, United States Code, as may

1 be necessary in carrying out the program set forth in the
2 budget for the current fiscal year for such corporation.

3 **LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL**
4 **PRISON INDUSTRIES, INCORPORATED**

5 Not to exceed \$2,700,000 of the funds of the Federal
6 Prison Industries, Incorporated, shall be available for its
7 administrative expenses, and for services as authorized by
8 section 3109 of title 5, United States Code, to be com-
9 puted on an accrual basis to be determined in accordance
10 with the corporation's current prescribed accounting sys-
11 tem, and such amounts shall be exclusive of depreciation,
12 payment of claims, and expenditures which such account-
13 ing system requires to be capitalized or charged to cost
14 of commodities acquired or produced, including selling and
15 shipping expenses, and expenses in connection with acqui-
16 sition, construction, operation, maintenance, improvement,
17 protection, or disposition of facilities and other property
18 belonging to the corporation or in which it has an interest.

19 **STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES**
20 **OFFICE ON VIOLENCE AGAINST WOMEN**
21 **VIOLENCE AGAINST WOMEN PREVENTION AND**
22 **PROSECUTION PROGRAMS**

23 For grants, contracts, cooperative agreements, and
24 other assistance for the prevention and prosecution of vio-
25 lence against women, as authorized by the Omnibus Crime

1 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
2 et seq.) (“the 1968 Act”); the Violent Crime Control and
3 Law Enforcement Act of 1994 (Public Law 103–322)
4 (“the 1994 Act”); the Victims of Child Abuse Act of 1990
5 (Public Law 101–647) (“the 1990 Act”); the Prosecu-
6 torial Remedies and Other Tools to end the Exploitation
7 of Children Today Act of 2003 (Public Law 108–21); the
8 Juvenile Justice and Delinquency Prevention Act of 1974
9 (42 U.S.C. 5601 et seq.) (“the 1974 Act”); the Victims
10 of Trafficking and Violence Protection Act of 2000 (Public
11 Law 106–386) (“the 2000 Act”); the Violence Against
12 Women and Department of Justice Reauthorization Act
13 of 2005 (Public Law 109–162) (“the 2005 Act”); and the
14 Violence Against Women Reauthorization Act of 2013
15 (Public Law 113–4) (“the 2013 Act”); and for related vic-
16 tims services, \$425,500,000 (increased by \$1,000,000)
17 (increased by \$500,000) (increased by \$2,500,000), to re-
18 main available until expended: *Provided*, That except as
19 otherwise provided by law, not to exceed 5 percent of
20 funds made available under this heading may be used for
21 expenses related to evaluation, training, and technical as-
22 sistance: *Provided further*, That of the amount provided—
23 (1) \$195,000,000 is for grants to combat vio-
24 lence against women, as authorized by part T of the
25 1968 Act;

1 (2) \$25,000,000 is for transitional housing as-
2 sistance grants for victims of domestic violence, dat-
3 ing violence, stalking or sexual assault as authorized
4 by section 40299 of the 1994 Act;

5 (3) \$3,000,000 is for the National Institute of
6 Justice for research and evaluation of violence
7 against women and related issues addressed by
8 grant programs of the Office on Violence Against
9 Women, which shall be transferred to “Research,
10 Evaluation and Statistics” for administration by the
11 Office of Justice Programs;

12 (4) \$10,000,000 is for a grant program to pro-
13 vide services to advocate for and respond to youth
14 victims of domestic violence, dating violence, sexual
15 assault, and stalking; assistance to children and
16 youth exposed to such violence; programs to engage
17 men and youth in preventing such violence; and as-
18 sistance to middle and high school students through
19 education and other services related to such violence:
20 *Provided*, That unobligated balances available for
21 the programs authorized by sections 41201, 41204,
22 41303 and 41305 of the 1994 Act, prior to its
23 amendment by the 2013 Act, shall be available for
24 this program: *Provided further*, That 10 percent of
25 the total amount available for this grant program

1 shall be available for grants under the program au-
2 thorized by section 2015 of the 1968 Act: *Provided*
3 *further*, That the definitions and grant conditions in
4 section 40002 of the 1994 Act shall apply to this
5 program;

6 (5) \$50,000,000 is for grants to encourage ar-
7 rest policies as authorized by part U of the 1968
8 Act, of which \$4,000,000 is for a homicide reduction
9 initiative;

10 (6) \$29,500,000 is for sexual assault victims
11 assistance, as authorized by section 41601 of the
12 1994 Act;

13 (7) \$31,000,000 (increased by \$2,500,000) is
14 for rural domestic violence and child abuse enforce-
15 ment assistance grants, including as authorized by
16 section 40295 of the 1994 Act;

17 (8) \$11,500,000 (increased by \$1,000,000) is
18 for grants to reduce violent crimes against women
19 on campus, as authorized by section 304 of the 2005
20 Act;

21 (9) \$42,500,000 is for legal assistance for vic-
22 tims, as authorized by section 1201 of the 2000 Act;

23 (10) \$4,250,000 is for enhanced training and
24 services to end violence against and abuse of women

1 in later life, as authorized by section 40802 of the
2 1994 Act;

3 (11) \$16,000,000 is for grants to support fami-
4 lies in the justice system, as authorized by section
5 1301 of the 2000 Act: *Provided*, That unobligated
6 balances available for the programs authorized by
7 section 1301 of the 2000 Act and section 41002 of
8 the 1994 Act, prior to their amendment by the 2013
9 Act, shall be available for this program;

10 (12) \$5,750,000 is for education and training
11 to end violence against and abuse of women with
12 disabilities, as authorized by section 1402 of the
13 2000 Act;

14 (13) \$500,000 is for the National Resource
15 Center on Workplace Responses to assist victims of
16 domestic violence, as authorized by section 41501 of
17 the 1994 Act;

18 (14) \$1,000,000 is for analysis and research on
19 violence against Indian women, including as author-
20 ized by section 904 of the 2005 Act: *Provided*, That
21 such funds may be transferred to “Research, Eval-
22 uation and Statistics” for administration by the Of-
23 fice of Justice Programs; and

24 (15) \$500,000 is for a national clearinghouse
25 that provides training and technical assistance on

1 issues relating to sexual assault of American Indian
2 and Alaska Native women.

3 **OFFICE OF JUSTICE PROGRAMS**

4 **RESEARCH, EVALUATION AND STATISTICS**

5 For grants, contracts, cooperative agreements, and
6 other assistance authorized by title I of the Omnibus
7 Crime Control and Safe Streets Act of 1968 (“the 1968
8 Act”); the Juvenile Justice and Delinquency Prevention
9 Act of 1974 (“the 1974 Act”); the Missing Children’s As-
10 sistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial
11 Remedies and Other Tools to end the Exploitation of Chil-
12 dren Today Act of 2003 (Public Law 108–21); the Justice
13 for All Act of 2004 (Public Law 108–405); the Violence
14 Against Women and Department of Justice Reauthoriza-
15 tion Act of 2005 (Public Law 109–162) (“the 2005 Act”);
16 the Victims of Child Abuse Act of 1990 (Public Law 101–
17 647); the Second Chance Act of 2007 (Public Law 110–
18 199); the Victims of Crime Act of 1984 (Public Law 98–
19 473); the Adam Walsh Child Protection and Safety Act
20 of 2006 (Public Law 109–248) (“the Adam Walsh Act”);
21 the PROTECT Our Children Act of 2008 (Public Law
22 110–401); subtitle D of title II of the Homeland Security
23 Act of 2002 (Public Law 107–296) (“the 2002 Act”); the
24 NICS Improvement Amendments Act of 2007 (Public
25 Law 110–180); the Violence Against Women Reauthoriza-

tion Act of 2013 (Public Law 113–4) (“the 2013 Act”);
 and other programs, \$124,250,000 (reduced by
 \$4,250,000), to remain available until expended, of
 which—

(1) \$47,250,000 (reduced by \$2,250,000) is for
 criminal justice statistics programs, and other activi-
 ties, as authorized by part C of title I of the 1968
 Act: *Provided*, That beginning not later than 2 years
 after the date of enactment of this Act, as part of
 each National Crime Victimization Survey, the At-
 torney General shall include statistics relating to
 honor violence;

(2) \$42,000,000 (reduced by \$2,000,000) is for
 research, development, and evaluation programs, and
 other activities as authorized by part B of title I of
 the 1968 Act and subtitle D of title II of the 2002
 Act; and

(3) \$35,000,000 is for regional information
 sharing activities, as authorized by part M of title I
 of the 1968 Act.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and
 other assistance authorized by the Violent Crime Control
 and Law Enforcement Act of 1994 (Public Law 103–322)
 (“the 1994 Act”); the Omnibus Crime Control and Safe

1 Streets Act of 1968 (“the 1968 Act”); the Justice for All
2 Act of 2004 (Public Law 108–405); the Victims of Child
3 Abuse Act of 1990 (Public Law 101–647) (“the 1990
4 Act”); the Trafficking Victims Protection Reauthorization
5 Act of 2005 (Public Law 109–164); the Violence Against
6 Women and Department of Justice Reauthorization Act
7 of 2005 (Public Law 109–162) (“the 2005 Act”); the
8 Adam Walsh Child Protection and Safety Act of 2006
9 (Public Law 109–248) (“the Adam Walsh Act”); the Vic-
10 tims of Trafficking and Violence Protection Act of 2000
11 (Public Law 106–386); the NICS Improvement Amend-
12 ments Act of 2007 (Public Law 110–180); subtitle D of
13 title II of the Homeland Security Act of 2002 (Public Law
14 107–296) (“the 2002 Act”); the Second Chance Act of
15 2007 (Public Law 110–199); the Prioritizing Resources
16 and Organization for Intellectual Property Act of 2008
17 (Public Law 110–403); the Victims of Crime Act of 1984
18 (Public Law 98–473); the Mentally Ill Offender Treat-
19 ment and Crime Reduction Reauthorization and Improve-
20 ment Act of 2008 (Public Law 110–416); the Violence
21 Against Women Reauthorization Act of 2013 (Public Law
22 113–4) (“the 2013 Act”); and other programs,
23 \$1,235,615,000 (increased by \$3,000,000) (increased by
24 \$4,000,000) (increased by \$1,000,000) (increased by
25 \$2,000,000) (increased by \$3,000,000) (increased by

1 \$8,000,000) (increased by \$5,000,000) (increased by
2 \$6,000,000) (increased by \$1,000,000) (increased by
3 \$1,000,000) (reduced by \$2,500,000) (increased by
4 \$4,250,000) (increased by \$19,500,000), to remain avail-
5 able until expended as follows—

6 (1) \$376,000,000 (increased by \$4,250,000) for
7 the Edward Byrne Memorial Justice Assistance
8 Grant program as authorized by subpart 1 of part
9 E of title I of the 1968 Act (except that section
10 1001(c), and the special rules for Puerto Rico under
11 section 505(g) of title I of the 1968 Act shall not
12 apply for purposes of this Act), of which, notwith-
13 standing such subpart 1, \$2,500,000 is for an initia-
14 tive to improve the quality of juvenile indigent de-
15 fense services, \$15,000,000 is for a Preventing Vio-
16 lence Against Law Enforcement Officer Resilience
17 and Survivability Initiative (VALOR), \$4,000,000 is
18 for use by the National Institute of Justice for re-
19 search targeted toward developing a better under-
20 standing of the domestic radicalization phenomenon,
21 and advancing evidence-based strategies for effective
22 intervention and prevention, and \$6,000,000 is for
23 competitive grants to distribute firearm safety mate-
24 rials and gun locks;

1 (2) \$210,000,000 for the State Criminal Alien
2 Assistance Program, as authorized by section
3 241(i)(5) of the Immigration and Nationality Act (8
4 U.S.C. 1231(i)(5)): *Provided*, That no jurisdiction
5 shall request compensation for any cost greater than
6 the actual cost for Federal immigration and other
7 detainees housed in State and local detention facili-
8 ties;

9 (3) \$8,000,000 (reduced by \$2,500,000) for
10 competitive grants to improve the functioning of the
11 criminal justice system, to prevent or combat juve-
12 nile delinquency, and to assist victims of crime
13 (other than compensation);

14 (4) \$45,365,000 for victim services programs
15 for victims of trafficking, as authorized by section
16 107(b)(2) of Public Law 106–386, and for programs
17 authorized under Public Law 109–164;

18 (5) \$41,000,000 (increased by \$3,000,000) for
19 Drug Courts, as authorized by section
20 1001(a)(25)(A) of title I of the 1968 Act;

21 (6) \$9,000,000 (increased by \$2,000,000) (in-
22 creased by \$2,000,000) for mental health courts and
23 adult and juvenile collaboration program grants, as
24 authorized by parts V and HH of title I of the 1968
25 Act, and the Mentally Ill Offender Treatment and

1 Crime Reduction Reauthorization and Improvement
2 Act of 2008 (Public Law 110–416);

3 (7) \$12,000,000 for grants for Residential Sub-
4 stance Abuse Treatment for State Prisoners, as au-
5 thorized by part S of title I of the 1968 Act;

6 (8) \$2,000,000 for the Capital Litigation Im-
7 provement Grant Program, as authorized by section
8 426 of Public Law 108–405, and for grants for
9 wrongful conviction review;

10 (9) \$10,000,000 for economic, high technology
11 and Internet crime prevention grants, including as
12 authorized by section 401 of Public Law 110–403;

13 (10) \$21,000,000 for sex offender management
14 assistance, as authorized by the Adam Walsh Act,
15 and related activities, of which \$1,000,000 is for the
16 National Sex Offender Public Website;

17 (11) \$22,250,000 for the matching grant pro-
18 gram for law enforcement armor vests, as authorized
19 by section 2501 of title I of the 1968 Act;

20 (12) \$58,500,000 (increased by \$19,500,000)
21 for grants to States to upgrade criminal and mental
22 health records for the National Instant Criminal
23 Background Check System, including as authorized
24 by the NICS Improvement Amendments Act of 2007
25 (Public Law 110–180);

1 (13) \$125,000,000 for DNA-related and foren-
2 sic programs and activities, of which—

3 (A) \$117,000,000 is for a DNA analysis
4 and capacity enhancement program and for
5 other local, State, and Federal forensic activi-
6 ties, including the purposes authorized under
7 section 2 of the DNA Analysis Backlog Elimini-
8 nation Act of 2000 (Public Law 106–546) (the
9 Debbie Smith DNA Backlog Grant Program):
10 *Provided*, That up to 4 percent of funds made
11 available under this paragraph may be used for
12 the purposes described in the DNA Training
13 and Education for Law Enforcement, Correc-
14 tional Personnel, and Court Officers program
15 (Public Law 108–405, section 303);

16 (B) \$4,000,000 is for the purposes de-
17 scribed in the Kirk Bloodsworth Post-Convic-
18 tion DNA Testing Program (Public Law 108–
19 405, section 412); and

20 (C) \$4,000,000 is for Sexual Assault Fo-
21 rensic Exam Program grants, including as au-
22 thorized by section 304 of Public Law 108–405;

23 (14) \$36,000,000 (increased by \$5,000,000) for
24 grants to address backlogs of sexual assault kits at
25 law enforcement agencies;

1 (15) \$6,000,000 for the court-appointed special
2 advocate program, as authorized by section 217 of
3 the 1990 Act;

4 (16) \$35,000,000 for assistance to Indian
5 tribes;

6 (17) \$62,500,000 (increased by \$3,000,000) for
7 offender reentry programs and research, as author-
8 ized by the Second Chance Act of 2007 (Public Law
9 110–199), without regard to the time limitations
10 specified at section 6(1) of such Act;

11 (18) \$5,000,000 (increased by \$2,000,000) (in-
12 creased by \$1,000,000) (increased by \$6,000,000)
13 (increased by \$1,000,000) for a veterans treatment
14 courts program;

15 (19) \$1,000,000 for the purposes described in
16 the Missing Alzheimer’s Disease Patient Alert Pro-
17 gram (section 240001 of the 1994 Act);

18 (20) \$8,000,000 (increased by \$8,000,000) for
19 a program to monitor prescription drugs and sched-
20 uled listed chemical products;

21 (21) \$15,000,000 for prison rape prevention
22 and prosecution grants to States and units of local
23 government, and other programs, as authorized by
24 the Prison Rape Elimination Act of 2003 (Public
25 Law 108–79);

1 (22) \$2,000,000 to operate a National Center
2 for Campus Public Safety;

3 (23) \$30,000,000 for a justice reinvestment ini-
4 tiative, for activities related to criminal justice re-
5 form and recidivism reduction, of which not less
6 than \$1,000,000 is for a task force on Federal cor-
7 rections;

8 (24) \$75,000,000 for the Comprehensive School
9 Safety Initiative, described in the report accom-
10 panying this Act: *Provided*, That section 213 of this
11 Act shall not apply with respect to the amount made
12 available in this paragraph; and

13 (25) \$20,000,000 (increased by \$1,000,000) for
14 existing evidence-based criminal justice programs as
15 described in the report accompanying this Act:

16 *Provided*, That, if a unit of local government uses any of
17 the funds made available under this heading to increase
18 the number of law enforcement officers, the unit of local
19 government will achieve a net gain in the number of law
20 enforcement officers who perform non-administrative pub-
21 lic sector safety service.

22 **JUVENILE JUSTICE PROGRAMS**

23 For grants, contracts, cooperative agreements, and
24 other assistance authorized by the Juvenile Justice and
25 Delinquency Prevention Act of 1974 (“the 1974 Act”); the

1 Omnibus Crime Control and Safe Streets Act of 1968
2 (“the 1968 Act”); the Violence Against Women and De-
3 partment of Justice Reauthorization Act of 2005 (Public
4 Law 109–162) (“the 2005 Act”); the Missing Children’s
5 Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial
6 Remedies and Other Tools to end the Exploitation of Chil-
7 dren Today Act of 2003 (Public Law 108–21); the Victims
8 of Child Abuse Act of 1990 (Public Law 101–647) (“the
9 1990 Act”); the Adam Walsh Child Protection and Safety
10 Act of 2006 (Public Law 109–248) (“the Adam Walsh
11 Act”); the PROTECT Our Children Act of 2008 (Public
12 Law 110–401); the Violence Against Women Reauthoriza-
13 tion Act of 2013 (Public Law 113–4) (“the 2013 Act”);
14 and other juvenile justice programs, \$223,500,000, to re-
15 main available until expended as follows—

16 (1) \$45,000,000 for programs authorized by
17 section 221 of the 1974 Act;

18 (2) \$90,000,000 for youth mentoring grants;

19 (3) \$19,000,000 for programs authorized by
20 the Victims of Child Abuse Act of 1990;

21 (4) \$68,000,000 for missing and exploited chil-
22 dren programs, including as authorized by sections
23 404(b) and 405(a) of the 1974 Act (except that sec-
24 tion 102(b)(4)(B) of the PROTECT Our Children

1 Act of 2008 (Public Law 110–401) shall not apply
2 for purposes of this Act); and

3 (5) \$1,500,000 for child abuse training pro-
4 grams for judicial personnel and practitioners, as
5 authorized by section 222 of the 1990 Act:

6 *Provided*, That not more than 10 percent of each amount
7 may be used for research, evaluation, and statistics activi-
8 ties designed to benefit the programs or activities author-
9 ized: *Provided further*, That not more than 2 percent of
10 the amounts designated under paragraphs (1) through (3)
11 and (5) may be used for training and technical assistance:
12 *Provided further*, That the two preceding provisos shall not
13 apply to grants and projects authorized by sections 261
14 and 262 of the 1974 Act and to missing and exploited
15 children programs.

16 **PUBLIC SAFETY OFFICER BENEFITS**

17 For payments and expenses authorized under section
18 1001(a)(4) of title I of the Omnibus Crime Control and
19 Safe Streets Act of 1968, such sums as are necessary (in-
20 cluding amounts for administrative costs), to remain avail-
21 able until expended; and \$16,300,000 for payments au-
22 thorized by section 1201(b) of such Act and for edu-
23 cational assistance authorized by section 1218 of such Act,
24 to remain available until expended: *Provided*, That not-
25 withstanding section 205 of this Act, upon a determina-

tion by the Attorney General that emergent circumstances require additional funding for such disability and education payments, the Attorney General may transfer such amounts to “Public Safety Officer Benefits” from available appropriations for the Department of Justice as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

COMMUNITY ORIENTED POLICING SERVICES

COMMUNITY ORIENTED POLICING SERVICES PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322); the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (“the 2005 Act”), \$96,500,000 (increased by \$110,000,000) (increased by \$3,000,000), to remain available until expended: *Provided*, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act: *Provided further*, That of the amount provided under this heading—

1 (1) \$10,000,000 is for anti-methamphetamine-
2 related activities, which shall be transferred to the
3 Drug Enforcement Administration upon enactment
4 of this Act;

5 (2) \$16,500,000 is for improving tribal law en-
6 forcement, including hiring, equipment, training, and
7 anti-methamphetamine activities; and

8 (3) \$70,000,000 (increased by \$110,000,000) is
9 for grants under section 1701 of title I of the 1968
10 Act (42 U.S.C. 3796dd) for the hiring and rehiring
11 of additional career law enforcement officers under
12 part Q of such title notwithstanding subsection (i) of
13 such section: *Provided*, That, notwithstanding sec-
14 tion 1704(c) of such title (42 U.S.C. 3796dd–3(c)),
15 funding for hiring or rehiring a career law enforce-
16 ment officer may not exceed \$125,000 unless the Di-
17 rector of the Office of Community Oriented Policing
18 Services grants a waiver from this limitation: *Pro-*
19 *vided further*, That within the amounts appropriated
20 under this paragraph, \$16,500,000 shall be trans-
21 ferred to the Tribal Resources Grant Program: *Pro-*
22 *vided further*, That within the amounts appropriated
23 under this paragraph, \$10,000,000 is for regional
24 anti-gang task forces.

1 GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

2 SEC. 201. In addition to amounts otherwise made
3 available in this title for official reception and representa-
4 tion expenses, a total of not to exceed \$50,000 from funds
5 appropriated to the Department of Justice in this title
6 shall be available to the Attorney General for official re-
7 ception and representation expenses.

8 SEC. 202. None of the funds appropriated by this
9 title shall be available to pay for an abortion, except where
10 the life of the mother would be endangered if the fetus
11 were carried to term, or in the case of rape: *Provided*,
12 That should this prohibition be declared unconstitutional
13 by a court of competent jurisdiction, this section shall be
14 null and void.

15 SEC. 203. None of the funds appropriated under this
16 title shall be used to require any person to perform, or
17 facilitate in any way the performance of, any abortion.

18 SEC. 204. Nothing in the preceding section shall re-
19 move the obligation of the Director of the Bureau of Pris-
20 ons to provide escort services necessary for a female in-
21 mate to receive such service outside the Federal facility:
22 *Provided*, That nothing in this section in any way dimin-
23 ishes the effect of section 203 intended to address the phil-
24 osophical beliefs of individual employees of the Bureau of
25 Prisons.

1 SEC. 205. Not to exceed 5 percent of any appropria-
2 tion made available for the current fiscal year for the De-
3 partment of Justice in this Act may be transferred be-
4 tween such appropriations, but no such appropriation, ex-
5 cept as otherwise specifically provided, shall be increased
6 by more than 10 percent by any such transfers: *Provided*,
7 That any transfer pursuant to this section shall be treated
8 as a reprogramming of funds under section 505 of this
9 Act and shall not be available for obligation except in com-
10 pliance with the procedures set forth in that section.

11 SEC. 206. The Attorney General is authorized to ex-
12 tend through September 30, 2015, the Personnel Manage-
13 ment Demonstration Project transferred to the Attorney
14 General pursuant to section 1115 of the Homeland Secu-
15 rity Act of 2002 (Public Law 107–296; 28 U.S.C. 599B)
16 without limitation on the number of employees or the posi-
17 tions covered.

18 SEC. 207. None of the funds made available under
19 this title may be used by the Federal Bureau of Prisons
20 or the United States Marshals Service for the purpose of
21 transporting an individual who is a prisoner pursuant to
22 conviction for crime under State or Federal law and is
23 classified as a maximum or high security prisoner, other
24 than to a prison or other facility certified by the Federal

1 Bureau of Prisons as appropriately secure for housing
2 such a prisoner.

3 **SEC. 208.** (a) None of the funds appropriated by this
4 Act may be used by Federal prisons to purchase cable tele-
5 vision services, or to rent or purchase audiovisual or elec-
6 tronic media or equipment used primarily for recreational
7 purposes.

8 (b) Subsection (a) does not preclude the rental, main-
9 tenance, or purchase of audiovisual or electronic media or
10 equipment for inmate training, religious, or educational
11 programs.

12 **SEC. 209.** None of the funds made available under
13 this title shall be obligated or expended for any new or
14 enhanced information technology program having total es-
15 timated development costs in excess of \$100,000,000, un-
16 less the Deputy Attorney General and the investment re-
17 view board certify to the Committees on Appropriations
18 of the House of Representatives and the Senate that the
19 information technology program has appropriate program
20 management controls and contractor oversight mecha-
21 nisms in place, and that the program is compatible with
22 the enterprise architecture of the Department of Justice.

23 **SEC. 210.** The notification thresholds and procedures
24 set forth in section 505 of this Act shall apply to devi-
25 ations from the amounts designated for specific activities

1 in this Act and in the report accompanying this Act, and
2 to any use of deobligated balances of funds provided under
3 this title in previous years.

4 **SEC. 211.** None of the funds appropriated by this Act
5 may be used to plan for, begin, continue, finish, process,
6 or approve a public-private competition under the Office
7 of Management and Budget Circular A–76 or any suc-
8 cessor administrative regulation, directive, or policy for
9 work performed by employees of the Bureau of Prisons
10 or of Federal Prison Industries, Incorporated.

11 **SEC. 212.** Notwithstanding any other provision of
12 law, no funds shall be available for the salary, benefits,
13 or expenses of any United States Attorney assigned dual
14 or additional responsibilities by the Attorney General or
15 his designee that exempt that United States Attorney
16 from the residency requirements of section 545 of title 28,
17 United States Code.

18 **SEC. 213.** At the discretion of the Attorney General,
19 and in addition to any amounts that otherwise may be
20 available (or authorized to be made available) by law, with
21 respect to funds appropriated by this title under the head-
22 ings “Research, Evaluation and Statistics”, “State and
23 Local Law Enforcement Assistance”, and “Juvenile Jus-
24 tice Programs”—

1 (1) up to 3 percent of funds made available to
2 the Office of Justice Programs for grant or reim-
3 bursement programs may be used by such Office to
4 provide training and technical assistance; and

5 (2) up to 2 percent of funds made available for
6 grant or reimbursement programs under such head-
7 ings, except for amounts appropriated specifically for
8 research, evaluation, or statistical programs adminis-
9 tered by the National Institute of Justice and the
10 Bureau of Justice Statistics, shall be transferred to
11 and merged with funds provided to the National In-
12 stitute of Justice and the Bureau of Justice Statis-
13 tics, to be used by them for research, evaluation, or
14 statistical purposes, without regard to the authoriza-
15 tions for such grant or reimbursement programs.

16 SEC. 214. Notwithstanding any other provision of
17 law, section 20109(a) of subtitle A of title II of the Violent
18 Crime Control and Law Enforcement Act of 1994 (42
19 U.S.C. 13709(a)) shall not apply to amounts made avail-
20 able by this or any other Act.

21 SEC. 215. None of the funds made available under
22 this Act, other than for the national instant criminal back-
23 ground check system established under section 103 of the
24 Brady Handgun Violence Prevention Act (18 U.S.C. 922
25 note), may be used by a Federal law enforcement officer

1 to facilitate the transfer of an operable firearm to an indi-
2 vidual if the Federal law enforcement officer knows or sus-
3 pects that the individual is an agent of a drug cartel, un-
4 less law enforcement personnel of the United States con-
5 tinuously monitor or control the firearm at all times.

6 SEC. 216. (a) None of the income retained in the De-
7 partment of Justice Working Capital Fund pursuant to
8 title I of Public Law 102–140 (105 Stat. 784; 28 U.S.C.
9 527 note) shall be available for obligation during fiscal
10 year 2015.

11 (b) Not to exceed \$30,000,000 of the unobligated bal-
12 ances transferred to the capital account of the Department
13 of Justice Working Capital Fund pursuant to title I of
14 Public Law 102–140 (105 Stat. 784; 28 U.S.C. 527 note)
15 shall be available for obligation in fiscal year 2015, and
16 any use, obligation, transfer or allocation of such funds
17 shall be treated as a reprogramming of funds under sec-
18 tion 505 of this Act.

19 (c) Not to exceed \$10,000,000 of the excess unobli-
20 gated balances available under section 524(c)(8)(E) of
21 title 28, United States Code, shall be available for obliga-
22 tion during fiscal year 2015, and any use, obligation,
23 transfer or allocation of such funds shall be treated as a
24 reprogramming of funds under section 505 of this Act.

1 (d) Of amounts available in the Assets Forfeiture
2 Fund in fiscal year 2015, \$154,700,000 shall be for pay-
3 ments associated with joint law enforcement operations as
4 authorized by section 524(c)(1)(I) of title 28, United
5 States Code.

6 (e) The Attorney General shall submit a spending
7 plan to the Committees on Appropriations of the House
8 of Representatives and the Senate not later than 30 days
9 after the date of enactment of this Act detailing the
10 planned distribution of Assets Forfeiture Fund joint law
11 enforcement operations funding during fiscal year 2015.

12 This title may be cited as the “Department of Justice
13 Appropriations Act, 2015”.

14 TITLE III

15 SCIENCE

16 OFFICE OF SCIENCE AND TECHNOLOGY POLICY

17 For necessary expenses of the Office of Science and
18 Technology Policy, in carrying out the purposes of the Na-
19 tional Science and Technology Policy, Organization, and
20 Priorities Act of 1976 (42 U.S.C. 6601 et seq.), hire of
21 passenger motor vehicles, and services as authorized by
22 section 3109 of title 5, United States Code, not to exceed
23 \$2,250 for official reception and representation expenses,
24 and rental of conference rooms in the District of Colum-
25 bia, \$5,555,000.

1 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
2 SCIENCE

3 For necessary expenses, not otherwise provided for,
4 in the conduct and support of science research and devel-
5 opment activities, including research, development, oper-
6 ations, support, and services; maintenance and repair, fa-
7 cility planning and design; space flight, spacecraft control,
8 and communications activities; program management; per-
9 sonnel and related costs, including uniforms or allowances
10 therefor, as authorized by sections 5901 and 5902 of title
11 5, United States Code; travel expenses; purchase and hire
12 of passenger motor vehicles; and purchase, lease, charter,
13 maintenance, and operation of mission and administrative
14 aircraft, \$5,193,000,000, to remain available until Sep-
15 tember 30, 2016: *Provided*, That the formulation and de-
16 velopment costs (with development cost as defined under
17 section 30104 of title 51, United States Code) for the
18 James Webb Space Telescope shall not exceed
19 \$8,000,000,000: *Provided further*, That should the indi-
20 vidual identified under subsection (c)(2)(E) of section
21 30104 of title 51, United States Code, as responsible for
22 the James Webb Space Telescope determine that the de-
23 velopment cost of the program is likely to exceed that limi-
24 tation, the individual shall immediately notify the Admin-
25 istrator and the increase shall be treated as if it meets

1 the 30 percent threshold described in subsection (f) of sec-
2 tion 30104: *Provided further*, That \$100,000,000 shall be
3 for pre-formulation and/or formulation activities for a mis-
4 sion that meets the science goals outlined for the Jupiter
5 Europa mission in the most recent planetary science
6 decadal survey.

7 **AERONAUTICS**

8 For necessary expenses, not otherwise provided for,
9 in the conduct and support of aeronautics research and
10 development activities, including research, development,
11 operations, support, and services; maintenance and repair,
12 facility planning and design; space flight, spacecraft con-
13 trol, and communications activities; program manage-
14 ment; personnel and related costs, including uniforms or
15 allowances therefor, as authorized by sections 5901 and
16 5902 of title 5, United States Code; travel expenses; pur-
17 chase and hire of passenger motor vehicles; and purchase,
18 lease, charter, maintenance, and operation of mission and
19 administrative aircraft, \$666,000,000, to remain available
20 until September 30, 2016.

21 **SPACE TECHNOLOGY**

22 For necessary expenses, not otherwise provided for,
23 in the conduct and support of space research and tech-
24 nology development activities, including research, develop-
25 ment, operations, support, and services; maintenance and

1 repair, facility planning and design; space flight, space-
2 craft control, and communications activities; program
3 management; personnel and related costs, including uni-
4 forms or allowances therefor, as authorized by sections
5 5901 and 5902 of title 5, United States Code; travel ex-
6 penses; purchase and hire of passenger motor vehicles; and
7 purchase, lease, charter, maintenance, and operation of
8 mission and administrative aircraft, \$620,000,000 (in-
9 creased by \$7,000,000), to remain available until Sep-
10 tember 30, 2016.

11 **EXPLORATION**

12 For necessary expenses, not otherwise provided for,
13 in the conduct and support of exploration research and
14 development activities, including research, development,
15 operations, support, and services; maintenance and repair,
16 facility planning and design; space flight, spacecraft con-
17 trol, and communications activities; program manage-
18 ment; personnel and related costs, including uniforms or
19 allowances therefor, as authorized by sections 5901 and
20 5902 of title 5, United States Code; travel expenses; pur-
21 chase and hire of passenger motor vehicles; and purchase,
22 lease, charter, maintenance, and operation of mission and
23 administrative aircraft, \$4,167,000,000, to remain avail-
24 able until September 30, 2016: *Provided*, That not less
25 than \$1,140,000,000 shall be for the Orion Multi-Purpose

1 Crew Vehicle: *Provided further*, That not less than
2 \$1,915,000,000 shall be for the Space Launch System,
3 which shall have a lift capability not less than 130 metric
4 tons and which shall have an upper stage and other core
5 elements developed simultaneously: *Provided further*, That
6 of the funds made available for the Space Launch System,
7 \$1,600,000,000 shall be for launch vehicle development
8 and \$315,000,000 shall be for exploration ground sys-
9 tems.

10 **SPACE OPERATIONS**

11 For necessary expenses, not otherwise provided for,
12 in the conduct and support of space operations research
13 and development activities, including research, develop-
14 ment, operations, support, and services; maintenance and
15 repair, facility planning and design; space flight, space-
16 craft control, and communications activities, including op-
17 erations, production, and services; program management;
18 personnel and related costs, including uniforms or allow-
19 ances therefor, as authorized by sections 5901 and 5902
20 of title 5, United States Code; travel expenses; purchase
21 and hire of passenger motor vehicles; and purchase, lease,
22 charter, maintenance, and operation of mission and ad-
23 ministrative aircraft, \$3,885,000,000 (reduced by
24 \$7,000,000), to remain available until September 30,
25 2016.

EDUCATION

For necessary expenses, not otherwise provided for, in the conduct and support of aerospace and aeronautical education research and development activities, including research, development, operations, support, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, \$106,000,000, to remain available until September 30, 2016, of which \$9,000,000 shall be for the Experimental Program to Stimulate Competitive Research and \$30,000,000 shall be for the National Space Grant College program.

SAFETY, SECURITY AND MISSION SERVICES

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics, space technology, exploration, space operations and education research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by sec-

1 tions 5901 and 5902 of title 5, United States Code; travel
 2 expenses; purchase and hire of passenger motor vehicles;
 3 not to exceed \$63,000 for official reception and represen-
 4 tation expenses; and purchase, lease, charter, mainte-
 5 nance, and operation of mission and administrative air-
 6 craft, \$2,779,000,000, to remain available until Sep-
 7 tember 30, 2016.

8 **CONSTRUCTION AND ENVIRONMENTAL COMPLIANCE AND**
 9 **RESTORATION**

10 For necessary expenses for construction of facilities
 11 including repair, rehabilitation, revitalization, and modi-
 12 fication of facilities, construction of new facilities and ad-
 13 ditions to existing facilities, facility planning and design,
 14 and restoration, and acquisition or condemnation of real
 15 property, as authorized by law, and environmental compli-
 16 ance and restoration, \$446,000,000, to remain available
 17 until September 30, 2020: *Provided*, That hereafter, not-
 18 withstanding section 20145(b)(2)(A) of title 51, United
 19 States Code, all proceeds from leases entered into under
 20 that section shall be deposited into this account: *Provided*
 21 *further*, That such proceeds shall be available for a period
 22 of 5 years to the extent and in amounts as provided in
 23 annual appropriations Acts: *Provided further*, That such
 24 proceeds referred to in the two preceding provisos shall
 25 be available for obligation for fiscal year 2015 in an

1 amount not to exceed \$9,584,100: *Provided further*, That
2 each annual budget request shall include an annual esti-
3 mate of gross receipts and collections and proposed use
4 of all funds collected pursuant to section 20145 of title
5 51, United States Code.

6 **OFFICE OF INSPECTOR GENERAL**

7 For necessary expenses of the Office of Inspector
8 General in carrying out the Inspector General Act of 1978,
9 \$34,000,000, of which \$500,000 shall remain available
10 until September 30, 2016.

11 **ADMINISTRATIVE PROVISIONS**

12 **(INCLUDING TRANSFER OF FUNDS)**

13 Funds for any announced prize otherwise authorized
14 shall remain available, without fiscal year limitation, until
15 the prize is claimed or the offer is withdrawn.

16 Not to exceed 5 percent of any appropriation made
17 available for the current fiscal year for the National Aero-
18 nautics and Space Administration in this Act may be
19 transferred between such appropriations, but no such ap-
20 propriation, except as otherwise specifically provided, shall
21 be increased by more than 10 percent by any such trans-
22 fers. Balances so transferred shall be merged with and
23 available for the same purposes and the same time period
24 as the appropriations to which transferred. Any transfer
25 pursuant to this provision shall be treated as a reprogram-

1 ming of funds under section 505 of this Act and shall not
2 be available for obligation except in compliance with the
3 procedures set forth in that section.

4 The spending plan required by this Act shall be pro-
5 vided by NASA at the theme, program, project and activ-
6 ity level. The spending plan, as well as any subsequent
7 change of an amount established in that spending plan
8 that meets the notification requirements of section 505 of
9 this Act, shall be treated as a reprogramming under sec-
10 tion 505 of this Act and shall not be available for obliga-
11 tion or expenditure except in compliance with the proce-
12 dures set forth in that section.

13 **(TRANSFER OF FUNDS)**

14 The unexpired balances of a previous account, for ac-
15 tivities for which funds are provided in this Act, may be
16 transferred to the new account established in this Act that
17 provides such activities. Balances so transferred shall be
18 merged with the funds in the newly established account,
19 but shall be available under the same terms, conditions
20 and period of time as previously appropriated.

21 **NATIONAL SCIENCE FOUNDATION**

22 **RESEARCH AND RELATED ACTIVITIES**

23 For necessary expenses in carrying out the National
24 Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.),
25 and Public Law 86–209 (42 U.S.C. 1880 et seq.); services

1 as authorized by section 3109 of title 5, United States
2 Code; maintenance and operation of aircraft and purchase
3 of flight services for research support; acquisition of air-
4 craft; and authorized travel; \$5,973,645,000 (reduced by
5 \$15,350,000)(increased by \$15,350,000), to remain avail-
6 able until September 30, 2016, of which not to exceed
7 \$520,000,000 shall remain available until expended for
8 polar research and operations support, and for reimburse-
9 ment to other Federal agencies for operational and science
10 support and logistical and other related activities for the
11 United States Antarctic program: *Provided*, That receipts
12 for scientific support services and materials furnished by
13 the National Research Centers and other National Science
14 Foundation supported research facilities may be credited
15 to this appropriation.

16 **MAJOR RESEARCH EQUIPMENT AND FACILITIES**

17 **CONSTRUCTION**

18 For necessary expenses for the acquisition, construc-
19 tion, commissioning, and upgrading of major research
20 equipment, facilities, and other such capital assets pursu-
21 ant to the National Science Foundation Act of 1950 (42
22 U.S.C. 1861 et seq.), including authorized travel,
23 \$200,760,000, to remain available until expended.

1 **EDUCATION AND HUMAN RESOURCES**

2 For necessary expenses in carrying out science, math-
3 ematics and engineering education and human resources
4 programs and activities pursuant to the National Science
5 Foundation Act of 1950 (42 U.S.C. 1861 et seq.), includ-
6 ing services as authorized by section 3109 of title 5,
7 United States Code, authorized travel, and rental of con-
8 ference rooms in the District of Columbia, \$876,000,000,
9 to remain available until September 30, 2016.

10 **AGENCY OPERATIONS AND AWARD MANAGEMENT**

11 For agency operations and award management nec-
12 essary in carrying out the National Science Foundation
13 Act of 1950 (42 U.S.C. 1861 et seq.); services authorized
14 by section 3109 of title 5, United States Code; hire of pas-
15 senger motor vehicles; uniforms or allowances therefor, as
16 authorized by sections 5901 and 5902 of title 5, United
17 States Code; rental of conference rooms in the District of
18 Columbia; and reimbursement of the Department of
19 Homeland Security for security guard services;
20 \$335,000,000 (reduced by \$10,000,000): *Provided*, That
21 not to exceed \$8,280 is for official reception and represen-
22 tation expenses: *Provided further*, That contracts may be
23 entered into under this heading in fiscal year 2015 for
24 maintenance and operation of facilities and for other serv-
25 ices to be provided during the next fiscal year: *Provided*

1 *further*, That of the amount provided for costs associated
2 with the acquisition, occupancy, and related costs of new
3 headquarters space, not more than \$27,370,000 shall re-
4 main available until expended.

5 **OFFICE OF THE NATIONAL SCIENCE BOARD**

6 For necessary expenses (including payment of sala-
7 ries, authorized travel, hire of passenger motor vehicles,
8 the rental of conference rooms in the District of Columbia,
9 and the employment of experts and consultants under sec-
10 tion 3109 of title 5, United States Code) involved in car-
11 rying out section 4 of the National Science Foundation
12 Act of 1950 (42 U.S.C. 1863) and Public Law 86–209
13 (42 U.S.C. 1880 et seq.), \$4,370,000: *Provided*, That not
14 to exceed \$2,500 shall be available for official reception
15 and representation expenses.

16 **OFFICE OF INSPECTOR GENERAL**

17 For necessary expenses of the Office of Inspector
18 General as authorized by the Inspector General Act of
19 1978, \$14,430,000, of which \$400,000 shall remain avail-
20 able until September 30, 2016.

21 **ADMINISTRATIVE PROVISION**

22 Not to exceed 5 percent of any appropriation made
23 available for the current fiscal year for the National
24 Science Foundation in this Act may be transferred be-
25 tween such appropriations, but no such appropriation shall

1 be increased by more than 15 percent by any such trans-
 2 fers. Any transfer pursuant to this section shall be treated
 3 as a reprogramming of funds under section 505 of this
 4 Act and shall not be available for obligation except in com-
 5 pliance with the procedures set forth in that section.

6 This title may be cited as the “Science Appropria-
 7 tions Act, 2015”.

8 TITLE IV

9 RELATED AGENCIES

10 COMMISSION ON CIVIL RIGHTS

11 SALARIES AND EXPENSES

12 For necessary expenses of the Commission on Civil
 13 Rights, including hire of passenger motor vehicles,
 14 \$9,000,000: *Provided*, That none of the funds appro-
 15 priated in this paragraph shall be used to employ in excess
 16 of four full-time individuals under Schedule C of the Ex-
 17 cepted Service exclusive of one special assistant for each
 18 Commissioner: *Provided further*, That none of the funds
 19 appropriated in this paragraph shall be used to reimburse
 20 Commissioners for more than 75 billable days, with the
 21 exception of the chairperson, who is permitted 125 billable
 22 days: *Provided further*, That none of the funds appro-
 23 priated in this paragraph shall be used for any activity
 24 or expense that is not explicitly authorized by section 3

1 of the Civil Rights Commission Act of 1983 (42 U.S.C.
2 1975a).

3 **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

4 **SALARIES AND EXPENSES**

5 For necessary expenses of the Equal Employment
6 Opportunity Commission as authorized by title VII of the
7 Civil Rights Act of 1964, the Age Discrimination in Em-
8 ployment Act of 1967, the Equal Pay Act of 1963, the
9 Americans with Disabilities Act of 1990, section 501 of
10 the Rehabilitation Act of 1973, the Civil Rights Act of
11 1991, the Genetic Information Non-Discrimination Act
12 (GINA) of 2008 (Public Law 110–233), the ADA Amend-
13 ments Act of 2008 (Public Law 110–325), and the Lilly
14 Ledbetter Fair Pay Act of 2009 (Public Law 111–2), in-
15 cluding services as authorized by section 3109 of title 5,
16 United States Code; hire of passenger motor vehicles as
17 authorized by section 1343(b) of title 31, United States
18 Code; nonmonetary awards to private citizens; and up to
19 \$29,500,000 for payments to State and local enforcement
20 agencies for authorized services to the Commission,
21 \$364,000,000: *Provided*, That the Commission is author-
22 ized to make available for official reception and represen-
23 tation expenses not to exceed \$2,250 from available funds:
24 *Provided further*, That the Chair is authorized to accept

1 and use any gift or donation to carry out the work of the
2 Commission.

3 **INTERNATIONAL TRADE COMMISSION**

4 **SALARIES AND EXPENSES**

5 For necessary expenses of the International Trade
6 Commission, including hire of passenger motor vehicles
7 and services as authorized by section 3109 of title 5,
8 United States Code, and not to exceed \$2,250 for official
9 reception and representation expenses, \$84,500,000 (in-
10 creased by \$1,500,000), to remain available until ex-
11 pended.

12 **LEGAL SERVICES CORPORATION**

13 **PAYMENT TO THE LEGAL SERVICES CORPORATION**

14 For payment to the Legal Services Corporation to
15 carry out the purposes of the Legal Services Corporation
16 Act of 1974, \$350,000,000, of which \$319,650,000 is for
17 basic field programs and required independent audits;
18 \$4,350,000 is for the Office of Inspector General, of which
19 such amounts as may be necessary may be used to conduct
20 additional audits of recipients; \$18,000,000 is for manage-
21 ment and grants oversight; \$4,000,000 is for client self-
22 help and information technology; \$3,000,000 is for a Pro
23 Bono Innovation Fund; and \$1,000,000 is for loan repay-
24 ment assistance: *Provided*, That the Legal Services Cor-
25 poration may continue to provide locality pay to officers

1 and employees at a rate no greater than that provided by
2 the Federal Government to Washington, DC-based em-
3 ployees as authorized by section 5304 of title 5, United
4 States Code, notwithstanding section 1005(d) of the Legal
5 Services Corporation Act (42 U.S.C. 2996(d)): *Provided*
6 *further*, That the authorities provided in section 205 of
7 this Act shall be applicable to the Legal Services Corpora-
8 tion: *Provided further*, That, for the purposes of section
9 505 of this Act, the Legal Services Corporation shall be
10 considered an agency of the United States Government.

11 **ADMINISTRATIVE PROVISION—LEGAL SERVICES**

12 **CORPORATION**

13 None of the funds appropriated in this Act to the
14 Legal Services Corporation shall be expended for any pur-
15 pose prohibited or limited by, or contrary to any of the
16 provisions of, sections 501, 502, 503, 504, 505, and 506
17 of Public Law 105–119, and all funds appropriated in this
18 Act to the Legal Services Corporation shall be subject to
19 the same terms and conditions set forth in such sections,
20 except that all references in sections 502 and 503 to 1997
21 and 1998 shall be deemed to refer instead to 2014 and
22 2015, respectively.

1 **MARINE MAMMAL COMMISSION**

2 **SALARIES AND EXPENSES**

3 For necessary expenses of the Marine Mammal Com-
4 mission as authorized by title II of the Marine Mammal
5 Protection Act of 1972 (16 U.S.C. 1361 et seq.),
6 \$3,250,000.

7 **OFFICE OF THE UNITED STATES TRADE**

8 **REPRESENTATIVE**

9 **SALARIES AND EXPENSES**

10 For necessary expenses of the Office of the United
11 States Trade Representative, including the hire of pas-
12 senger motor vehicles and the employment of experts and
13 consultants as authorized by section 3109 of title 5,
14 United States Code, \$53,500,000, of which \$1,000,000
15 shall remain available until expended: *Provided*, That not
16 to exceed \$124,000 shall be available for official reception
17 and representation expenses.

18 **STATE JUSTICE INSTITUTE**

19 **SALARIES AND EXPENSES**

20 For necessary expenses of the State Justice Institute,
21 as authorized by the State Justice Institute Authorization
22 Act of 1984 (42 U.S.C. 10701 et seq.) \$5,121,000, of
23 which \$500,000 shall remain available until September 30,
24 2016: *Provided*, That not to exceed \$2,250 shall be avail-
25 able for official reception and representation expenses:

1 *Provided further*, That, for the purposes of section 505
2 of this Act, the State Justice Institute shall be considered
3 an agency of the United States Government.

4 TITLE V

5 GENERAL PROVISIONS

6 (INCLUDING RESCISSIONS)

7 SEC. 501. No part of any appropriation contained in
8 this Act shall be used for publicity or propaganda purposes
9 not authorized by the Congress, or for contracts to provide
10 training for agency employees to engage in such publicity
11 or propaganda purposes.

12 SEC. 502. No part of any appropriation contained in
13 this Act shall remain available for obligation beyond the
14 current fiscal year unless expressly so provided herein.

15 SEC. 503. The expenditure of any appropriation
16 under this Act for any consulting service through procure-
17 ment contract, pursuant to section 3109 of title 5, United
18 States Code, shall be limited to those contracts where such
19 expenditures are a matter of public record and available
20 for public inspection, except where otherwise provided
21 under existing law, or under existing Executive order
22 issued pursuant to existing law.

23 SEC. 504. If any provision of this Act or the applica-
24 tion of such provision to any person or circumstances shall
25 be held invalid, the remainder of the Act and the applica-

1 tion of each provision to persons or circumstances other
2 than those as to which it is held invalid shall not be af-
3 fected thereby.

4 **SEC. 505.** None of the funds provided under this Act,
5 or provided under previous appropriations Acts to the
6 agencies funded by this Act that remain available for obli-
7 gation or expenditure in fiscal year 2015, or provided from
8 any accounts in the Treasury of the United States derived
9 by the collection of fees available to the agencies funded
10 by this Act, shall be available for obligation or expenditure
11 through a reprogramming of funds that: (1) creates or ini-
12 tiates a new program, project or activity; (2) eliminates
13 a program, project or activity; (3) increases funds or per-
14 sonnel by any means for any project or activity for which
15 funds have been denied or restricted; (4) relocates an of-
16 fice or employees; (5) reorganizes or renames offices, pro-
17 grams or activities; (6) contracts out or privatizes any
18 functions or activities presently performed by Federal em-
19 ployees; (7) augments existing programs, projects or ac-
20 tivities in excess of \$500,000 or 10 percent, whichever is
21 less, or reduces by 10 percent funding for any program,
22 project or activity, or numbers of personnel by 10 percent;
23 or (8) results from any general savings, including savings
24 from a reduction in personnel, which would result in a
25 change in existing programs, projects or activities as ap-

1 proved by Congress; unless the House and Senate Com-
2 mittees on Appropriations are notified 15 days in advance
3 of such reprogramming of funds by agencies (excluding
4 agencies of the Department of Justice) funded by this Act
5 and 45 days in advance of such reprogramming of funds
6 by agencies of the Department of Justice funded by this
7 Act.

8 **SEC. 506.** (a) If it has been finally determined by
9 a court or Federal agency that any person intentionally
10 affixed a label bearing a “Made in America” inscription,
11 or any inscription with the same meaning, to any product
12 sold in or shipped to the United States that is not made
13 in the United States, the person shall be ineligible to re-
14 ceive any contract or subcontract made with funds made
15 available in this Act, pursuant to the debarment, suspen-
16 sion, and ineligibility procedures described in sections
17 9.400 through 9.409 of title 48, Code of Federal Regula-
18 tions.

19 (b)(1) To the extent practicable, with respect to au-
20 thorized purchases of promotional items, funds made
21 available by this Act shall be used to purchase items that
22 are manufactured, produced, or assembled in the United
23 States, its territories or possessions.

1 (2) The term “promotional items” has the meaning
2 given the term in OMB Circular A–87, Attachment B,
3 Item (1)(f)(3).

4 **SEC. 507.** (a) The Departments of Commerce and
5 Justice, the National Science Foundation, and the Na-
6 tional Aeronautics and Space Administration shall provide
7 to the Committees on Appropriations of the House of Rep-
8 resentatives and the Senate a quarterly report on the sta-
9 tus of balances of appropriations at the account level. For
10 unobligated, uncommitted balances and unobligated, com-
11 mitted balances the quarterly reports shall separately
12 identify the amounts attributable to each source year of
13 appropriation from which the balances were derived. For
14 balances that are obligated, but unexpended, the quarterly
15 reports shall separately identify amounts by the year of
16 obligation.

17 (b) The report described in subsection (a) shall be
18 submitted within 30 days of the end of each quarter.

19 (c) If a department or agency is unable to fulfill any
20 aspect of a reporting requirement described in subsection
21 (a) due to a limitation of a current accounting system,
22 the department or agency shall fulfill such aspect to the
23 maximum extent practicable under such accounting sys-
24 tem and shall identify and describe in each quarterly re-
25 port the extent to which such aspect is not fulfilled.

1 SEC. 508. Any costs incurred by a department or
2 agency funded under this Act resulting from, or to pre-
3 vent, personnel actions taken in response to funding re-
4 ductions included in this Act shall be absorbed within the
5 total budgetary resources available to such department or
6 agency: *Provided*, That the authority to transfer funds be-
7 tween appropriations accounts as may be necessary to
8 carry out this section is provided in addition to authorities
9 included elsewhere in this Act: *Provided further*, That use
10 of funds to carry out this section shall be treated as a
11 reprogramming of funds under section 505 of this Act and
12 shall not be available for obligation or expenditure except
13 in compliance with the procedures set forth in that section:
14 *Provided further*, That for the Department of Commerce,
15 this section shall also apply to actions taken for the care
16 and protection of loan collateral or grant property.

17 SEC. 509. None of the funds provided by this Act
18 shall be available to promote the sale or export of tobacco
19 or tobacco products, or to seek the reduction or removal
20 by any foreign country of restrictions on the marketing
21 of tobacco or tobacco products, except for restrictions
22 which are not applied equally to all tobacco or tobacco
23 products of the same type.

24 SEC. 510. None of the funds made available in this
25 Act may be used to pay the salaries and expenses of per-

1 sonnel of the Department of Justice to obligate more than
2 \$770,000,000 during fiscal year 2015 from the fund es-
3 tablished by section 1402 of Public Law 98–473 (42
4 U.S.C. 10601).

5 SEC. 511. None of the funds made available to the
6 Department of Justice in this Act may be used to discrimi-
7 nate against or denigrate the religious or moral beliefs of
8 students who participate in programs for which financial
9 assistance is provided from those funds, or of the parents
10 or legal guardians of such students.

11 SEC. 512. None of the funds made available in this
12 Act may be transferred to any department, agency, or in-
13 strumentality of the United States Government, except
14 pursuant to a transfer made by, or transfer authority pro-
15 vided in, this Act or any other appropriations Act.

16 SEC. 513. Any funds provided in this Act used to im-
17 plement E-Government Initiatives shall be subject to the
18 procedures set forth in section 505 of this Act.

19 SEC. 514. (a) The Inspectors General of the Depart-
20 ment of Commerce, the Department of Justice, the Na-
21 tional Aeronautics and Space Administration, the Na-
22 tional Science Foundation, and the Legal Services Cor-
23 poration shall conduct audits, pursuant to the Inspector
24 General Act (5 U.S.C. App.), of grants or contracts for
25 which funds are appropriated by this Act, and shall submit

1 reports to Congress on the progress of such audits, which
2 may include preliminary findings and a description of
3 areas of particular interest, within 180 days after initi-
4 ating such an audit and every 180 days thereafter until
5 any such audit is completed.

6 (b) Within 60 days after the date on which an audit
7 described in subsection (a) by an Inspector General is
8 completed, the Secretary, Attorney General, Adminis-
9 trator, Director, or President, as appropriate, shall make
10 the results of the audit available to the public on the Inter-
11 net website maintained by the Department, Administra-
12 tion, Foundation, or Corporation, respectively. The results
13 shall be made available in redacted form to exclude—

14 (1) any matter described in section 552(b) of
15 title 5, United States Code; and

16 (2) sensitive personal information for any indi-
17 vidual, the public access to which could be used to
18 commit identity theft or for other inappropriate or
19 unlawful purposes.

20 (c) A grant or contract funded by amounts appro-
21 priated by this Act may not be used for the purpose of
22 defraying the costs of a banquet or conference that is not
23 directly and programmatically related to the purpose for
24 which the grant or contract was awarded, such as a ban-
25 quet or conference held in connection with planning, train-

1 ing, assessment, review, or other routine purposes related
2 to a project funded by the grant or contract.

3 (d) Any person awarded a grant or contract funded
4 by amounts appropriated by this Act shall submit a state-
5 ment to the Secretary of Commerce, the Attorney General,
6 the Administrator, Director, or President, as appropriate,
7 certifying that no funds derived from the grant or contract
8 will be made available through a subcontract or in any
9 other manner to another person who has a financial inter-
10 est in the person awarded the grant or contract.

11 (e) The provisions of the preceding subsections of this
12 section shall take effect 30 days after the date on which
13 the Director of the Office of Management and Budget, in
14 consultation with the Director of the Office of Government
15 Ethics, determines that a uniform set of rules and require-
16 ments, substantially similar to the requirements in such
17 subsections, consistently apply under the executive branch
18 ethics program to all Federal departments, agencies, and
19 entities.

20 **SEC. 515.** (a) None of the funds appropriated or oth-
21 erwise made available under this Act may be used by the
22 Departments of Commerce and Justice, the National Aer-
23 onautics and Space Administration, or the National
24 Science Foundation to acquire a high-impact or moderate-
25 impact information system, as defined for security cat-

1 egorization in the National Institute of Standards and
2 Technology's (NIST) Federal Information Processing
3 Standard Publication 199, "Standards for Security Cat-
4 egorization of Federal Information and Information Sys-
5 tems" unless the agency has—

6 (1) reviewed the supply chain risk for the infor-
7 mation systems against criteria developed by NIST
8 to inform acquisition decisions for high-impact and
9 moderate-impact information systems within the
10 Federal Government;

11 (2) reviewed the supply chain risk from the pre-
12 sumptive awardee against available and relevant
13 threat information provided by the Federal Bureau
14 of Investigation and other appropriate agencies; and

15 (3) in consultation with the Federal Bureau of
16 Investigation or other appropriate Federal entity,
17 conducted an assessment of any risk of cyber-espio-
18 nage or sabotage associated with the acquisition of
19 such system, including any risk associated with such
20 system being produced, manufactured, or assembled
21 by one or more entities identified by the United
22 States Government as posing a cyber threat, includ-
23 ing but not limited to, those that may be owned, di-
24 rected, or subsidized by the People's Republic of
25 China.

1 (b) None of the funds appropriated or otherwise
2 made available under this Act may be used to acquire a
3 high-impact or moderate-impact information system re-
4 viewed and assessed under subsection (a) unless the head
5 of the assessing entity described in subsection (a) has—

6 (1) developed, in consultation with NIST and
7 supply chain risk management experts, a mitigation
8 strategy for any identified risks;

9 (2) determined that the acquisition of such sys-
10 tem is in the national interest of the United States;
11 and

12 (3) reported that determination to the Commit-
13 tees on Appropriations of the House of Representa-
14 tives and the Senate.

15 **SEC. 516.** None of the funds made available in this
16 Act shall be used in any way whatsoever to support or
17 justify the use of torture by any official or contract em-
18 ployee of the United States Government.

19 **SEC. 517.** (a) Notwithstanding any other provision
20 of law or treaty, in the current fiscal year and any fiscal
21 year thereafter, none of the funds appropriated or other-
22 wise made available under this Act or any other Act may
23 be expended or obligated by a department, agency, or in-
24 strumentality of the United States to pay administrative
25 expenses or to compensate an officer or employee of the

1 United States in connection with requiring an export li-
2 cense for the export to Canada of components, parts, ac-
3 cessories or attachments for firearms listed in Category
4 I, section 121.1 of title 22, Code of Federal Regulations
5 (International Trafficking in Arms Regulations (ITAR),
6 part 121, as it existed on April 1, 2005) with a total value
7 not exceeding \$500 wholesale in any transaction, provided
8 that the conditions of subsection (b) of this section are
9 met by the exporting party for such articles.

10 (b) The foregoing exemption from obtaining an ex-
11 port license—

12 (1) does not exempt an exporter from filing any
13 Shipper's Export Declaration or notification letter
14 required by law, or from being otherwise eligible
15 under the laws of the United States to possess, ship,
16 transport, or export the articles enumerated in sub-
17 section (a); and

18 (2) does not permit the export without a license
19 of—

20 (A) fully automatic firearms and compo-
21 nents and parts for such firearms, other than
22 for end use by the Federal Government, or a
23 Provincial or Municipal Government of Canada;

24 (B) barrels, cylinders, receivers (frames) or
25 complete breech mechanisms for any firearm

1 listed in Category I, other than for end use by
2 the Federal Government, or a Provincial or Mu-
3 nicipal Government of Canada; or

4 (C) articles for export from Canada to an-
5 other foreign destination.

6 (c) In accordance with this section, the District Di-
7 rectors of Customs and postmasters shall permit the per-
8 manent or temporary export without a license of any un-
9 classified articles specified in subsection (a) to Canada for
10 end use in Canada or return to the United States, or tem-
11 porary import of Canadian-origin items from Canada for
12 end use in the United States or return to Canada for a
13 Canadian citizen.

14 (d) The President may require export licenses under
15 this section on a temporary basis if the President deter-
16 mines, upon publication first in the Federal Register, that
17 the Government of Canada has implemented or main-
18 tained inadequate import controls for the articles specified
19 in subsection (a), such that a significant diversion of such
20 articles has and continues to take place for use in inter-
21 national terrorism or in the escalation of a conflict in an-
22 other nation. The President shall terminate the require-
23 ments of a license when reasons for the temporary require-
24 ments have ceased.

1 SEC. 518. Notwithstanding any other provision of
2 law, in the current fiscal year and any fiscal year there-
3 after, no department, agency, or instrumentality of the
4 United States receiving appropriated funds under this Act
5 or any other Act shall obligate or expend in any way such
6 funds to pay administrative expenses or the compensation
7 of any officer or employee of the United States to deny
8 any application submitted pursuant to 22 U.S.C.
9 2778(b)(1)(B) and qualified pursuant to 27 CFR section
10 478.112 or.113, for a permit to import United States ori-
11 gin “curios or relics” firearms, parts, or ammunition.

12 SEC. 519. None of the funds made available in this
13 Act may be used to include in any new bilateral or multi-
14 lateral trade agreement the text of—

15 (1) paragraph 2 of article 16.7 of the United
16 States-Singapore Free Trade Agreement;

17 (2) paragraph 4 of article 17.9 of the United
18 States-Australia Free Trade Agreement; or

19 (3) paragraph 4 of article 15.9 of the United
20 States-Morocco Free Trade Agreement.

21 SEC. 520. None of the funds made available in this
22 Act may be used to authorize or issue a national security
23 letter in contravention of any of the following laws author-
24 izing the Federal Bureau of Investigation to issue national
25 security letters: The Right to Financial Privacy Act; The

1 Electronic Communications Privacy Act; The Fair Credit
2 Reporting Act; The National Security Act of 1947; USA
3 PATRIOT Act; and the laws amended by these Acts.

4 SEC. 521. If at any time during any quarter, the pro-
5 gram manager of a project within the jurisdiction of the
6 Departments of Commerce or Justice, the National Aero-
7 nautics and Space Administration, or the National Science
8 Foundation totaling more than \$75,000,000 has reason-
9 able cause to believe that the total program cost has in-
10 creased by 10 percent or more, the program manager shall
11 immediately inform the respective Secretary, Adminis-
12 trator, or Director. The Secretary, Administrator, or Di-
13 rector shall notify the House and Senate Committees on
14 Appropriations within 30 days in writing of such increase,
15 and shall include in such notice: the date on which such
16 determination was made; a statement of the reasons for
17 such increases; the action taken and proposed to be taken
18 to control future cost growth of the project; changes made
19 in the performance or schedule milestones and the degree
20 to which such changes have contributed to the increase
21 in total program costs or procurement costs; new esti-
22 mates of the total project or procurement costs; and a
23 statement validating that the project's management struc-
24 ture is adequate to control total project or procurement
25 costs.

1 SEC. 522. Funds appropriated by this Act, or made
2 available by the transfer of funds in this Act, for intel-
3 ligence or intelligence related activities are deemed to be
4 specifically authorized by the Congress for purposes of sec-
5 tion 504 of the National Security Act of 1947 (50 U.S.C.
6 414) during fiscal year 2015 until the enactment of the
7 Intelligence Authorization Act for fiscal year 2015.

8 SEC. 523. None of the funds appropriated or other-
9 wise made available by this Act may be used to enter into
10 a contract in an amount greater than \$5,000,000 or to
11 award a grant in excess of such amount unless the pro-
12 spective contractor or grantee certifies in writing to the
13 agency awarding the contract or grant that, to the best
14 of its knowledge and belief, the contractor or grantee has
15 filed all Federal tax returns required during the three
16 years preceding the certification, has not been convicted
17 of a criminal offense under the Internal Revenue Code of
18 1986, and has not, more than 90 days prior to certifi-
19 cation, been notified of any unpaid Federal tax assessment
20 for which the liability remains unsatisfied, unless the as-
21 sessment is the subject of an installment agreement or
22 offer in compromise that has been approved by the Inter-
23 nal Revenue Service and is not in default, or the assess-
24 ment is the subject of a non-frivolous administrative or
25 judicial proceeding.

1 (RESCISSIONS)

2 SEC. 524. (a) Of the unobligated balances available
3 for “Department of Commerce, Departmental Manage-
4 ment, Franchise Fund”, \$2,906,000 is hereby rescinded.

5 (b) Of the unobligated balances available to the De-
6 partment of Justice, the following funds are hereby re-
7 scinded, not later than September 30, 2015, from the fol-
8 lowing accounts in the specified amounts—

9 (1) “Working Capital Fund”, \$54,000,000;

10 (2) “Legal Activities, Assets Forfeiture Fund”,
11 \$193,000,000;

12 (3) “United States Marshals Service, Federal
13 Prisoner Detention”, \$122,000,000;

14 (4) “State and Local Law Enforcement Activi-
15 ties, Office on Violence Against Women, Violence
16 Against Women Prevention and Prosecution Pro-
17 grams”, \$12,200,000;

18 (5) “State and Local Law Enforcement Activi-
19 ties, Office of Justice Programs”, \$59,000,000; and

20 (6) “State and Local Law Enforcement Activi-
21 ties, Community Oriented Policing Services”,
22 \$26,000,000.

23 (c) The Department of Justice shall submit to the
24 Committees on Appropriations of the House of Represent-
25 atives and the Senate a report no later than September

1 1, 2015, specifying the amount of each rescission made
2 pursuant to subsection (b).

3 SEC. 525. None of the funds made available in this
4 Act may be used to purchase first class or premium airline
5 travel in contravention of sections 301–10.122 through
6 301–10.124 of title 41 of the Code of Federal Regulations.

7 SEC. 526. None of the funds made available in this
8 Act may be used to send or otherwise pay for the attend-
9 ance of more than 50 employees from a Federal depart-
10 ment or agency at any single conference occurring outside
11 the United States unless such conference is a law enforce-
12 ment training or operational conference for law enforce-
13 ment personnel and the majority of Federal employees in
14 attendance are law enforcement personnel stationed out-
15 side the United States.

16 SEC. 527. None of the funds appropriated or other-
17 wise made available in this Act may be used in a manner
18 that is inconsistent with the principal negotiating objective
19 of the United States with respect to trade remedy laws
20 to preserve the ability of the United States—

21 (1) to enforce vigorously its trade laws, includ-
22 ing antidumping, countervailing duty, and safeguard
23 laws;

24 (2) to avoid agreements that—

1 (A) lessen the effectiveness of domestic
2 and international disciplines on unfair trade, es-
3 pecially dumping and subsidies; or

4 (B) lessen the effectiveness of domestic
5 and international safeguard provisions, in order
6 to ensure that United States workers, agricul-
7 tural producers, and firms can compete fully on
8 fair terms and enjoy the benefits of reciprocal
9 trade concessions; and

10 (3) to address and remedy market distortions
11 that lead to dumping and subsidization, including
12 overcapacity, cartelization, and market-access bar-
13 riers.

14 SEC. 528. None of the funds appropriated or other-
15 wise made available in this or any other Act may be used
16 to transfer, release, or assist in the transfer or release to
17 or within the United States, its territories, or possessions
18 Khalid Sheikh Mohammed or any other detainee who—

19 (1) is not a United States citizen or a member
20 of the Armed Forces of the United States; and

21 (2) is or was held on or after June 24, 2009,
22 at the United States Naval Station, Guantanamo
23 Bay, Cuba, by the Department of Defense.

24 SEC. 529. (a) None of the funds appropriated or oth-
25 erwise made available in this or any other Act may be used

1 to construct, acquire, or modify any facility in the United
2 States, its territories, or possessions to house any indi-
3 vidual described in subsection (c) for the purposes of de-
4 tention or imprisonment in the custody or under the effec-
5 tive control of the Department of Defense.

6 (b) The prohibition in subsection (a) shall not apply
7 to any modification of facilities at United States Naval
8 Station, Guantanamo Bay, Cuba.

9 (c) An individual described in this subsection is any
10 individual who, as of June 24, 2009, is located at United
11 States Naval Station, Guantanamo Bay, Cuba, and who—

12 (1) is not a citizen of the United States or a
13 member of the Armed Forces of the United States;
14 and

15 (2) is—

16 (A) in the custody or under the effective
17 control of the Department of Defense; or

18 (B) otherwise under detention at United
19 States Naval Station, Guantanamo Bay, Cuba.

20 SEC. 530. To the extent practicable, funds made
21 available in this Act should be used to purchase light bulbs
22 that are “Energy Star” qualified or have the “Federal En-
23 ergy Management Program” designation.

24 SEC. 531. The Director of the Office of Management
25 and Budget shall instruct any department, agency, or in-

1 instrumentality of the United States receiving funds appro-
2 priated under this Act to track undisbursed balances in
3 expired grant accounts and include in its annual perform-
4 ance plan and performance and accountability reports the
5 following:

6 (1) Details on future action the department,
7 agency, or instrumentality will take to resolve
8 undisbursed balances in expired grant accounts.

9 (2) The method that the department, agency, or
10 instrumentality uses to track undisbursed balances
11 in expired grant accounts.

12 (3) Identification of undisbursed balances in ex-
13 pired grant accounts that may be returned to the
14 Treasury of the United States.

15 (4) In the preceding 3 fiscal years, details on
16 the total number of expired grant accounts with
17 undisbursed balances (on the first day of each fiscal
18 year) for the department, agency, or instrumentality
19 and the total finances that have not been obligated
20 to a specific project remaining in the accounts.

21 **SEC. 532.** (a) None of the funds made available by
22 this Act may be used for the National Aeronautics and
23 Space Administration (NASA) or the Office of Science
24 and Technology Policy (OSTP) to develop, design, plan,
25 promulgate, implement, or execute a bilateral policy, pro-

1 gram, order, or contract of any kind to participate, col-
2 laborate, or coordinate bilaterally in any way with China
3 or any Chinese-owned company unless such activities are
4 specifically authorized by a law enacted after the date of
5 enactment of this Act.

6 (b) None of the funds made available by this Act may
7 be used to effectuate the hosting of official Chinese visitors
8 at facilities belonging to or utilized by NASA.

9 (c) The limitations described in subsections (a) and
10 (b) shall not apply to activities which NASA or OSTP has
11 certified—

12 (1) pose no risk of resulting in the transfer of
13 technology, data, or other information with national
14 security or economic security implications to China
15 or a Chinese-owned company; and

16 (2) will not involve knowing interactions with
17 officials who have been determined by the United
18 States to have direct involvement with violations of
19 human rights.

20 (d) Any certification made under subsection (c) shall
21 be submitted to the Committees on Appropriations of the
22 House of Representatives and the Senate no later than
23 30 days prior to the activity in question and shall include
24 a description of the purpose of the activity, its agenda,
25 its major participants, and its location and timing.

1 SEC. 533. None of the funds made available by this
2 Act may be used to pay the salaries or expenses of per-
3 sonnel to deny, or fail to act on, an application for the
4 importation of any model of shotgun if—

5 (1) all other requirements of law with respect to
6 the proposed importation are met; and

7 (2) no application for the importation of such
8 model of shotgun, in the same configuration, had
9 been denied by the Attorney General prior to Janu-
10 ary 1, 2011, on the basis that the shotgun was not
11 particularly suitable for or readily adaptable to
12 sporting purposes.

13 SEC. 534. (a) None of the funds made available in
14 this Act may be used to maintain or establish a computer
15 network unless such network blocks the viewing,
16 downloading, and exchanging of pornography.

17 (b) Nothing in subsection (a) shall limit the use of
18 funds necessary for any Federal, State, tribal, or local law
19 enforcement agency or any other entity carrying out crimi-
20 nal investigations, prosecution, or adjudication activities.

21 SEC. 535. The Departments of Commerce and Jus-
22 tice, the National Aeronautics and Space Administration,
23 and the National Science Foundation shall submit spend-
24 ing plans, signed by the respective department or agency
25 head, to the Committees on Appropriations of the House

1 of Representatives and the Senate within 60 days after
2 the date of enactment of this Act.

3 **SEC. 536.** None of the funds made available by this
4 Act may be used to enter into a contract, memorandum
5 of understanding, or cooperative agreement with, make a
6 grant to, or provide a loan or loan guarantee to, any cor-
7 poration that was convicted of a felony criminal violation
8 under any Federal law within the preceding 24 months,
9 where the awarding agency is aware of the conviction, un-
10 less the agency has considered suspension or debarment
11 of the corporation and has made a determination that this
12 further action is not necessary to protect the interests of
13 the Government.

14 **SEC. 537.** None of the funds made available by this
15 Act may be used to enter into a contract, memorandum
16 of understanding, or cooperative agreement with, make a
17 grant to, or provide a loan or loan guarantee to, any cor-
18 poration that has any unpaid Federal tax liability that has
19 been assessed, for which all judicial and administrative
20 remedies have been exhausted or have lapsed, and that
21 is not being paid in a timely manner pursuant to an agree-
22 ment with the authority responsible for collecting the tax
23 liability, where the awarding agency is aware of the unpaid
24 tax liability, unless the agency has considered suspension
25 or debarment of the corporation and has made a deter-

1 mination that this further action is not necessary to pro-
2 tect the interests of the Government.

3 **SEC. 538.** None of the funds made available by this
4 Act may be obligated or expended to implement the Arms
5 Trade Treaty until the Senate approves a resolution of
6 ratification for the Treaty.

7 **SEC. 539.** None of the funds made available by this
8 Act may be used to require a person licensed under section
9 923 of title 18, United States Code, to report information
10 to the Department of Justice regarding the sale of mul-
11 tiple rifles or shotguns to the same person.

12 **SPENDING REDUCTION ACCOUNT**

13 **SEC. 540.** The amount by which the applicable alloca-
14 tion of new budget authority made by the Committee on
15 Appropriations of the House of Representatives under sec-
16 tion 302(b) of the Congressional Budget Act of 1974 ex-
17 ceeds the amount of proposed new budget authority is \$0
18 (increased by \$866,000).

19 **SEC. 541.** None of the funds made available by this
20 Act under the heading “Pacific Coastal Salmon Recovery”
21 may be used for grant guidelines or requirements to estab-
22 lish minimum riparian buffers.

23 **SEC. 542.** None of the funds made available by this
24 Act may be used to lease or purchase new light duty vehi-
25 cles for any executive fleet, or for an agency’s fleet inven-

1 tory, except in accordance with Presidential Memo-
2 randum—Federal Fleet Performance, dated May 24,
3 2011.

4 SEC. 543. None of the funds made available by this
5 Act may be used to enter into a contract with any offeror
6 or any of its principals if the offeror certifies, as required
7 by Federal Acquisition Regulation, that the offeror or any
8 of its principals—

9 (1) within a three-year period preceding this
10 offer has been convicted of or had a civil judgment
11 rendered against it for: commission of fraud or a
12 criminal offense in connection with obtaining, at-
13 tempting to obtain, or performing a public (Federal,
14 State, or local) contract or subcontract; violation of
15 Federal or State antitrust statutes relating to the
16 submission of offers; or commission of embezzle-
17 ment, theft, forgery, bribery, falsification or destruc-
18 tion of records, making false statements, tax eva-
19 sion, violating Federal criminal tax laws, or receiving
20 stolen property;

21 (2) are presently indicted for, or otherwise
22 criminally or civilly charged by a governmental enti-
23 ty with, commission of any of the offenses enumer-
24 ated above in paragraph (1); or

1 (3) within a three-year period preceding this
2 offer, has been notified of any delinquent Federal
3 taxes in an amount that exceeds \$3,000 for which
4 the liability remains unsatisfied.

5 **SEC. 544.** None of the funds made available by this
6 Act may be used to implement Executive Order No. 13547
7 (75 Fed. Reg. 43023, relating to the stewardship of
8 oceans, coasts, and the Great Lakes), including the Na-
9 tional Ocean Policy developed under such Executive order.

10 **SEC. 545.** None of the funds made available in this
11 Act may be used to enforce section 221 of title 13, United
12 States Code, with respect to the American Community
13 Survey.

14 **SEC. 546.** None of the funds made available by this
15 Act for the “DEPARTMENT OF JUSTICE—ADMINIS-
16 TRATIVE REVIEW AND APPEALS” may be used in con-
17 travention of sections 509 and 510 of title 28, United
18 States Code.

19 **SEC. 547.** None of the funds made available by this
20 Act may be used to assess or collect the fee established
21 by section 660.115 of title 50, Code of Federal Regula-
22 tions.

23 **SEC. 548.** None of the funds made available in this
24 Act may be used in contravention of any of the following:

1 (1) The fifth and 14th amendments to the Con-
2 stitution of the United States.

3 (2) Title VI of the Civil Rights Act of 1964 (re-
4 lating to nondiscrimination in federally assisted pro-
5 grams).

6 (3) Section 809(c)(1) of the Omnibus Crime
7 Control and Safe Streets Act of 1968 (relating to
8 prohibition of discrimination).

9 (4) Section 210401(a) of the Violent Crime and
10 Law Enforcement Act of 1994 (relating to unlawful
11 police pattern or practice).

12 SEC. 549. None of the funds made available by this
13 Act may be used for the National Aeronautics and Space
14 Administration’s Advanced Food Technology Project.

15 SEC. 550. None of the funds made available in this
16 Act may be used for a loan guarantee for Innovative Tech-
17 nologies in Manufacturing under the heading “Economic
18 Development Administration, Economic Development As-
19 sistance Programs”.

20 SEC. 551. None of the funds made available by this
21 Act may be used to negotiate an agreement that includes
22 a waiver of the “Buy American Act”.

23 SEC. 552. None of the funds made available to the
24 National Science Foundation by this Act may be used to

1 examine climate effects on tea quality and socioeconomic
2 responses under award number 1313775–CNH.

3 **SEC. 553.** None of the funds appropriated or other-
4 wise made available by this Act may be used to design,
5 implement, administer, or carry out the U.S. Global Cli-
6 mate Research Program National Climate Assessment, the
7 Intergovernmental Panel on Climate Change’s Fifth As-
8 sessment Report, the United Nation’s Agenda 21 sustain-
9 able development plan, or the May 2013 Technical Update
10 of the Social Cost of Carbon for Regulatory Impact Anal-
11 ysis Under Executive Order No. 12866.

12 **SEC. 554.** None of the funds made available in this
13 Act may be used to carry out Operation Choke Point.

14 **SEC. 555.** None of the funds made available by this
15 Act may be used to provide assistance to a State, or polit-
16 ical subdivision of a State, that has in effect any law, pol-
17 icy, or procedure in contravention of immigration laws (as
18 defined in section 101(a)(17) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1101(a)(17))).

20 **SEC. 556.** None of the funds made available in this
21 Act may be used for the Investigative and Public Affairs
22 Unit of the Federal Bureau of Investigation except for the
23 Ten Most Wanted Fugitives, the Most Wanted Terrorists,
24 and missing children programs.

1 SEC. 557. None of the funds made available in this
2 Act to the Department of Justice may be used to prevent
3 a State from implementing its own State laws that author-
4 ize the use, distribution, possession, or cultivation of in-
5 dustrial hemp, as defined in section 7606 of the Agricul-
6 tural Act of 2014 (Public Law 113–79).

7 SEC. 558. None of the funds made available in this
8 Act to the Department of Justice may be used, with re-
9 spect to the States of Alabama, Alaska, Arizona, Cali-
10 fornia, Colorado, Connecticut, Delaware, District of Co-
11 lumbia, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine,
12 Maryland, Massachusetts, Michigan, Minnesota, Mis-
13 sissippi, Missouri, Montana, Nevada, New Hampshire,
14 New Jersey, New Mexico, Oregon, Rhode Island, South
15 Carolina, Tennessee, Utah, Vermont, Washington, and
16 Wisconsin, to prevent such States from implementing their
17 own State laws that authorize the use, distribution, pos-
18 session, or cultivation of medical marijuana.

19 SEC. 559. None of the funds made available by this
20 Act may be used to transfer or temporarily assign employ-
21 ees to the Office of the Pardon Attorney for the purpose
22 of screening clemency applications.

23 SEC. 560. None of the funds made available by this
24 Act may be used in contravention of section 7606 (“Legit-
25 imacy of Industrial Hemp Research”) of the Agricultural

1 Act of 2014 (Public Law 113–79) by the Department of
2 Justice or the Drug Enforcement Administration.

3 SEC. 561. None of the funds made available by this
4 Act may be used to compel a journalist or reporter to tes-
5 tify about information or sources that the journalist or
6 reporter states in a motion to quash the subpoena that
7 he has obtained as a journalist or reporter and that he
8 regards as confidential.

9 SEC. 562. None of the funds made available by this
10 Act may be used to relinquish the responsibility of the Na-
11 tional Telecommunications and Information Administra-
12 tion with respect to Internet domain name system func-
13 tions, including responsibility with respect to the authori-
14 tative root zone file and the Internet Assigned Numbers
15 Authority functions.

16 SEC. 563. None of the funds made available in this
17 Act may be used by the Department of Justice to enforce
18 the Fair Housing Act in a manner that relies upon an
19 allegation of liability under 24 CFR 100.500.

20 SEC. 564. None of the funds made available by this
21 Act under the heading “Department of Justice—Office of
22 Justice Programs—State and Local Law Enforcement As-
23 sistance” may be used in contravention of section 642(a)
24 of the Illegal Immigration Reform and Immigrant Respon-
25 sibility Act of 1996 (8 U.S.C. 1373(a)).

1 SEC. 565. None of the funds made available by this
2 Act may be used to negotiate or enter into a trade agree-
3 ment that establishes a limit on greenhouse gas emissions.
4 The limitation described in this section shall not apply in
5 the case of the administration of a tax or tariff.

6 This Act may be cited as the “Commerce, Justice,
7 Science, and Related Agencies Appropriations Act, 2015”.

Passed the House of Representatives May 30 (legis-
lative day May 29), 2014.

Attest:

KAREN L. HAAS,
Clerk.

Calendar No. 428

**113TH CONGRESS
2^D SESSION
H. R. 4660**

AN ACT

Making appropriations for the Departments of
Commerce and Justice, Science, and Related
Agencies for the fiscal year ending September 30,
2015, and for other purposes.

JUNE 10, 2014

Read twice and placed on the calendar

I

114TH CONGRESS
1ST SESSION

H. R. 191

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2015

Mr. ADERHOLT (for himself, Mr. BARLETTA, Mr. SMITH of Texas, Mr. CULBERSON, Mrs. BLACKBURN, Mr. DUNCAN of South Carolina, Mr. CRAWFORD, Mr. COLLINS of Georgia, and Mr. BYRNE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Foreign Affairs, Energy and Commerce, Ways and Means, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as “The
5 Repeal Executive Amnesty Act of 2015”.

- 1 (b) **TABLE OF CONTENTS.**—The table of contents is
 2 as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Severability.

TITLE I—PAROLE AUTHORITY

Sec. 101. Parole reform.
 Sec. 102. Adjustment of status limited to aliens admitted to the United States.
 Sec. 103. Presence in the United States pursuant to parole added to priority date.
 Sec. 104. Admission and lawful presence required for employment authorization.

TITLE II—LIMITATION ON EXECUTIVE OVERREACH

Sec. 201. Denial of funds for implementation of unauthorized actions.
 Sec. 202. ICE Law Enforcement Availability Pay (LEAP) eligibility.

TITLE III—UNACCOMPANIED ALIEN CHILDREN

Sec. 301. Repatriation of unaccompanied alien children.
 Sec. 302. Special immigrant juvenile status for immigrants unable to reunite with either parent.
 Sec. 303. Modifications to preferential availability for asylum for unaccompanied alien minors.
 Sec. 304. Unaccompanied alien child defined.

TITLE IV—ELIGIBILITY CRITERIA FOR ALIENS TO RECEIVE CERTAIN BENEFITS

Sec. 401. Aliens without lawful status ineligible to receive social security and medicare benefits.
 Sec. 402. Applying citizenship and immigration status eligibility criteria for Federal programs to Affordable Care Act benefits.
 Sec. 403. Aliens paroled into the United States ineligible for Federal public benefits.

TITLE V—STATE AND LOCAL ENFORCEMENT OF THE IMMIGRATION LAWS

Sec. 501. Definitions.
 Sec. 502. Immigration law enforcement by States and localities.
 Sec. 503. Immunity.
 Sec. 504. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
 Sec. 505. State Criminal Alien Assistance Program (SCAAP).
 Sec. 506. Limitation on State receipt of Federal funding.
 Sec. 507. ICE detainees.
 Sec. 508. Preservation of the Secure Communities program and removal of deportable aliens identified under the interoperable law enforcement and intelligence electronic data system.

TITLE VI—ASYLUM REFORM AND BORDER PROTECTION

Sec. 601. Clarification of intent regarding taxpayer-provided counsel.

Sec. 602. Credible fear interviews.

Sec. 603. Recording expedited removal and credible fear interviews.

Sec. 604. Safe third country.

TITLE VII—MISCELLANEOUS

Sec. 701. Suspension of effectiveness of certain laws.

Sec. 702. Temporary protected status reform.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held invalid,
4 the remainder of this Act, and the application of such pro-
5 vision to other persons not similarly situated or to other
6 circumstances, shall not be affected by such invalidation.

7 **TITLE I—PAROLE AUTHORITY**

8 **SEC. 101. PAROLE REFORM.**

9 (a) **IN GENERAL.**—Paragraph (5) of section 212(d)
10 (8 U.S.C. 1182(d)) is amended to read as follows:

11 “(5) **HUMANITARIAN AND PUBLIC INTEREST**
12 **PAROLE.**—

13 “(A) **IN GENERAL.**—Subject to the provi-
14 sions of this paragraph and section 214(f)(2),
15 the Secretary of Homeland Security, in the sole
16 discretion of the Secretary of Homeland Secu-
17 rity, may on a case-by-case basis parole an alien
18 into the United States temporarily, under such
19 conditions as the Secretary of Homeland Secu-
20 rity may prescribe, only—

1 “(i) for an urgent humanitarian rea-
2 son (as described under subparagraph
3 (B)); or

4 “(ii) for a reason deemed strictly in
5 the public interest (as described under sub-
6 paragraph (C)).

7 “(B) **HUMANITARIAN PAROLE.**—The Sec-
8 retary of Homeland Security may parole an
9 alien based on an urgent humanitarian reason
10 described in this subparagraph only if—

11 “(i) the alien has a medical emergency
12 and the alien cannot obtain necessary
13 treatment in the foreign state in which the
14 alien is residing or the medical emergency
15 is life-threatening and there is insufficient
16 time for the alien to be admitted through
17 the normal visa process;

18 “(ii) the alien is needed in the United
19 States in order to donate an organ or
20 other tissue for transplant into a close
21 family member; or

22 “(iii) the alien has a close family
23 member in the United States whose death
24 is imminent and the alien could not arrive
25 in the United States in time to see such

1 family member alive if the alien were to be
2 admitted through the normal visa process.

3 “(C) **PUBLIC INTEREST PAROLE.**—The
4 Secretary of Homeland Security may parole an
5 alien based on a reason deemed strictly in the
6 public interest described in this subparagraph
7 only if the alien has assisted the United States
8 Government in a matter, such as a criminal in-
9 vestigation, espionage, or other similar law en-
10 forcement activity, and either the alien’s pres-
11 ence in the United States is required by the
12 Government or the alien’s life would be threat-
13 ened if the alien were not permitted to come to
14 the United States.

15 “(D) **LIMITATIONS ON THE USE OF PA-**
16 **ROLE AUTHORITY.**—

17 “(i) **ALIENS INELIGIBLE FOR REF-**
18 **UGEE STATUS.**—The Secretary of Home-
19 land Security may not use the parole au-
20 thority under this paragraph to permit to
21 come to the United States aliens who have
22 applied for and have been found to be in-
23 eligible for refugee status or any alien to
24 whom the provisions of this paragraph do
25 not apply.

1 “(ii) **ALIENS PRESENT IN THE**
2 **UNITED STATES INELIGIBLE FOR PA-**
3 **ROLE.**—The Secretary of Homeland Secu-
4 rity may not parole into the United States
5 an alien who—

6 “(I) is physically present in the
7 United States; and

8 “(II)(aa) has not been admitted
9 to the United States; or

10 “(bb) was lawfully admitted to
11 the United States as a nonimmigrant
12 and remained in the United States
13 unlawfully after the period of author-
14 ized stay ended.

15 “(iii) **LIMITATION ON WORK AUTHOR-**
16 **IZATION AND ADJUSTMENT OF STATUS.**—
17 In the case of an alien who is present in
18 the United States pursuant to a grant of
19 parole under this paragraph, the Secretary
20 of Homeland Security may not—

21 “(I) grant employment authoriza-
22 tion to the alien; or

23 “(II) admit the alien to the
24 United States as a nonimmigrant or

1 as an alien admitted for lawful perma-
2 nent residence.

3 “(E) **PAROLE NOT AN ADMISSION.**—Parole
4 of an alien under this paragraph shall not be
5 considered an admission of the alien into the
6 United States. When the purposes of the parole
7 of an alien have been served, as determined by
8 the Secretary of Homeland Security, the alien
9 shall immediately return or be returned to the
10 custody from which the alien was paroled and
11 the alien shall be considered for admission to
12 the United States on the same basis as other
13 similarly situated applicants for admission.

14 “(F) **REPORT TO CONGRESS.**—Not later
15 than 90 days after the end of each fiscal year,
16 the Secretary of Homeland Security shall sub-
17 mit a report to the Committees on the Judici-
18 ary of the House of Representatives and the
19 Senate describing the number and categories of
20 aliens paroled into the United States under this
21 paragraph. Each such report shall contain in-
22 formation and data concerning the number and
23 categories of aliens paroled, the duration of pa-
24 role, and the current status of aliens paroled
25 during the preceding fiscal year.”.

1 (b) **EFFECTIVE DATE.**—The amendment made by
2 subsection (a) shall take effect on the first day of the first
3 month beginning more than 60 days after the date of the
4 enactment of this Act.

5 **SEC. 102. ADJUSTMENT OF STATUS LIMITED TO ALIENS AD-**
6 **MITTED TO THE UNITED STATES.**

7 Section 245 of the Immigration and Nationality Act
8 (8 U.S.C. 1255) is amended in subsection (a) by striking
9 “or paroled”.

10 **SEC. 103. PRESENCE IN THE UNITED STATES PURSUANT TO**
11 **PAROLE ADDED TO PRIORITY DATE.**

12 Section 203(e) of the Immigration and Nationality
13 Act (8 U.S.C. 1153(e)(3)) is amended—

14 (1) in paragraph (3), by inserting before the pe-
15 riod at the end the following; “, in accordance with
16 the requirement under paragraph (4)”;

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

18 “(4) In the case of an applicant for a visa
19 under this section who is present in the United
20 States pursuant to a grant of parole under section
21 212(d)(5) for a period of time after making such ap-
22 plication, the time period during which the applicant
23 is present in the United States pursuant to such a
24 grant of parole shall be added to the applicant’s pri-
25 ority date.”.

1 **SEC. 104. ADMISSION AND LAWFUL PRESENCE REQUIRED**
 2 **FOR EMPLOYMENT AUTHORIZATION.**

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

5 (1) by inserting before “authorized to be so em-
 6 ployed by this Act” the following: “an alien other-
 7 wise admitted to the United States and present in
 8 the United States with a lawful immigration status,
 9 who is”; and

10 (2) by striking at the end the following: “or by
 11 the Attorney General”.

12 **TITLE II—LIMITATION ON**
 13 **EXECUTIVE OVERREACH**

14 **SEC. 201. DENIAL OF FUNDS FOR IMPLEMENTATION OF UN-**
 15 **AUTHORIZED ACTIONS.**

16 Notwithstanding any other provision of law, no funds
 17 or fees made available to the Secretary of Homeland Secu-
 18 rity, or to the head of any other Federal agency, may be
 19 used to implement, administer, enforce, or carry out (in-
 20 cluding through the issuance of any regulations) any of
 21 the policy changes set forth in the following memoranda:

22 (1) The memorandum from the Director of
 23 U.S. Immigration and Customs Enforcement enti-
 24 tled “Civil Immigration Enforcement: Priorities for
 25 the Apprehension, Detention, and Removal of
 26 Aliens” (March 2, 2011).

1 (2) The memorandum from the Director of
2 U.S. Immigration and Customs Enforcement enti-
3 tled “Exercising Prosecutorial Discretion Consistent
4 with the Civil Immigration Enforcement Priorities of
5 the Agency for the Apprehension, Detention, and
6 Removal of Aliens” (June 17, 2011).

7 (3) The memorandum from the Director of
8 U.S. Immigration and Customs Enforcement enti-
9 tled “Prosecutorial Discretion: Certain Victims, Wit-
10 nesses, and Plaintiffs” (June 17, 2011).

11 (4) The U.S. Citizenship and Immigration Serv-
12 ices policy memorandum entitled “Revised Guidance
13 for the Referral of Cases and Issuance of Notices to
14 Appear (NTAs) in Cases Involving Inadmissible and
15 Removable Aliens” (November 17, 2011).

16 (5) The memorandum from the Principal Legal
17 Advisor of U.S. Immigration and Customs Enforce-
18 ment entitled “Case-by-Case Review of Incoming
19 and Certain Pending Cases” (November 17, 2011).

20 (6) The recommendations included in the report
21 from the Director of U.S. Immigration and Customs
22 Enforcement entitled “ICE Response to the Task
23 Force on Secure Communities Findings and Rec-
24 ommendations” (April 27, 2012).

1 (7) The memorandum from the Secretary of
2 Homeland Security entitled “Exercising Prosecu-
3 torial Discretion with Respect to Individuals Who
4 Came to the United States as Children” (June 15,
5 2012).

6 (8) The memorandum from the Director of
7 U.S. Immigration and Customs Enforcement enti-
8 tled “Civil Immigration Enforcement: Guidance on
9 the Use of Detainers in the Federal, State, Local,
10 and Tribal Criminal Justice Systems” (December
11 21, 2012).

12 (9) The U.S. Citizenship and Immigration Serv-
13 ices policy memorandum entitled “Adjudication of
14 Adjustment of Status Applications for Individuals
15 Admitted to the United States Under the Visa Waiv-
16 er Program” (November 14, 2013).

17 (10) The memorandum from the Secretary of
18 Homeland Security entitled “Southern Border and
19 Approaches Campaign” (November 20, 2014).

20 (11) The memorandum from the Secretary of
21 Homeland Security entitled “Policies for the Appre-
22 hension, Detention and Removal of Undocumented
23 Immigrants” (November 20, 2014).

1 (12) The memorandum from the Secretary of
2 Homeland Security entitled “Secure Communities”
3 (November 20, 2014).

4 (13) The memorandum from the Secretary of
5 Homeland Security entitled “Exercising Prosecu-
6 torial Discretion with Respect to Individuals Who
7 Came to the United States as Children and with Re-
8 spect to Certain Individuals Who Are the Parents of
9 U.S. Citizens or Permanent Residents” (November
10 20, 2014).

11 (14) The memorandum from the Secretary of
12 Homeland Security entitled “Expansion of the Pro-
13 visional Waiver Program” (November 20, 2014).

14 (15) The memorandum from the Secretary of
15 Homeland Security entitled “Policies Supporting
16 U.S. High-Skilled Businesses and Workers” (No-
17 vember 20, 2014).

18 (16) The memorandum from the Secretary of
19 Homeland Security entitled “Families of U.S.
20 Armed Forces Members and Enlistees” (November
21 20, 2014).

22 (17) The memorandum from the Secretary of
23 Homeland Security entitled “Directive to Provide
24 Consistency Regarding Advance Parole” (November
25 20, 2014).

1 (18) The memorandum from the Secretary of
2 Homeland Security entitled “Policies to Promote
3 and Increase Access to U.S. Citizenship” (November
4 20, 2014).

5 (19) The memorandum from the President enti-
6 tled “Modernizing and Streamlining the U.S. Immi-
7 grant Visa System for the 21st Century” (November
8 21, 2014).

9 (20) The memorandum from the President enti-
10 tled “Creating Welcoming Communities and Fully
11 Integrating Immigrants and Refugees” (November
12 21, 2014).

13 **SEC. 202. ICE LAW ENFORCEMENT AVAILABILITY PAY**
14 **(LEAP) ELIGIBILITY.**

15 (a) **AVAILABILITY PAY FOR LAW ENFORCEMENT.**—
16 Section 5545a of title 5, United States Code, is amended
17 by adding at the end the following:

18 “(1) **APPLICATION TO CERTAIN OFFICERS AND EM-**
19 **PLOYEES OF THE DEPARTMENT OF HOMELAND SECUR-**
20 **ITY.**—Subsections (a) through (h) of this section shall
21 apply to a law enforcement officer of the Office of En-
22 forcement and Removal Operations of Immigration and
23 Customs Enforcement.”.

1 (b) ANNUITY CALCULATION FOR AVAILABILITY

2 PAY.—Section 8331(3)(E) of title 5, United States Code,
3 is amended—

4 (1) in clause (i), by striking “or” at the end;

5 (2) in clause (ii), by adding “or” at the end;

6 and

7 (3) by adding after clause (ii) the following:

8 “(iii) received by a law enforcement
9 officer of the Office of Enforcement and
10 Removal Operations of Immigration and
11 Customs Enforcement, subject to all re-
12 strictions and earning limitations imposed
13 on criminal investigators under section
14 5545a;”.

15 (c) APPLICABILITY.—The amendments made by this
16 section shall be effective as of the first day of the first
17 applicable pay period beginning 90 days after the date of
18 enactment of this Act.

19 **TITLE III—UNACCOMPANIED** 20 **ALIEN CHILDREN**

21 **SEC. 301. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-** 22 **DREN.**

23 (a) IN GENERAL.—Section 235 of the William Wil-
24 berforce Trafficking Victims Protection Reauthorization
25 Act of 2008 (8 U.S.C. 1232) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (2)—

3 (i) by amending the heading to read
4 as follows: “**RULES FOR UNACCOMPANIED**
5 **ALIEN CHILDREN.**”;

6 (ii) in subparagraph (A);

7 (I) in the matter preceding clause
8 (i), by striking “who is a national or
9 habitual resident of a country that is
10 contiguous with the United States”;

11 (II) in clause (i), by inserting
12 “and” at the end;

13 (III) in clause (ii), by striking “;
14 and” and inserting a period; and

15 (IV) by striking clause (iii);

16 (iii) in subparagraph (B)—

17 (I) in the matter preceding clause
18 (i), by striking “(8 U.S.C. 1101 et
19 seq.) may—” and inserting “(8
20 U.S.C. 1101 et seq.)—”;

21 (II) in clause (i), by inserting be-
22 fore “permit such child to withdraw”
23 the following: “may”; and

1 (III) in clause (ii), by inserting
2 before “return such child” the fol-
3 lowing: “shall”; and
4 (iv) in subparagraph (C)—

5 (I) by amending the heading to
6 read as follows: “**AGREEMENTS WITH**
7 **FOREIGN COUNTRIES.**”; and

8 (II) in the matter preceding
9 clause (i), by striking “The Secretary
10 of State shall negotiate agreements
11 between the United States and coun-
12 tries contiguous to the United States”
13 and inserting “The Secretary of State
14 may negotiate agreements between the
15 United States and any foreign country
16 that the Secretary determines appro-
17 priate”; and

18 (B) in paragraph (5)(D)—

19 (i) in the matter preceding clause (i),
20 by striking “, except for an unaccompanied
21 alien child from a contiguous country sub-
22 ject to the exceptions under subsection
23 (a)(2),” and inserting “who does not meet
24 the criteria listed in paragraph (2)(A)”;
25 and

1 (ii) in clause (i), by inserting before
2 the semicolon at the end the following: “,
3 which shall include a hearing before an im-
4 migration judge not later than 14 days
5 after being screened under paragraph (4)”;

6 (2) in subsection (b)—

7 (A) in paragraph (2)—

8 (i) in the matter preceding subpara-
9 graph (A), by striking “48 hours” and in-
10 sserting “7 days”;

11 (ii) in subparagraph (A), by inserting
12 before the semicolon the following: “be-
13 lieved not to meet the criteria listed in sub-
14 section (a)(2)(A)”;

15 (iii) in subparagraph (B), by inserting
16 before the period the following: “and does
17 not meet the criteria listed in subsection
18 (a)(2)(A)”;

19 (B) in paragraph (3), by striking “an un-
20 accompanied alien child in custody shall” and
21 all that follows, and inserting the following: “an
22 unaccompanied alien child in custody—

23 “(A) in the case of a child who does not
24 meet the criteria listed in subsection (a)(2)(A),
25 shall transfer the custody of such child to the

1 Secretary of Health and Human Services not
2 later than 30 days after determining that such
3 child is an unaccompanied alien child who does
4 not meet such criteria; or

5 “(B) in the case of child who meets the
6 criteria listed in subsection (a)(2)(A), may
7 transfer the custody of such child to the Sec-
8 retary of Health and Human Services after de-
9 termining that such child is an unaccompanied
10 alien child who meets such criteria.”;

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

12 “(5) **INFORMATION SHARING.**—The Secretary
13 of Health and Human Services shall share with the
14 Secretary of Homeland Security any information re-
15 quested on a child who has been determined to be
16 an unaccompanied alien child and who is or has
17 been in the custody of the Secretary of Health and
18 Human Services, including the location of the child
19 and any person to whom custody of the child has
20 been transferred, for any legitimate law enforcement
21 objective, including enforcement of the immigration
22 laws.”; and

23 (4) in subsection (c)—

24 (A) in paragraph (3), by inserting at the
25 end the following:

1 “(D) INFORMATION ABOUT INDIVIDUALS
2 WITH WHOM CHILDREN ARE PLACED.—

3 “(i) INFORMATION TO BE PROVIDED
4 TO HOMELAND SECURITY.—Before placing
5 a child with an individual, the Secretary of
6 Health and Human Services shall provide
7 to the Secretary of Homeland Security, re-
8 garding the individual with whom the child
9 will be placed, the following information:

10 “(I) The name of the individual.

11 “(II) The social security number
12 of the individual.

13 “(III) The date of birth of the in-
14 dividual.

15 “(IV) The location of the individ-
16 ual’s residence where the child will be
17 placed.

18 “(V) The immigration status of
19 the individual, if known.

20 “(VI) Contact information for
21 the individual.

22 “(ii) SPECIAL RULE.—In the case of a
23 child who was apprehended on or after
24 June 15, 2012, and before the date of the
25 enactment of the Repeal Executive Am-

1 nesty Act of 2015, who the Secretary of
2 Health and Human Services placed with
3 an individual, the Secretary shall provide
4 the information listed in clause (i) to the
5 Secretary of Homeland Security not later
6 than 90 days after the date of the enact-
7 ment of the Repeal Executive Amnesty Act
8 of 2015.

9 “(iii) **ACTIVITIES OF THE SECRETARY**
10 **OF HOMELAND SECURITY.**—Not later than
11 30 days after receiving the information
12 listed in clause (i), the Secretary of Home-
13 land Security shall—

14 “(I) in the case that the immi-
15 gration status of an individual with
16 whom a child is placed is unknown,
17 investigate the immigration status of
18 that individual; and

19 “(II) upon determining that an
20 individual with whom a child is placed
21 is unlawfully present in the United
22 States, initiate removal proceedings
23 pursuant to chapter 4 of title II of the
24 Immigration and Nationality Act (8
25 U.S.C. 1221 et seq.).”; and

1 (B) in paragraph (5)—

2 (i) by inserting after “to the greatest
3 extent practicable” the following: “(at no
4 expense to the Government)”; and

5 (ii) by striking “have counsel to rep-
6 resent them” and inserting “have access to
7 counsel to represent them”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to any unauthorized alien child ap-
10 prehended on or after June 15, 2012.

11 **SEC. 302. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
12 **MIGRANTS UNABLE TO REUNITE WITH EI-**
13 **THER PARENT.**

14 Section 101(a)(27)(J)(i) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
16 striking “1 or both of the immigrant’s parents” and in-
17 serting “either of the immigrant’s parents”.

18 **SEC. 303. MODIFICATIONS TO PREFERENTIAL AVAIL-**
19 **ABILITY FOR ASYLUM FOR UNACCOMPANIED**
20 **ALIEN MINORS.**

21 Section 208 of the Immigration and Nationality Act
22 (8 U.S.C. 1158) is amended—

23 (1) by striking subsection (a)(2)(E); and

24 (2) by striking subsection (b)(3)(C).

1 **SEC. 304. UNACCOMPANIED ALIEN CHILD DEFINED.**

2 Section 462(g)(2) of the Homeland Security Act of
3 2002 (6 U.S.C. 279(g)(2)) is amended to read as follows:

4 “(2) The term ‘unaccompanied alien child’—

5 “(A) means an alien who—

6 “(i) has no lawful immigration status
7 in the United States;

8 “(ii) has not attained 18 years of age;

9 and

10 “(iii) with respect to whom—

11 “(I) there is no parent or legal
12 guardian in the United States;

13 “(II) no parent or legal guardian
14 in the United States is available to
15 provide care and physical custody; or

16 “(III) no sibling over 18 years of
17 age, aunt, uncle, grandparent, or
18 cousin over 18 years of age is avail-
19 able to provide care and physical cus-
20 tody; except that

21 “(B) such term shall cease to include an
22 alien if at any time a parent, legal guardian,
23 sibling over 18 years of age, aunt, uncle, grand-
24 parent, or cousin over 18 years of age of the
25 alien is found in the United States and is avail-
26 able to provide care and physical custody (and

1 the Secretary of Homeland Security and the
 2 Secretary of Health and Human Services shall
 3 revoke accordingly any prior designation of the
 4 alien under this paragraph).”.

5 **TITLE IV—ELIGIBILITY CRITERIA FOR ALIENS TO RE-**
 6 **CEIVE CERTAIN BENEFITS**

8 **SEC. 401. ALIENS WITHOUT LAWFUL STATUS INELIGIBLE**
 9 **TO RECEIVE SOCIAL SECURITY AND MEDI-**
 10 **CARE BENEFITS.**

11 Section 401(b) of the Personal Responsibility and
 12 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
 13 1611(b)) is amended—

14 (1) in paragraph (2), by adding at the end the
 15 following: “For purposes of this paragraph, the term
 16 ‘alien who is lawfully present in the United States’
 17 means an alien who has been admitted to the United
 18 States, and whose period of lawful admission has not
 19 expired, and does not include an alien who is present
 20 in the United States pursuant to a grant of parole
 21 under section 212(d)(5) of the Immigration and Na-
 22 tionality Act (8 U.S.C. 1182(d)(5)).”; and

23 (2) in paragraph (3), by adding at the end the
 24 following: “For purposes of this paragraph, the term

1 ‘alien who is lawfully present in the United States’
 2 has the meaning given such term in paragraph (2).”.

3 **SEC. 402. APPLYING CITIZENSHIP AND IMMIGRATION STA-**
 4 **TUS ELIGIBILITY CRITERIA FOR FEDERAL**
 5 **PROGRAMS TO AFFORDABLE CARE ACT BEN-**
 6 **EFITS.**

7 (a) **APPLYING QUALIFIED ALIEN ELIGIBILITY CRI-**
 8 **TERIA TO ACA BENEFITS.—**

9 (1) **TEMPORARY HIGH RISK HEALTH INSUR-**
 10 **ANCE POOL PROGRAM.—**Section 1101(d)(1) of the
 11 Patient Protection and Affordable Care Act (42
 12 U.S.C. 18001(d)(1)) is amended by striking “or is
 13 lawfully present” and all that follows through “sec-
 14 tion 1411)” and inserting “or is a qualified alien (as
 15 defined in section 431 of the Personal Responsibility
 16 and Work Opportunity Reconciliation Act of 1996 (8
 17 U.S.C. 1641)), as determined in accordance with
 18 section 1411”.

19 (2) **ELIGIBILITY TO PARTICIPATE IN EX-**
 20 **CHANGES.—**Section 1312(f)(3) of such Act (42
 21 U.S.C. 18032(f)(3)) is amended—

22 (A) in the paragraph heading, by inserting
 23 “**CERTAIN**” after “**LIMITED TO**”; and

24 (B) by striking “an alien lawfully present
 25 in the United States” and inserting “an alien

1 who is a qualified alien (as defined in section
 2 431 of the Personal Responsibility and Work
 3 Opportunity Reconciliation Act of 1996 (8
 4 U.S.C. 1641))”.

5 (3) **STATE HEALTH PROGRAMS FOR LOW-IN-**
 6 **COME INDIVIDUALS NOT ELIGIBLE FOR MEDICAID.**—
 7 Section 1331(e)(1)(B) of such Act (42 U.S.C.
 8 18051(e)(1)(B)) is amended by striking “lawfully
 9 present in the United States” and inserting “who is
 10 a qualified alien (as defined in section 431 of the
 11 Personal Responsibility and Work Opportunity Rec-
 12 onciliation Act of 1996 (8 U.S.C. 1641))”.

13 (4) **TAX CREDIT PROVIDING PREMIUM ASSIST-**
 14 **ANCE FOR COVERAGE UNDER QUALIFIED HEALTH**
 15 **PLANS.**—Section 36B of the Internal Revenue of
 16 1986 is amended—

17 (A) in subsection (c)(1)(B)—

18 (i) in the heading, by striking “**INDI-**
 19 **VIDUALS LAWFULLY PRESENT IN THE**
 20 **UNITED STATES**” and inserting “**QUALI-**
 21 **FIED ALIENS**”; and

22 (ii) in clause (ii), by striking “an alien
 23 lawfully present in the United States” and
 24 inserting “an alien who is a qualified alien
 25 (as defined in section 431 of the Personal

1 Responsibility and Work Opportunity Rec-
 2 conciliation Act of 1996 (8 U.S.C. 1641))”;
 3 and

4 (B) in subsection (e)(2), by striking “law-
 5 fully present in the United States” and insert-
 6 ing “who is a qualified alien (as defined in sec-
 7 tion 431 of the Personal Responsibility and
 8 Work Opportunity Reconciliation Act of 1996
 9 (8 U.S.C. 1641))”.

10 (5) **REDUCED COST-SHARING FOR CERTAIN IN-**
 11 **DIVIDUALS UNDER QUALIFIED HEALTH PLANS.**—
 12 Section 1402(e)(2) of the Patient Protection and Af-
 13 fordable Care Act (42 U.S.C. 18071(e)(2)) is
 14 amended by striking “lawfully present in the United
 15 States” and inserting “who is a qualified alien (as
 16 defined in section 431 of the Personal Responsibility
 17 and Work Opportunity Reconciliation Act of 1996 (8
 18 U.S.C. 1641))”.

19 (6) **ELIGIBILITY DETERMINATIONS.**—Section
 20 1411 of the Patient Protection and Affordable Care
 21 Act (42 U.S.C. 18081) is amended—

22 (A) in subsection (a)(1), by striking “an
 23 alien lawfully present in the United States” and
 24 inserting “a qualified alien (as defined in sec-
 25 tion 431 of the Personal Responsibility and

1 Work Opportunity Reconciliation Act of 1996
 2 (8 U.S.C. 1641))””; and

3 (B) in subsection (c)(2)(B)—

4 (i) in clause (i)(I), by striking “an
 5 alien lawfully present in the United
 6 States” and inserting “a qualified alien (as
 7 defined in section 431 of the Personal Re-
 8 sponsibility and Work Opportunity Rec-
 9 onciliation Act of 1996 (8 U.S.C. 1641))”;
 10 and

11 (ii) in clause (ii)(II), by striking “an
 12 alien lawfully present in the United
 13 States” and inserting “a qualified alien (as
 14 defined in section 431 of the Personal Re-
 15 sponsibility and Work Opportunity Rec-
 16 onciliation Act of 1996 (8 U.S.C. 1641))”.

17 (7) **ADVANCE DETERMINATION AND PAYMENT**
 18 **OF PREMIUM TAX CREDITS AND COST-SHARING RE-**
 19 **DUCTIONS.**—Section 1412(d) of the Patient Protec-
 20 tion and Affordable Care Act (42 U.S.C. 18082(d))
 21 is amended—

22 (A) in the heading, by striking “**LAW-**
 23 **FULLY PRESENT**” and inserting “**CITIZENS,**
 24 **NATIONALS, OR QUALIFIED ALIENS**”; and

1 (B) by striking “not lawfully present in the
 2 United States” and inserting “not citizens or
 3 nationals of the United States or aliens who are
 4 qualified aliens (as defined in section 431 of the
 5 Personal Responsibility and Work Opportunity
 6 Reconciliation Act of 1996 (8 U.S.C. 1641))”.

7 (8) **MINIMUM ESSENTIAL COVERAGE REQUIRE-**
 8 **MENT.**—Section 5000A(d)(3) of the Internal Rev-
 9 enue Code of 1986 is amended—

10 (A) in the heading, by striking “**LAWFULLY**
 11 **PRESENT**” and inserting “**CITIZENS, NATION-**
 12 **ALS, OR QUALIFIED ALIENS**”; and

13 (B) by striking “an alien lawfully present
 14 in the United States” and inserting “a qualified
 15 alien (as defined in section 431 of the Personal
 16 Responsibility and Work Opportunity Reconcili-
 17 ation Act of 1996 (8 U.S.C. 1641))”.

18 (9) **MEDICAID POPULATION.**—Section
 19 1903(v)(1) of the Social Security Act is amended by
 20 striking “who is not lawfully admitted for permanent
 21 residence or otherwise permanently residing in the
 22 United States under color of law” and inserting
 23 “who is not a qualified alien (as defined in section
 24 431 of the Personal Responsibility and Work Oppor-
 25 tunity Reconciliation Act of 1996 (8 U.S.C. 1641))”.

1 (b) CLARIFICATION THAT CERTAIN ACA BENEFITS
2 TREATED AS FEDERAL PUBLIC BENEFITS.—Section
3 401(c) of the Personal Responsibility and Work Oppor-
4 tunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)) is
5 amended by adding at the end the following new para-
6 graph:

7 “(3) In applying paragraph (1), the following
8 assistance and benefits are treated as health benefits
9 described in paragraph (1)(B):

10 “(A) Enrollment under the temporary high
11 risk health insurance pool program under sec-
12 tion 1101 of the Patient Protection and Afford-
13 able Care Act (42 U.S.C. 18001).

14 “(B) Participation in an Exchange estab-
15 lished under title I of the Patient Protection
16 and Affordable Care Act.

17 “(C) Participation in the health program
18 established under section 1331(a) of the Pa-
19 tient Protection and Affordable Care Act (42
20 U.S.C. 18051).

21 “(D) Allowance of a tax credit under sec-
22 tion 36B of the Internal Revenue Code of 1986.

23 “(E) Reduction of cost-sharing under
24 qualified health plans under section 1402 of the

1 Patient Protection and Affordable Care Act (42
2 U.S.C. 18071).

3 “(F) Provision of advance payments under
4 section 1412 of the Patient Protection and Af-
5 fordable Care Act (42 U.S.C. 18082).”.

6 (c) **CLARIFICATION THAT CERTAIN ACA BENEFITS**
7 **TREATED AS FEDERAL MEANS-TESTED PUBLIC BENE-**
8 **FITS.**—Section 403(c) of the Personal Responsibility and
9 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
10 1613(c)) is amended by adding at the end the following
11 new paragraph:

12 “(3) In applying this section, assistance and
13 benefits described in section 401(c)(3) are treated as
14 Federal means-tested public benefits to which sub-
15 section (a) applies.”.

16 (d) **EFFECTIVE DATE.**—

17 (1) **IN GENERAL.**—Subject to paragraph (2),
18 the amendments made by this section shall apply to
19 coverage months beginning more than 120 days
20 after the date of the enactment of this Act.

21 (2) **TRANSITION FOR CURRENT ENROLLEES.**—

22 In the case of an individual who is being provided
23 assistance or benefits described in paragraph (3) of
24 section 401(c) of the Personal Responsibility and
25 Work Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1611(c)), as added by subsection (b), as of
 2 the date of the enactment of this Act, the amend-
 3 ments made by this section (other than the amend-
 4 ments made by subsection (a)(8)) shall not apply
 5 with respect to such assistance or benefits provided
 6 to such individual for coverage months before Janu-
 7 ary of the year after the date of enactment of this
 8 Act.

9 **SEC. 403. ALIENS PAROLED INTO THE UNITED STATES IN-**
 10 **ELIGIBLE FOR FEDERAL PUBLIC BENEFITS.**

11 Section 431(b) of the Personal Responsibility and
 12 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
 13 1641(b)) is amended by striking paragraph (4).

14 **TITLE V—STATE AND LOCAL EN-**
 15 **FORCEMENT OF THE IMMI-**
 16 **GRATION LAWS**

17 **SEC. 501. DEFINITIONS.**

18 (a) **STATE DEFINED.**—For the purposes of this title,
 19 the term “State” has the meaning given to such term in
 20 section 101(a)(36) of the Immigration and Nationality Act
 21 (8 U.S.C. 1101(a)(36)).

22 (b) **SECRETARY DEFINED.**—For the purpose of this
 23 title, the term “Secretary” means the Secretary of Home-
 24 land Security.

1 **SEC. 502. IMMIGRATION LAW ENFORCEMENT BY STATES**
2 **AND LOCALITIES.**

3 Law enforcement personnel of a State, or of a polit-
4 ical subdivision of a State, may investigate, identify, ap-
5 prehend, arrest, detain, or transfer to Federal custody
6 aliens for the purposes of enforcing the immigration laws
7 of the United States to the same extent as Federal law
8 enforcement personnel. Law enforcement personnel of a
9 State, or of a political subdivision of a State, may also
10 investigate, identify, apprehend, arrest, or detain aliens
11 for the purposes of enforcing the immigration laws of a
12 State or of a political subdivision of State. Law enforce-
13 ment personnel of a State, or of a political subdivision of
14 a State, may not remove aliens from the United States.

15 **SEC. 503. IMMUNITY.**

16 Notwithstanding any other provision of law, a law en-
17 forcement officer of a State or local law enforcement agen-
18 cy who is acting within the scope of the officer's official
19 duties shall be immune, to the same extent as a Federal
20 law enforcement officer, from personal liability arising out
21 of the performance of any duty described in this title, in-
22 cluding the authorities to investigate, identify, apprehend,
23 arrest, detain, or transfer to Federal custody, an alien for
24 the purposes of enforcing the immigration laws of the
25 United States (as defined in section 101(a)(17) of the Im-
26 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or

1 the immigration laws of a State or a political subdivision
2 of a State.

3 **SEC. 504. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
4 **PORTABLE ALIENS IN THE UNITED STATES**
5 **APPREHENDED BY STATE OR LOCAL LAW EN-**
6 **FORCEMENT.**

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

10 **“CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS**
11 **PRESENT IN THE UNITED STATES**

12 **“SEC. 240D.**

13 **“(a) TRANSFER OF CUSTODY BY STATE AND LOCAL**
14 **OFFICIALS.**—If a State, or a political subdivision of a
15 State, exercising authority with respect to the apprehen-
16 sion or arrest of an inadmissible or deportable alien sub-
17 mits to the Secretary of Homeland Security a request that
18 the alien be taken into Federal custody, notwithstanding
19 any other provision of law, regulation, or policy the Sec-
20 retary—

21 “(1) shall take the alien into custody not later
22 than 48 hours after the request has been issued fol-
23 lowing the conclusion of the State or local charging
24 process or dismissal process, or if no State or local
25 charging or dismissal process is required, the Sec-
26 retary shall issue a detainer and take the alien into

1 custody not later than 48 hours after the alien is ap-
2 prehended, in order to determine whether the alien
3 should be detained, placed in removal proceedings,
4 released, or removed; or

5 “(2) shall request that the relevant State or
6 local law enforcement agency temporarily hold the
7 alien in their custody or transport the alien for
8 transfer to Federal custody.

9 “(b) **POLICY ON DETENTION IN FEDERAL, CON-**
10 **TRACT, STATE, OR LOCAL DETENTION FACILITIES.**—In
11 carrying out section 241(g)(1), the Attorney General or
12 Secretary of Homeland Security shall ensure that an alien
13 arrested under this title shall be held in custody, pending
14 the alien’s examination under this section, in a Federal,
15 contract, State, or local prison, jail, detention center, or
16 other comparable facility. Notwithstanding any other pro-
17 vision of law, regulation or policy, such facility is adequate
18 for detention, if—

19 “(1) such a facility is the most suitably located
20 Federal, contract, State, or local facility available for
21 such purpose under the circumstances;

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

1 “(3) the facility satisfies the standards for the
2 housing, care, and security of persons held in cus-
3 tody by a United States Marshal.

4 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
5 Security shall reimburse a State, or a political subdivision
6 of a State, for all reasonable expenses, as determined by
7 the Secretary, incurred by the State, or political subdivi-
8 sion, as a result of the incarceration and transportation
9 of an alien who is inadmissible or deportable as described
10 in subsections (a) and (b). Compensation provided for
11 costs incurred under such subsections shall be the average
12 cost of incarceration of a prisoner in the relevant State,
13 as determined by the chief executive officer of a State,
14 or of a political subdivision of a State, plus the cost of
15 transporting the alien from the point of apprehension to
16 the place of detention, and to the custody transfer point
17 if the place of detention and place of custody are different.

18 “(d) **SECURE FACILITIES.**—The Secretary of Home-
19 land Security shall ensure that aliens incarcerated pursu-
20 ant to this title are held in facilities that provide an appro-
21 priate level of security.

22 “(e) **TRANSFER.**—

23 “(1) **IN GENERAL.**—In carrying out this sec-
24 tion, the Secretary of Homeland Security shall es-
25 tablish a regular circuit and schedule for the prompt

1 transfer of apprehended aliens from the custody of
 2 States, and political subdivisions of a State, to Fed-
 3 eral custody.

4 “(2) **CONTRACTS.**—The Secretary may enter
 5 into contracts, including appropriate private con-
 6 tracts, to implement this subsection.”.

7 (b) **CLERICAL AMENDMENT.**—The table of contents
 8 of such Act is amended by inserting after the item relating
 9 to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the
 United States.”.

10 **SEC. 505. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

11 **(SCAAP).**

12 Section 241(i) of the Immigration and Nationality
 13 Act (8 U.S.C. 1231(i)) is amended—

14 (1) in paragraph (3)(A), by inserting “charged
 15 with or” before “convicted”; and

16 (2) by amending paragraph (5) to read as fol-
 17 lows:

18 “(5) There are authorized to be appropriated to
 19 carry out this subsection such sums as may be nec-
 20 essary for fiscal year 2015 and each subsequent fis-
 21 cal year.”.

1 **SEC. 506. LIMITATION ON STATE RECEIPT OF FEDERAL**
 2 **FUNDING.**

3 (a) **IN GENERAL.**—A State or political subdivision of
 4 a State that has in place a law or policy described in sub-
 5 section (b) may not receive—

6 (1) grants made under subpart 1 of part E of
 7 title I of the Omnibus Crime Control and Safe
 8 Streets Act of 1968 (42 U.S.C. 3750 et seq.);

9 (2) grants made under part Q of title I of the
 10 Omnibus Crime Control and Safe Streets Act of
 11 1968 (42 U.S.C. 3796dd et seq.); or

12 (3) compensation under section 241(i) of the
 13 Immigration and Nationality Act (8 U.S.C. 1231(i)).

14 (b) **LAW OR POLICY DESCRIBED.**—A law or policy
 15 is described in this subsection if the law or policy—

16 (1) is in contravention of section 642(a) of the
 17 Illegal Immigration Reform and Immigrant Respon-
 18 sibility Act of 1996 (8 U.S.C. 1373(a));

19 (2) prohibits or restricts law enforcement offi-
 20 cers of that State or political subdivision from col-
 21 lecting information relating to an individual's immi-
 22 gration status; or

23 (3) prohibits or restricts compliance with, or
 24 the honoring of detainers issued by Immigration and
 25 Customs Enforcement.

1 **SEC. 507. ICE DETAINERS.**

2 Section 287(d) of the Immigration and Nationality
3 Act (8 U.S.C. 1357(d)) is amended in the matter pre-
4 ceding paragraph (1), by striking “relating to controlled
5 substances”.

6 **SEC. 508. PRESERVATION OF THE SECURE COMMUNITIES**
7 **PROGRAM AND REMOVAL OF DEPORTABLE**
8 **ALIENS IDENTIFIED UNDER THE INTEROPER-**
9 **ABLE LAW ENFORCEMENT AND INTEL-**
10 **LIGENCE ELECTRONIC DATA SYSTEM.**

11 Section 202 of the Enhanced Border Security and
12 Visa Entry Reform Act of 2002 (8 U.S.C. 1722) is amend-
13 ed—

14 (1) in subsection (a)(2), by adding at the end
15 the following: “Compliance with the requirements of
16 this paragraph shall include, at a minimum, the op-
17 eration of the Secure Communities program, as in
18 effect on November 19, 2014.”; and

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

20 “(c) **REQUIRED ACTION.**—Upon receiving notice
21 under the interoperable law enforcement and intelligence
22 electronic data system established under subsection (a)
23 that a deportable alien is in the custody of Federal, State,
24 or local law enforcement, the Secretary of Homeland Secu-
25 rity shall, following the conclusion of the charging process,
26 dismissal process, or completion of the alien’s sentence,

1 as appropriate, issue a detainer, take the alien into cus-
 2 tody, and initiate removal proceedings under section 238
 3 or 240 of the Immigration and Nationality Act (8 U.S.C.
 4 1228, 1229a), as appropriate.”.

5 **TITLE VI—ASYLUM REFORM AND** 6 **BORDER PROTECTION**

7 **SEC. 601. CLARIFICATION OF INTENT REGARDING TAX-** 8 **PAYER-PROVIDED COUNSEL.**

9 Section 292 of the Immigration and Nationality Act
 10 (8 U.S.C. 1362) is amended—

11 (1) by striking “(at no expense to the Govern-
 12 ment)”; and

13 (2) by adding at the end the following:
 14 “Notwithstanding any other provision of law, in no in-
 15 stance shall the Government bear any expense for counsel
 16 for any person in removal proceedings or in any appeal
 17 proceedings before the Attorney General from any such
 18 removal proceedings.”.

19 **SEC. 602. CREDIBLE FEAR INTERVIEWS.**

20 Section 235(b)(1)(B)(v) of the Immigration and Na-
 21 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
 22 striking “208.” and inserting “208, and it is more prob-
 23 able than not that the statements made by the alien in
 24 support of the alien’s claim are true.”.

1 **SEC. 603. RECORDING EXPEDITED REMOVAL AND CRED-**
2 **IBLE FEAR INTERVIEWS.**

3 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
4 rity shall establish quality assurance procedures and take
5 steps to effectively ensure that questions by employees of
6 the Department of Homeland Security exercising expe-
7 dited removal authority under section 235(b) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
9 in a uniform manner, and that both these questions and
10 the answers provided in response to them are recorded in
11 a uniform fashion.

12 (b) **FACTORS RELATING TO SWORN STATEMENTS.**—
13 Where practicable, any sworn or signed written statement
14 taken of an alien as part of the record of a proceeding
15 under section 235(b)(1)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
17 panied by a recording of the interview which served as the
18 basis for that sworn statement.

19 (c) **INTERPRETERS.**—The Secretary shall ensure that
20 a competent interpreter, not affiliated with the govern-
21 ment of the country from which the alien may claim asy-
22 lum, is used when the interviewing officer does not speak
23 a language understood by the alien and there is no other
24 Federal, State, or local government employee available
25 who is able to interpret effectively, accurately, and impar-
26 tially.

1 (d) **RECORDINGS IN IMMIGRATION PROCEEDINGS.**—

2 Recordings of interviews of aliens subject to expedited re-
3 moval shall be included in the record of proceeding and
4 shall be considered as evidence in any further proceedings
5 involving the alien.

6 (e) **NO PRIVATE RIGHT OF ACTION.**—Nothing in this
7 section shall be construed to create any right, benefit,
8 trust, or responsibility, whether substantive or procedural,
9 enforceable in law or equity by a party against the United
10 States, its departments, agencies, instrumentalities, enti-
11 ties, officers, employees, or agents, or any person, nor does
12 this section create any right of review in any administra-
13 tive, judicial, or other proceeding.

14 **SEC. 604. SAFE THIRD COUNTRY.**

15 Section 208(a)(2)(A) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

17 (1) by striking “Attorney General” and insert-
18 ing “Secretary of Homeland Security”; and

19 (2) by striking “removed, pursuant to a bilat-
20 eral or multilateral agreement, to” and inserting
21 “removed to”.

1 **TITLE VII—MISCELLANEOUS**

2 **SEC. 701. SUSPENSION OF EFFECTIVENESS OF CERTAIN**
3 **LAWS.**

4 (a) **WAIVER OF INADMISSIBILITY OF ALIENS UNLAW-**
5 **FULLY PRESENT.**—Section 212(a)(9)(B)(v) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(v))
7 is suspended during the period beginning on the date of
8 the enactment of this Act and ending on January 20,
9 2017.

10 (b) **DESIGNATION FOR TEMPORARY PROTECTED**
11 **STATUS.**—No foreign state may be designated or redesign-
12 nated under section 244(b) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1254a(b)) during the period begin-
14 ning on the date of the enactment of this Act and ending
15 on January 20, 2017. The preceding sentence shall not
16 be construed to affect any extension of a designation
17 under paragraph (3)(C) of such section, if the designation
18 was made prior to the date of the enactment of this Act.

19 **SEC. 702. TEMPORARY PROTECTED STATUS REFORM.**

20 Section 244 of the Immigration and Nationality Act
21 (8 U.S.C. 1254a) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (3), by striking subpara-
24 graphs (B) and (C) and redesignating subpara-
25 graph (D) as subparagraph (B); and

1 (B) in paragraph (5), by striking “to deny
2 temporary protected status to an alien based on
3 the alien’s immigration status or”;

4 (2) in subsection (b)—

5 (A) in paragraph (3)—

6 (i) in subparagraph (A), by striking “,
7 and any extended period of designation,”;

8 (ii) in subparagraph (B), by striking
9 “or, if later, the expiration of the most re-
10 cent previous extension under subpara-
11 graph (C)”;

12 (iii) in subparagraph (C), by striking
13 “is extended for” and all that follows, and
14 inserting “may be extended for one addi-
15 tional period of up to 18 months, in the
16 discretion of the Attorney General.”;

17 (B) in paragraph (5)(B), by striking the
18 second sentence;

19 (3) in subsection (c)(1)(A)—

20 (A) in clause (iii), by striking “and” at the
21 end;

22 (B) in clause (iv), by striking the period at
23 the end and inserting “; and”;

24 (C) by adding after clause (iv) the fol-
25 lowing:

1 “(v) the alien had lawful immigration
2 status in the United States on the effective
3 date of the most recent designation of that
4 state.”; and

5 (4) in subsection (g), by striking “aliens who
6 are or may become otherwise deportable or have
7 been paroled into the United States” and inserting
8 “aliens who may become otherwise deportable”.

○

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109TH CONGRESS
1ST SESSION

H. R. 4313

To amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2005

Mr. HUNTER (for himself, Mr. GOODE, Mr. DAVIS of Kentucky, Mr. ISSA, Mr. BILIRAKIS, Mr. ROYCE, Mr. FORBES, Mr. DEAL of Georgia, Mr. CALVERT, Mr. HAYWORTH, Mr. TANCREDO, Mr. CUNNINGHAM, Mr. NORWOOD, Mr. SULLIVAN, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Ms. FOXX, Mr. MARCHANT, Mr. GARY G. MILLER of California, Mr. CULBERSON, Mr. WALDEN of Oregon, Mr. KUHLMAN of New York, and Mr. TAYLOR of North Carolina) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “TRUE Enforcement and Border Security Act of 2005”.

- 1 (b) **TABLE OF CONTENTS.**—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Severability.

TITLE I—SOUTHWEST BORDER SECURITY

Sec. 101. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.
 Sec. 102. Border patrol agents.
 Sec. 103. Increased availability of Department of Defense equipment to assist with surveillance of southern international land border of the United States.
 Sec. 104. Ports of entry.
 Sec. 105. Authorization of appropriations.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

Sec. 201. Necessary assets for controlling United States borders.
 Sec. 202. Additional immigration personnel.
 Sec. 203. Additional worksite enforcement and fraud detection agents.
 Sec. 204. Document fraud detection.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

Sec. 211. Entry-exit system.
 Sec. 212. Alien registration.
 Sec. 213. State and local law enforcement provision of information regarding aliens.
 Sec. 214. Listing of immigration violators in the national crime information center database.

Subtitle C—Detention of Aliens and Reimbursement of Costs

Sec. 221. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
 Sec. 222. Federal custody of illegal aliens apprehended by State or local law enforcement.
 Sec. 223. Institutional Removal Program.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

Sec. 231. Congressional affirmation of immigration law enforcement authority by States and political subdivisions of States.
 Sec. 232. Immigration law enforcement training of State and local law enforcement personnel.
 Sec. 233. Communication between government agencies and the Department of Homeland Security.
 Sec. 234. Reducing illegal immigration and alien smuggling on tribal lands.
 Sec. 235. Immunity.

Subtitle E—Additional Provisions

3

- Sec. 241. No preferential treatment of aliens not lawfully present for public benefits.
- Sec. 242. Authorized appropriations.

TITLE III—VISA REFORM AND ALIEN STATUS

Subtitle A—Limitations on Visa Issuance, Validity Due to Abuse, and Suspension of the Visa Waiver Program

- Sec. 301. Curtailment of visas for countries denying or delaying repatriation of nationals.
- Sec. 302. Cancellation of visas.
- Sec. 303. No judicial review of visa revocation.
- Sec. 304. Suspension of visa waiver program.
- Sec. 305. Elimination of diversity immigrant program.
- Sec. 306. Extended family preference categories.
- Sec. 307. Sponsorship levels.

Subtitle B—Visa Term Compliance Bonds

- Sec. 311. Definition and issuance of visa term compliance bonds.
- Sec. 312. Release of aliens in removal proceedings.
- Sec. 313. Detention of aliens delivered by bondsmen.

Subtitle C—Adjustment of Alien Status

- Sec. 321. Adjustment of status for certain aliens.
- Sec. 322. Expansion of naturalization requirement to certain nonimmigrant aliens.
- Sec. 323. Temporary protected status.
- Sec. 324. Completion of background and security checks.
- Sec. 325. Denial of benefits to terrorists and criminals.
- Sec. 326. Repeal of section 245(i).
- Sec. 327. Authorized appropriations.

TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

- Sec. 401. Short title.
- Sec. 402. Congressional findings.
- Sec. 403. Effective dates; implementation.

Subtitle B—Reform of the Work Eligibility Verification System

- Sec. 411. Basic pilot program renamed interim work eligibility verification program; verification requirement for independent contractors.
- Sec. 412. Work Eligibility Verification System.
- Sec. 413. Protection for United States workers and individuals reporting immigration law violations.
- Sec. 414. Inadmissibility for failure to present documentation of work eligibility.

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

- Sec. 421. Alien work eligibility database.

4

- Sec. 422. Anti-fraud measures for social security cards.
- Sec. 423. Notification by commissioner of failure to correct social security information.
- Sec. 424. Restriction on access and use; no national identification card.
- Sec. 425. Sharing of information with the commissioner of Internal Revenue Service.
- Sec. 426. Sharing of information with the Secretary of Homeland Security.

Subtitle D—Work Eligibility Verification System Reform in the Internal Revenue Agency

- Sec. 431. Sharing of information with the Secretary of Homeland Security and the Commissioner of Social Security.
- Sec. 432. Ineligibility for nonresident alien tax status.
- Sec. 433. Unlawful use of individual taxpayer identification numbers.
- Sec. 434. No deduction allowed for compensation paid to unauthorized workers.

Subtitle E—Identification Document Integrity

- Sec. 441. Consular identification documents.
- Sec. 442. Machine-readable tamper-resistant immigration documents.
- Sec. 443. Birth certificates.

Subtitle F—Limitations on Illegal Alien Collection of Social Security

- Sec. 451. Exclusion of unauthorized employment from employment upon which creditable wages may be based.
- Sec. 452. Exclusion of unauthorized functions and services from trade or business from which creditable self-employment income may be derived.
- Sec. 453. Effective date.
- Sec. 454. Authorized appropriations.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties

- Sec. 501. Criminal penalties for alien smuggling.
- Sec. 502. Strengthened enforcement of alien registration laws.
- Sec. 503. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence and misrepresentation or concealment of facts.
- Sec. 504. Civil and criminal penalties for aliens unlawfully present in the United States.
- Sec. 505. Increased penalties for reentry of removed aliens.
- Sec. 506. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.
- Sec. 507. Rendering inadmissible and deportable aliens participating in criminal street gangs.
- Sec. 508. Mandatory detention of suspected criminal street gang members.
- Sec. 509. Ineligibility from protection from removal and asylum.
- Sec. 510. Penalties for misusing social security numbers or filing false information with Social Security Administration.

Subtitle B—Detention, Removal and Departure

- Sec. 511. Voluntary departure.
- Sec. 512. Expedited exclusion.

Sec. 513. Expedited removal of criminal aliens.
 Sec. 514. Reinstatement of previous removal orders.
 Sec. 515. Cancellation of removal.
 Sec. 516. Detention of dangerous aliens.
 Sec. 517. Alternatives to detention.
 Sec. 518. Release of aliens from noncontiguous countries.
 Sec. 519. Continuances; changes of venue.
 Sec. 520. Authorization of appropriations.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, including any amend-
 3 ment made by this Act, or the application of such provi-
 4 sion to any person or circumstance, is held invalid, the
 5 remainder of this Act, and the application of such provi-
 6 sion to other persons not similarly situated or to other
 7 circumstances, shall not be affected by such invalidation.

8 **TITLE I—SOUTHWEST BORDER**
 9 **SECURITY**

10 **SEC. 101. CONSTRUCTION OF FENCING AND SECURITY IM-**
 11 **PROVEMENTS IN BORDER AREA FROM PA-**
 12 **CIFIC OCEAN TO GULF OF MEXICO.**

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

16 (1) in the heading by striking “**NEAR SAN**
 17 **DIEGO, CALIFORNIA**”;

18 (2) by amending paragraph (1) to read as fol-
 19 lows:

20 “(1) **SECURITY FEATURES.**—

21 “(A) **REINFORCED FENCING.**—

1 “(i) **IN GENERAL.**—In carrying out
2 subsection (a), the Secretary of Homeland
3 Security shall provide for—

4 “(I) the construction along the
5 southern international land border of
6 the United States, starting at the Pa-
7 cific Ocean and extending eastward to
8 the Gulf of Mexico, of at least 2 lay-
9 ers of reinforced fencing; and

10 “(II) the installation of such ad-
11 ditional physical barriers, roads, light-
12 ing, and sensors along such border as
13 may be necessary to eliminate illegal
14 crossings along such border.

15 “(ii) **PRIORITY AREAS.**—With respect
16 to the border described in clause (i), the
17 Secretary shall ensure that initial fence
18 construction occurs in high traffic and
19 smuggling areas along such border.

20 “(iii) **CONSULTATION.**—Before install-
21 ing any fencing or other physical barriers,
22 roads, lighting, or sensors under clause (i)
23 on land transferred by the Secretary of
24 Defense under subparagraph (B), the Sec-
25 retary shall consult with the Secretary of

1 Defense for purposes of mitigating or lim-
2 iting the impact of the fencing, barriers,
3 roads, lighting, and sensors on military
4 training and operations.

5 “(B) **BORDER ZONE CREATION AND ACQUI-**
6 **SITION.**—

7 “(i) **IN GENERAL.**—In carrying out
8 subsection (a), the Secretary of Homeland
9 Security shall create and control a border
10 zone, along the international land border
11 described in subparagraph (A), subject to
12 the following conditions:

13 “(I) **SIZE.**—The border zone
14 shall consist of the United States land
15 area within 100 yards of the inter-
16 national land border described in sub-
17 paragraph (A), except that with re-
18 spect to areas of the border zone that
19 are contained within an organized
20 subdivision of a State or local govern-
21 ment, the Secretary may adjust the
22 area included in the border zone to
23 accommodate existing public and pri-
24 vate structures.

1 “(II) **TREATMENT OF FEDERAL**
2 **LAND.**—Not later than 30 days after
3 the date of the enactment of the
4 Southwest Border Security Act, the
5 head of each Federal agency having
6 jurisdiction over Federal land included
7 in the border zone shall transfer such
8 land, without reimbursement, to the
9 administrative jurisdiction of the Sec-
10 retary of Homeland Security.

11 “(III) **TREATMENT OF INDIAN**
12 **LANDS.**—With respect to Indian lands
13 included within the border zone, the
14 Secretary shall obtain, through agree-
15 ment, donation, purchase, or con-
16 demnation, the rights, titles, or inter-
17 ests in such real property that are
18 sufficient to provide for the construc-
19 tion of the security features described
20 in subparagraph (A)(i) and access to
21 the border zone as may be necessary
22 to deter illegal crossings into the
23 United States. In this subclause, the
24 terms ‘Indian lands’ and ‘Indian tribe’
25 shall have the meaning given such

1 terms in section 2103 of the Revised
2 Statutes (25 U.S.C. 81).

3 “(ii) **PROPERTY REVIEW AND ACQUISITION.**—
4

5 “(I) **PROPERTY REVIEW.**—The
6 Secretary shall conduct a comprehen-
7 sive review and value assessment of all
8 property in the border zone owned by
9 private parties, States, and local gov-
10 ernments.

11 “(II) **COMPLETION OF RE-**
12 **VIEW.**—The Secretary shall complete
13 the review required by subclause (I)—

14 “(aa) not later than 180
15 days after the date of the enact-
16 ment of the Southwest Border
17 Security Act, in the case of pri-
18 ority areas identified by subpara-
19 graph (A)(ii); and

20 “(bb) not later than 360
21 days after the date of the enact-
22 ment of the Southwest Border
23 Security Act in the case of other
24 land in the border zone.

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

17 “(iii) **OTHER USES**.—The Secretary
18 may authorize the use of land included in
19 the border zone for other purposes so long
20 as such use does not impede the operation
21 or effectiveness of the security features in
22 stalled under subparagraph (A)(i) or the
23 ability of the Secretary to carry out sub-
24 section (a).”; and

1 (3) by striking “Attorney General” and insert-
2 ing “Secretary of Homeland Security” each place it
3 appears.

4 **SEC. 102. BORDER PATROL AGENTS.**

5 Section 5202 of the Intelligence Reform and Ter-
6 rorism Prevention Act of 2004 (Public Law 108–458; 118
7 Stat. 3734) is amended—

8 (1) by striking “2010” and inserting “2011”
9 each place it appears; and

10 (2) by striking “2,000” and inserting “3,000”.

11 **SEC. 103. INCREASED AVAILABILITY OF DEPARTMENT OF**
12 **DEFENSE EQUIPMENT TO ASSIST WITH SUR-**
13 **VEILLANCE OF SOUTHERN INTERNATIONAL**
14 **LAND BORDER OF THE UNITED STATES.**

15 (a) **INCREASED AVAILABILITY OF EQUIPMENT.**—The
16 Secretary of Defense and the Secretary of Homeland Se-
17 curity shall develop and implement a plan to use the au-
18 thorities provided to the Secretary of Defense under chap-
19 ter 18 of title 10, United States Code, to increase the
20 availability and use of Department of Defense equipment,
21 including unmanned aerial vehicles, tethered aerostat ra-
22 dars, and other surveillance equipment, to assist with De-
23 partment of Homeland Security surveillance activities con-
24 ducted at or near the southern international land border
25 of the United States.

1 (b) **REPORT.**—Not later than six months after the
2 date of the enactment of this Act, the Secretary of Defense
3 and the Secretary of Homeland Security shall submit to
4 Congress a report containing—

5 (1) a description of the current use of Depart-
6 ment of Defense equipment to assist with Depart-
7 ment of Homeland Security surveillance of the
8 southern international land border of the United
9 States;

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

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

17 **SEC. 104. PORTS OF ENTRY.**

18 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
19 rity is authorized to construct an additional 25 ports of
20 entry along the international land border of the United
21 States, at locations to be determined by the Secretary.

22 (b) **AUTHORIZATION OF APPROPRIATIONS.**—For pur-
23 poses of carrying out subsection (a), there are authorized
24 to be appropriated \$125,000,000.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) **IN GENERAL.**—There are authorized to be appro-
 3 priated to carry out sections 102 and 103, and the amend-
 4 ments made by such sections, \$5,000,000,000.

5 (b) **CONFORMING AMENDMENT.**—Section 102(b)(4)
 6 of the Illegal Immigration Reform and Immigrant Respon-
 7 sibility Act of 1996 (8 U.S.C. 1103 note) is repealed.

8 **TITLE II—FEDERAL, STATE, AND**
 9 **LOCAL LAW ENFORCEMENT**
 10 **Subtitle A—Additional Federal**
 11 **Resources**

12 **SEC. 201. NECESSARY ASSETS FOR CONTROLLING UNITED**
 13 **STATES BORDERS.**

14 (a) **PERSONNEL.**—

15 (1) **CUSTOMS AND BORDER PROTECTION OFFI-**
 16 **CERS.**—In each of the fiscal years 2007 through
 17 2011, the Secretary of Homeland Security shall in-
 18 crease by not less than 250 the number of positions
 19 for full-time active duty Customs and Border Pro-
 20 tection officers.

21 (2) **AUTHORIZATION OF APPROPRIATIONS.**—

22 (A) **CUSTOMS AND BORDER PROTECTION**
 23 **OFFICERS.**—There are authorized to be appro-
 24 priated such sums as may be necessary for each
 25 of fiscal years 2007 through 2011 to carry out
 26 paragraph (1).

1 (B) **TRANSPORTATION OF ALIENS.**—There
 2 are authorized to be appropriated \$25,000,000
 3 for each of fiscal years 2007 through 2011 for
 4 the transportation of aliens.

5 (b) **TECHNOLOGICAL ASSETS.**—

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

11 (2) **AUTHORIZATION OF APPROPRIATIONS.**—
 12 There are authorized to be appropriated
 13 \$500,000,000 for each of fiscal years 2007 through
 14 2011 to carry out paragraph (1).

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

19 **SEC. 202. ADDITIONAL IMMIGRATION PERSONNEL.**

20 (a) **DEPARTMENT OF HOMELAND SECURITY.**—

21 (1) **INVESTIGATIVE PERSONNEL.**—In addition
 22 to the positions authorized under section 5203 of the
 23 Intelligence Reform and Terrorism Prevention Act
 24 of 2004, for each of fiscal years 2007 through 2011,
 25 the Secretary of Homeland Security shall, subject to

1 the availability of appropriations for such purpose,
2 increase by not less than 200 the number of posi-
3 tions for investigative personnel within the Depart-
4 ment of Homeland Security investigating alien
5 smuggling and immigration status violations above
6 the number of such positions for which funds were
7 made available during the preceding fiscal year.

8 (2) **TRIAL ATTORNEYS.**—In each of fiscal years
9 2007 through 2011, the Secretary of Homeland Se-
10 curity shall, subject to the availability of appropria-
11 tions for such purpose, increase the number of posi-
12 tions for attorneys in the Office of General Counsel
13 of the Department of Homeland Security who rep-
14 resent the Department in immigration matters by
15 not less than 100 above the number of such posi-
16 tions for which funds were made available during
17 each preceding fiscal year.

18 (3) **AUTHORIZATION OF APPROPRIATIONS.**—
19 There are authorized to be appropriated to the De-
20 partment of Homeland Security for each of fiscal
21 years 2007 through 2011 such sums as may be nec-
22 essary to carry out this subsection.

23 (b) **DEPARTMENT OF JUSTICE.**—

24 (1) **ASSISTANT ATTORNEY GENERAL FOR IMMI-**
25 **GRATION ENFORCEMENT.**—

1 (A) **ESTABLISHMENT.**—There is estab-
 2 lished within the Department of Justice the po-
 3 sition of Assistant Attorney General for Immi-
 4 gration Enforcement. The Assistant Attorney
 5 General shall coordinate and prioritize immigra-
 6 tion litigation and enforcement in the Federal
 7 courts, including—

- 8 (i) removal and deportation;
- 9 (ii) employer sanctions; and
- 10 (iii) alien smuggling and human traf-
 11 ficking.

12 (B) **CONFORMING AMENDMENT.**—Section
 13 506 of title 28, United States Code, is amended
 14 by striking “ten” and inserting “11”.

15 (2) **LITIGATION ATTORNEYS.**—In each of fiscal
 16 years 2007 through 2011, the Attorney General
 17 shall, subject to the availability of appropriations for
 18 such purpose, increase by not less than 50 the num-
 19 ber of positions for attorneys in the Office of Immi-
 20 gration Litigation of the Department of Justice
 21 above the number of such positions for which funds
 22 were made available during the preceding fiscal year.

23 (3) **UNITED STATES ATTORNEYS.**—In each of
 24 fiscal years 2007 through 2011, the Attorney Gen-
 25 eral shall, subject to the availability of appropria-

1 tions for such purpose, increase by not less than 50
2 the number of attorneys in the United States Attor-
3 neys' office to litigate immigration cases in the Fed-
4 eral courts above the number of such positions for
5 which funds were made available during the pre-
6 ceding fiscal year.

7 (4) **IMMIGRATION JUDGES.**—In each of fiscal
8 years 2007 through 2011, the Attorney General
9 shall, subject to the availability of appropriations for
10 such purpose, increase by not less than 50 the num-
11 ber of immigration judges above the number of such
12 positions for which funds were made available during
13 the preceding fiscal year.

14 (5) **AUTHORIZATION OF APPROPRIATIONS.**—
15 There are authorized to be appropriated to the De-
16 partment of Justice for each of fiscal years 2007
17 through 2011 such sums as may be necessary to
18 carry out this subsection, including the hiring of
19 necessary support staff.

20 **SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND**
21 **FRAUD DETECTION AGENTS.**

22 (a) **WORKSITE ENFORCEMENT.**—The Secretary of
23 Homeland Security shall, subject to the availability of ap-
24 propriations for such purpose, annually increase, by not
25 less than 2,000, the number of positions for investigators

1 dedicated to enforcing compliance with sections 274 and
2 274A of the Immigration and Nationality Act (8 U.S.C.
3 1324, 1324a) during the 5-year period beginning on Octo-
4 ber 1, 2006.

5 (b) **FRAUD DETECTION.**—The Secretary of Home-
6 land Security shall, subject to the availability of appropria-
7 tions for such purpose, increase by not less than 1,000
8 the number of positions for Immigration Enforcement
9 Agents dedicated to immigration fraud detection during
10 the 5-year period beginning on October 1, 2006.

11 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
12 are authorized to be appropriated during each of fiscal
13 years 2007 through 2011 such sums as may be necessary
14 to carry out this section.

15 **SEC. 204. DOCUMENT FRAUD DETECTION.**

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

22 (b) **FORENSIC DOCUMENT LABORATORY.**—The Sec-
23 retary of Homeland Security shall provide all customs and
24 border protection officers with access to the Forensic Doc-
25 ument Laboratory.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated \$5,000,000 for each of
 3 fiscal years 2007 through 2011 to carry out this section.

4 **Subtitle B—Maintaining Accurate**
 5 **Enforcement Data on Aliens**

6 **SEC. 211. ENTRY-EXIT SYSTEM.**

7 (a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—
 8 Section 110(b)(1) of the Illegal Immigration Reform and
 9 Immigrant Responsibility Act of 1996 (8 U.S.C.
 10 1365a(b)(1)) is amended to read as follows:

11 “(1) provides access to, and integrates, arrival
 12 and departure data of all aliens who arrive and de-
 13 part at ports of entry, in an electronic format and
 14 in a database of the Department of Homeland Secu-
 15 rity or the Department of State (including those cre-
 16 ated or used at ports of entry and at consular of-
 17 fices);”.

18 (b) CONSTRUCTION.—Section 110(c) of the Illegal
 19 Immigration Reform and Immigrant Responsibility Act of
 20 1996 (8 U.S.C. 1365a(c)) is amended to read as follows:

21 “(c) CONSTRUCTION.—Nothing in this section shall
 22 be construed to reduce or curtail any authority of the Sec-
 23 retary of Homeland Security or the Secretary of State
 24 under any other provision of law.”.

1 (c) **DEADLINES.**—Section 110(d) of the Illegal Immi-
 2 gration Reform and Immigrant Responsibility Act of 1996
 3 (8 U.S.C. 1365a(d)) is amended—

4 (1) in paragraph (1), by striking “December
 5 31, 2003” and inserting “October 1, 2006”;

6 (2) by amending paragraph (2) to read as fol-
 7 lows:

8 “(2) **LAND BORDER PORTS OF ENTRY.**—Not
 9 later than October 1, 2006, the Secretary of Home-
 10 land Security shall implement the integrated entry
 11 and exit data system using the data described in
 12 paragraph (1) and available alien arrival and depar-
 13 ture data described in subsection (b)(1) pertaining
 14 to aliens arriving in, or departing from, the United
 15 States at all land border ports of entry. Such imple-
 16 mentation shall include ensuring that such data,
 17 when collected or created by an immigration officer
 18 at a port of entry, are entered into the system and
 19 can be accessed by immigration officers at airports,
 20 seaports, and other land border ports of entry.”; and

21 (3) by striking paragraph (3).

22 (d) **AUTHORITY TO PROVIDE ACCESS TO SYSTEM.**—
 23 Section 110(f)(1) of the Illegal Immigration Reform and
 24 Immigrant Responsibility Act of 1996 (8 U.S.C.

1 1365a(f)(1)) is amended by adding at the end the fol-
 2 lowing:

3 “The Secretary of Homeland Security shall ensure
 4 that any officer or employee of the Department of Home-
 5 land Security or the Department of State having need to
 6 access the data contained in the integrated entry and exit
 7 data system for any lawful purpose under the Immigration
 8 and Nationality Act has such access, including access for
 9 purposes of representation of the Department of Home-
 10 land Security in removal proceedings under section 240
 11 of such Act and adjudication of applications for benefits
 12 under such Act.”.

13 (e) **WAIVER AVAILABLE.**—If the President deter-
 14 mines in writing, with respect to a fiscal or calendar year,
 15 that a waiver of one or more of the amendments made
 16 by this section is desirable and would not threaten the na-
 17 tional security of the United States, the President may
 18 waive the effectiveness of such amendment or amendments
 19 with respect to such year.

20 **SEC. 212. ALIEN REGISTRATION.**

21 (a) **IN GENERAL.**—Section 262 of the Immigration
 22 and Nationality Act (8 U.S.C. 1302) is amended to read
 23 as follows:

24 “**REGISTRATION OF ALIENS IN THE UNITED STATES**

25 “**SEC. 262. (a) INITIAL REGISTRATION.**—

1 “(1) **IN GENERAL.**—It shall be the duty of
2 every alien now or hereafter in the United States,
3 who (1) is fourteen years of age or older, (2) has not
4 been registered and fingerprinted under section
5 221(b) of this Act or section 30 or 31 of the Alien
6 Registration Act, 1940, and (3) remains in the
7 United States for thirty days or longer, to apply for
8 registration and to be fingerprinted before the expi-
9 ration of such thirty days.

10 “(2) **MINORS.**—It shall be the duty of every
11 parent or legal guardian of any alien now or here-
12 after in the United States, who (1) is less than four-
13 teen years of age, (2) has not been registered under
14 section 221(b) of this Act or section 30 or 31 of the
15 Alien Registration Act, 1940, and (3) remains in the
16 United States for thirty days or longer, to apply for
17 the registration of such alien before the expiration of
18 such thirty days. Whenever any alien attains his
19 fourteenth birthday in the United States he shall,
20 within thirty days thereafter, apply in person for
21 registration and to be fingerprinted.

22 “(b) **SUBSEQUENT REGISTRATIONS.**—

23 “(1) **PERMANENT RESIDENTS.**—In addition to
24 any other registration otherwise required under this
25 Act or any other Act, each alien lawfully admitted

1 for permanent residence shall annually register with
2 the Secretary of Homeland Security, regardless of
3 whether there has been any change in the alien's ad-
4 dress. This requirement shall commence on the first
5 anniversary of the date on which the alien acquired
6 the status of an alien lawfully admitted for perma-
7 nent residence that occurs after the date of the en-
8 actment of this section.

9 “(2) **OTHER ALIENS.**—In addition to any other
10 registration otherwise required under this Act or any
11 other Act, every alien in the United States, other
12 than an alien described in paragraph (1), shall reg-
13 ister with the Secretary of Homeland Security at the
14 expiration of each 3-month period during which the
15 alien remains in the United States, regardless of
16 whether there has been any change in the alien's ad-
17 dress. This requirement shall commence on the 90th
18 day after the alien enters the United States.

19 “(3) **MINORS.**—In the case of an alien who is
20 less than fourteen years of age, a parent or legal
21 guardian of the alien shall carry out this subsection
22 on behalf of the alien.

23 “(c) **CHANGE OF ADDRESS.**—

24 “(1) **IN GENERAL.**—Each alien required to be
25 registered under this title who is within the United

1 States shall notify the Secretary of Homeland Secu-
2 rity in writing of each change of address and new
3 address within ten days of the date of such change
4 and furnish with such notice such additional infor-
5 mation as the Secretary may require by regulation.

6 “(2) **CERTAIN FOREIGN STATES.**—

7 “(A) **IN GENERAL.**—The Secretary of
8 Homeland Security may, in the discretion of the
9 Secretary, upon ten days notice, require the na-
10 tives of any one or more foreign states, or any
11 class or group thereof, who are within the
12 United States and who are required to be reg-
13 istered under this title, to notify the Secretary
14 of their current addresses and furnish such ad-
15 ditional information as the Secretary may re-
16 quire.

17 “(B) **NOTICE FOR MINORS.**—In the case of
18 an alien for whom a parent or legal guardian is
19 required to apply for registration, the notice re-
20 quired by this section shall be given to such
21 parent or legal guardian.

22 “(3) **MINORS.**—In the case of an alien who is
23 less than fourteen years of age, a parent or legal
24 guardian of the alien shall carry out this subsection
25 on behalf of the alien.

1 “(d) **EXCEPTION.**—Subsections (b) and (c) shall not
2 apply to an alien lawfully admitted for permanent resi-
3 dence, and the alien’s spouse and children, if the alien is
4 a member of the Armed Forces of the United States serv-
5 ing on active duty (as defined in section 101(d) of title
6 10, United States Code).

7 “(e) **FORMS.**—The Secretary of Homeland Security
8 shall prepare forms for registrations and change of ad-
9 dress notifications required under this section. Such forms
10 shall contain inquiries to obtain the following information:

11 “(1) Full name and aliases.

12 “(2) Current address.

13 “(3) Date of birth.

14 “(4) Visa category.

15 “(5) Date of entry into the United States.

16 “(6) Termination date of authorization to re-
17 main in the United States, if any.

18 “(7) Signature.

19 “(8) Biometric feature of the alien.

20 “(9) Any additional information that the Sec-
21 retary of Homeland Security determines to be nec-
22 essary.

23 “(f) **INFORMATION TECHNOLOGY SYSTEM.**—The
24 Secretary of Homeland Security shall establish and oper-
25 ate an information technology system for the electronic

1 collection, compilation, and maintenance of the informa-
 2 tion submitted under this section. Such system shall per-
 3 mit any alien address in the United States that has been
 4 registered with the Secretary, and the date of such reg-
 5 istration, to be accessed by any officer or employee of the
 6 Department of Homeland Security having need for such
 7 access for any lawful purpose under the Immigration and
 8 Nationality Act.”.

9 (b) **REPEAL.**—Section 265 of the Immigration and
 10 Nationality Act (8 U.S.C. 1305) is repealed and the table
 11 of contents is amended by striking the item relating to
 12 such section.

13 (c) **CONFORMING AMENDMENTS.**—

14 (1) **REMOVAL FOR FAILURE TO COMPLY.**—Sec-
 15 tion 237(a)(3)(A) of the Immigration and Nation-
 16 ality Act (8 U.S.C. 1227(a)(3)(A)) is amended by
 17 striking “265” and inserting “262”.

18 (2) **REGISTRATION OF SPECIAL GROUPS.**—Sec-
 19 tion 263(b) of such Act (8 U.S.C. 1303(b)) is
 20 amended by inserting “(excluding subsection (c) of
 21 such section)” after “262”.

22 (3) **FORMS AND PROCEDURE.**—Section 264(a)
 23 of such Act (8 U.S.C. 1304(a)) is amended by strik-
 24 ing “of this title, and the Attorney General is au-
 25 thorized and directed to prepare forms for the reg-

1 istration and fingerprinting of aliens under section
2 262 of this title.” and inserting a period.

(4) **PENALTIES.**—Section 266 of such Act (8 U.S.C. 1306) is amended by striking “265” each place it appears and inserting “262”.

(d) **REPORT.**—Not later than three years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the implementation of section 262 of the Immigration and Nationality Act, as amended by this section, and the results of such implementation.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

16 SEC. 213. STATE AND LOCAL LAW ENFORCEMENT PROVI-
17 SION OF INFORMATION REGARDING ALIENS.

(a) VIOLATIONS OF FEDERAL LAW.—A statute, policy, or practice that prohibits, or restricts in any manner, a law enforcement or administrative enforcement officer of a State or of a political subdivision therein, from enforcing Federal immigration laws or from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the investigative or enforcement duties of the officer or from providing information to an offi-

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

8 (b) **STATE AND LOCAL LAW ENFORCEMENT PROVI-**
9 **SION OF INFORMATION ABOUT APPREHENDED ILLEGAL**
10 **ALIENS.—**

11 (1) **PROVISION OF INFORMATION.—**

12 (A) **IN GENERAL.**—In order to avoid a
13 sanction under paragraph (4), each law enforce-
14 ment agency of a State or of a political subdivi-
15 sion therein shall provide to the Department of
16 Homeland Security the information listed in
17 paragraph (2) for each alien who is 14 years of
18 age or older, who is apprehended in the juris-
19 diction of such agency, and who cannot produce
20 the valid certificate of alien registration or alien
21 registration receipt card described in section
22 264(d) of the Immigration and Nationality Act
23 (8 U.S.C. 1304(d)).

24 (B) **TIME LIMITATION.**—Not later than 15
25 days after an alien described in subparagraph

1 (A) is apprehended, information required to be
2 provided under paragraph (1) shall be provided
3 in such form and in such manner as the Sec-
4 retary of Homeland Security may, by regulation
5 or guideline, require.

6 (C) **EXCEPTION.**—The reporting require-
7 ment in paragraph (A) shall not apply in the
8 case of any alien determined to be lawfully
9 present in the United States who is exempt
10 from the requirement of personal possession of
11 an alien registration or receipt document in sec-
12 tion 264(e) of the Immigration and Nationality
13 Act (8 U.S.C. 1304(e)).

14 (2) **INFORMATION REQUIRED.**—The information
15 listed in this subsection is as follows:

16 (A) The alien's name.

17 (B) The alien's address or place of resi-
18 dence.

19 (C) A physical description of the alien.

20 (D) The date, time, and location of the en-
21 counter with the alien and reason for stopping,
22 detaining, apprehending, or arresting the alien.

23 (E) If applicable—

24 (i) the alien's driver's license number
25 and the State of issuance of such license;

1 (ii) the type of any other identification
2 document issued to the alien, any designa-
3 tion number contained on the identification
4 document, and the issuing entity for the
5 identification document;

6 (iii) the license number and descrip-
7 tion of any vehicle registered to, or oper-
8 ated by, the alien; and

9 (iv) a photo of the alien and the
10 alien's fingerprints, if available or readily
11 obtainable.

12 (3) **REIMBURSEMENT.**—The Secretary of
13 Homeland Security shall reimburse such law en-
14 forcement agencies for the costs, per a schedule de-
15 termined by the Secretary, incurred by such agencies
16 in collecting and transmitting the information de-
17 scribed in paragraph (2).

18 (4) **SANCTION.**—A law enforcement agency of a
19 State or a political subdivision therein that willfully
20 fails to provide the information required under para-
21 graph (2) in accordance with this section shall be in-
22 eligible to receive Federal funds otherwise authorized
23 under—

24 (A) the State Criminal Alien Assistance
25 Program described in section 241(i) of the Im-

1 migration and Nationality Act (8 U.S.C.
2 1231(i)); or

3 (B) under any grant program authorized
4 under title I of the Housing and Community
5 Development Act of 1974 (42 U.S.C. 5301 et
6 seq.).

7 (c) **TECHNICAL AND CONFORMING AMENDMENTS.—**

8 (1) **ILLEGAL IMMIGRATION REFORM AND IMMI-**
9 **GRANT RESPONSIBILITY ACT OF 1996.—**

10 (A) **TECHNICAL AMENDMENT.**—Section
11 642 of the Illegal Immigration Reform and Im-
12 migrant Responsibility Act of 1996 (8 U.S.C.
13 1373) is amended—

14 (i) in subsections (a), (b)(1), and (c),
15 by striking “Immigration and Naturaliza-
16 tion Service” each place it appears and in-
17 serting “Department of Homeland Secu-
18 rity”; and

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

23 (B) **CONFORMING AMENDMENT.**—Section
24 1(d) of the Illegal Immigration Reform and Im-
25 migrant Responsibility Act of 1996 (division C

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

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

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

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

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

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

17 (B) **CONFORMING AMENDMENT.**—Section
 18 2 of the Personal Responsibility and Work Op-
 19 portunity Reconciliation Act of 1996 (8 U.S.C.
 20 1642) (Public Law 104–193; 110 Stat. 2105) is
 21 amended by striking the item related to section
 22 434 and inserting the following:

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

1 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is
2 authorized to be appropriated such sums as may be nec-
3 essary to carry out the requirements of this section.

4 **SEC. 214. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
5 **TIONAL CRIME INFORMATION CENTER DATA-**
6 **BASE.**

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

9 (1) **IN GENERAL.**—Not later than 180 days
10 after the date of enactment of this Act, the Sec-
11 retary of Homeland Security shall provide the Na-
12 tional Crime Information Center of the Department
13 of Justice with such information as the Department
14 of Homeland Security may have in its possession of
15 the Department related to—

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

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

22 (C) any alien detained by a Federal, State
23 or local law enforcement agency whom a federal
24 immigration officer has confirmed to be unlaw-
25 fully present in the United States but, in the

1 exercise of discretion, has been released from
2 detention without transfer into the custody of a
3 Federal immigration officer.

4 (2) **REMOVAL OF INFORMATION.**—If an indi-
5 vidual is granted cancellation of removal under sec-
6 tion 240A of the Immigration and Nationality Act
7 (8 U.S.C. 1229b), or granted permission to legally
8 enter the United States pursuant to the Immigration
9 and Nationality Act after a voluntary departure
10 under section 240B of the Immigration Nationality
11 Act (8 U.S.C. 1229c), information entered into the
12 National Crime Information Center in accordance
13 with paragraph (1) of this section shall be promptly
14 removed.

15 (b) **INCLUSION OF INFORMATION IN THE NATIONAL**
16 **CRIME INFORMATION CENTER DATABASE.**—Section
17 534(a) of title 28, United States Code, is amended—

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

20 (2) by redesignating paragraph (4) as para-
21 graph (5); and

22 (3) by inserting after paragraph (3) the fol-
23 lowing new paragraph:

24 “(4) acquire, collect, classify, and preserve
25 records of violations of the immigration laws of the

1 United States, regardless of whether the alien has
 2 received notice of the violation or the alien has al-
 3 ready been removed; and”.

4 (c) **PERMISSION TO DEPART VOLUNTARILY.**—Section
 5 240b of the Immigration and Nationality Act (8 U.S.C.
 6 1229c) is amended—

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

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

12 **Subtitle C—Detention of Aliens and** 13 **Reimbursement of Costs**

14 **SEC. 221. INCREASE OF FEDERAL DETENTION SPACE AND** 15 **THE UTILIZATION OF FACILITIES IDENTIFIED** 16 **FOR CLOSURES AS A RESULT OF THE DE-** 17 **FENSE BASE CLOSURE REALIGNMENT ACT** 18 **OF 1990.**

19 (a) **CONSTRUCTION OR ACQUISITION OF DETENTION**
 20 **FACILITIES.**—

21 (1) **IN GENERAL.**—The Secretary of Homeland
 22 Security shall construct or acquire, in addition to ex-
 23 isting facilities for the detention of aliens, 20 deten-
 24 tion facilities in the United States that have the ca-
 25 pacity to detain a combined total of not less than

1 200,000 individuals at any time for aliens detained
2 pending removal or a decision on removal of such
3 alien from the United States.

4 (2) **DETERMINATION OF LOCATION.**—The loca-
5 tion of any detention facility built or acquired in ac-
6 cordance with this subsection shall be determined
7 with the concurrence of the Secretary by the senior
8 officer responsible for Detention and Removal Oper-
9 ations in the Department of Homeland Security.
10 The detention facilities shall be located so as to en-
11 able the Department to increase to the maximum ex-
12 tent practicable the annual rate and level of remov-
13 als of illegal aliens from the United States.

14 (3) **USE OF INSTALLATIONS UNDER BASE CLO-**
15 **SURE LAWS.**—In acquiring detention facilities under
16 this subsection, the Secretary of Homeland Security
17 shall consider the transfer of appropriate portions of
18 military installations approved for closure or realign-
19 ment under the Defense Base Closure and Realign-
20 ment Act of 1990 (part A of title XXIX of Public
21 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
22 cordance with paragraph (1).

23 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
24 Section 241(g)(1) of the Immigration and Nationality Act

1 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
 2 pend” and inserting “shall expend”.

3 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
 4 are authorized to be appropriated such sums as may be
 5 necessary to carry out this section.

6 **SEC. 222. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**
 7 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
 8 **MENT.**

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

12 “**TRANSFER OF ILLEGAL ALIENS FROM STATE TO**
 13 **FEDERAL CUSTODY**

14 “**SEC. 240D. (a) IN GENERAL.**—If the head of a law
 15 enforcement entity of a State (or, if appropriate, a polit-
 16 ical subdivision of the State) exercising authority with re-
 17 spect to the apprehension or arrest of an illegal alien sub-
 18 mits a request to the Secretary of Homeland Security that
 19 the alien be taken into Federal custody, the Secretary of
 20 Homeland Security—

21 “(1) shall—

22 “(A) deem the request to include the in-
 23 quiry to verify immigration status described in
 24 section 642(c) of the Immigration Reform and
 25 Immigrant Responsibility Act of 1996, and ex-

1 peditiously inform the requesting entity whether
2 such individual is an illegal alien; and

3 “(B) either—

4 “(i) not later than 72 hours after the
5 conclusion of the State charging process or
6 dismissal process, or if no State charging
7 or dismissal process is required, not later
8 than 72 hours after the illegal alien is ap-
9 prehended, take the illegal alien into the
10 custody of the Federal Government and in-
11 carcerate the alien; or

12 “(ii) request that the relevant State or
13 local law enforcement agency temporarily
14 detain or transport the illegal alien to a lo-
15 cation for transfer to Federal custody; and

16 “(2) shall designate at least one Federal, State,
17 or local prison or jail or a private contracted prison
18 or detention facility within each State as the central
19 facility for that State to transfer custody of criminal
20 or illegal aliens to the Department of Homeland Se-
21 curity.

22 “(b) REIMBURSEMENT.—

23 “(1) IN GENERAL.—The Department of Home-
24 land Security shall reimburse a State or a political
25 subdivision of a State for expenses, as verified by

1 the Secretary of Homeland Security, incurred by the
2 State or political subdivision in the detention and
3 transportation of a criminal or illegal alien as de-
4 scribed in subparagraphs (A) and (B) of subsection
5 (a)(1).

6 “(2) **COST COMPUTATION.**—Compensation pro-
7 vided for costs incurred under subparagraphs (A)
8 and (B) of subsection (a)(1) shall be—

9 “(A) the product of—

10 “(i) the average daily cost of incarceration
11 ation of a prisoner in the relevant State, as
12 determined by the chief executive officer of
13 a State (or, as appropriate, a political sub-
14 division of the State); multiplied by

15 “(ii) the number of days that the alien
16 was in the custody of the State or political
17 subdivision; plus

18 “(B) the cost of transporting the criminal
19 or illegal alien from the point of apprehension
20 or arrest to the location of detention, and if the
21 location of detention and of custody transfer
22 are different, to the custody transfer point; plus

23 “(C) the cost of uncompensated emergency
24 medical care provided to a detained illegal alien
25 during the period between the time of trans-

1 mittal of the request described in subsection (a)
2 and the time of transfer into Federal custody.

3 “(c) **REQUIREMENT FOR APPROPRIATE SECURITY.**—

4 The Secretary of Homeland Security shall ensure that ille-
5 gal aliens incarcerated in a Federal facility pursuant to
6 this subsection are held in facilities which provide an ap-
7 propriate level of security, and that, where practicable,
8 aliens detained solely for civil violations of Federal immi-
9 gration law are separated within a facility or facilities.

10 “(d) **REQUIREMENT FOR SCHEDULE.**—In carrying
11 out this section, the Secretary of Homeland Security shall
12 establish a regular circuit and schedule for the prompt
13 transportation of apprehended illegal aliens from the cus-
14 tody of those States and political subdivisions of States
15 which routinely submit requests described in subsection
16 (a) into Federal custody.

17 “(e) **AUTHORITY FOR CONTRACTS.**—

18 “(1) **IN GENERAL.**—The Secretary of Homeland
19 Security may enter into contracts or cooperative
20 agreements with appropriate State and local law en-
21 forcement and detention agencies to implement this
22 section.

23 “(2) **DETERMINATION BY SECRETARY.**—Prior
24 to entering into a contract or cooperative agreement
25 with a State or political subdivision of a State under

1 paragraph (1), the Secretary shall determine wheth-
2 er the State, or where appropriate, the political sub-
3 division in which the agencies are located has in
4 place any formal or informal policy that violates sec-
5 tion 642 of the Illegal Immigration Reform and Im-
6 migrant Responsibility Act of 1996 (8 U.S.C. 1373).
7 The Secretary shall not allocate any of the funds
8 made available under this section to any State or po-
9 litical subdivision that has in place a policy that vio-
10 lates such section.

11 “(f) **ILLEGAL ALIEN DEFINED.**—For purposes of
12 this section, the term ‘illegal alien’ means an alien who—

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

16 “(2) was admitted as a nonimmigrant and who,
17 at the time the alien was taken into custody by the
18 State or a political subdivision of the State, had
19 failed to—

20 “(A) maintain the nonimmigrant status in
21 which the alien was admitted or to which it was
22 changed under section 248; or

23 “(B) comply with the conditions of any
24 such status;

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

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

7 (b) **AUTHORIZATION OF APPROPRIATIONS FOR THE**
 8 **DETENTION AND TRANSPORTATION TO FEDERAL CUS-**
 9 **TODY OF ALIENS NOT LAWFULLY PRESENT.**—There is
 10 authorized to be appropriated \$850,000,000 for the deten-
 11 tion and removal of aliens not lawfully present in the
 12 United States under the Immigration and Nationality Act
 13 (8 U.S.C. 1101 et seq.) for fiscal year 2007 and each sub-
 14 sequent fiscal year.

15 **SEC. 223. INSTITUTIONAL REMOVAL PROGRAM.**

16 (a) **INSTITUTIONAL REMOVAL PROGRAM.**—

17 (1) **CONTINUATION.**—The Secretary of Home-
 18 land Security shall continue to operate the Institu-
 19 tional Removal Program or develop and implement
 20 any other program to—

21 (A) identify removable criminal aliens in
 22 Federal and State correctional facilities;

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

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

3 (2) **EXPANSION.**—the Secretary of Homeland
 4 Security shall extend the institutional removal pro-
 5 gram to all States. Each state should—

6 (A) cooperate with officials of the Federal
 7 Institutional Removal Program;

8 (B) expeditiously and systematically iden-
 9 tify criminal aliens in its prison and jail popu-
 10 lations; and

11 (C) promptly convey the information col-
 12 lected under subparagraph (B) to officials of
 13 the Institutional Removal Program.

14 (b) **IMPLEMENTATION OF COOPERATIVE INSTITU-**
 15 **TIONAL REMOVAL PROGRAMS.**—Section 642 of the Illegal
 16 Immigration Reform and Immigrant Responsibility Act of
 17 1996 (8 U.S.C. 1373) is designated as section 296 of the
 18 Immigration and Nationality Act, and inserted into such
 19 Act after section 295 and is amended by adding at the
 20 end the following:

21 “(c) **AUTHORIZATION FOR DETENTION AFTER COM-**
 22 **PLETION OF STATE OR LOCAL PRISON SENTENCE .**—Law
 23 enforcement officers of a State or political subdivision of
 24 a State are authorized to—

1 “(1) hold an illegal alien for a period of up to
2 14 days after the alien has completed the alien’s
3 State prison sentence in order to effectuate the
4 transfer of the alien to Federal custody when the
5 alien is removable or not lawfully present in the
6 United States; or

7 “(2) issue a detainer that would allow aliens
8 who have served a State prison sentence to be de-
9 tained by the State prison until personnel from the
10 Bureau of Immigration and Customs Enforcement
11 can take the alien into custody.

12 “(d) **TECHNOLOGY USAGE.**—Technology such as
13 videoconferencing shall be used to the maximum extent
14 practicable in order to make the Institutional Removal
15 Program (IRP) available in remote locations. Mobile ac-
16 cess to Federal databases of aliens, such as IDENT, and
17 live scan technology shall be used to the maximum extent
18 practicable in order to make these resources available to
19 State and local law enforcement agencies in remote loca-
20 tions.

21 “(e) **REPORT TO CONGRESS.**—The Secretary of
22 Homeland Security shall submit to Congress a report on
23 the participation of States in the Institutional Removal
24 Program and in any other program under subsection (a).

1 “(f) **AUTHORIZATION OF APPROPRIATIONS.**—There
 2 are authorized to be appropriated to carry out the Institu-
 3 tional Removal Program—

4 “(1) \$30,000,000 for fiscal year 2007;

5 “(2) \$40,000,000 for fiscal year 2008;

6 “(3) \$50,000,000 for fiscal year 2009;

7 “(4) \$60,000,000 for fiscal year 2010; and

8 “(5) \$70,000,000 for fiscal year 2011.”.

9 **Subtitle D—State, Local, and Tribal**
 10 **Enforcement of Immigration Laws**

11 **SEC. 231. CONGRESSIONAL AFFIRMATION OF IMMIGRATION**

12 **LAW ENFORCEMENT AUTHORITY BY STATES**

13 **AND POLITICAL SUBDIVISIONS OF STATES.**

14 Notwithstanding any other provision of law and re-
 15 affirming the existing inherent authority of States, law en-
 16 forcement personnel of a State or a political subdivision
 17 of a State have the inherent authority of a sovereign entity
 18 to investigate, identify, apprehend, arrest, detain, or
 19 transfer to Federal custody aliens in the United States
 20 (including the transportation of such aliens across State
 21 lines to detention centers), for the purpose of assisting in
 22 the enforcement of the immigration laws of the United
 23 States in the normal course of carrying out the law en-
 24 forcement duties of such personnel. This State authority
 25 has never been displaced or preempted by a Federal law.

1 **SEC. 232. IMMIGRATION LAW ENFORCEMENT TRAINING OF**
2 **STATE AND LOCAL LAW ENFORCEMENT PER-**
3 **SONNEL.**

4 (a) **TRAINING FLEXIBILITY.**—

5 (1) **IN GENERAL.**—The Secretary of Homeland
6 Security shall make training of State and local law
7 enforcement officers available through as many
8 means as possible, including residential training at
9 the Center for Domestic Preparedness of the De-
10 partment of Homeland Security, onsite training held
11 at State or local police agencies or facilities, on-line
12 training courses by computer, teleconferencing, and
13 videotape, or the digital video display (DVD) of a
14 training course or courses.

15 (2) **ON-LINE TRAINING.**—The head of the Dis-
16 tributed Learning Program of the Federal Law En-
17 forcement Training Center shall make training avail-
18 able for State and local law enforcement personnel
19 via the Internet through a secure, encrypted distrib-
20 uted learning system that has all its servers based
21 in the United States.

22 (3) **FEDERAL PERSONNEL TRAINING.**—The
23 training of State and local law enforcement per-
24 sonnel under this section shall not displace the train-
25 ing of Federal personnel.

1 (b) **COOPERATIVE ENFORCEMENT PROGRAMS.**—The
2 Secretary shall negotiate and execute, where practicable,
3 a cooperative enforcement agreement described in section
4 287(g) of the Immigration and Nationality Act (8 U.S.C.
5 1375(g)) with at least one law enforcement agency in each
6 State, to train law enforcement officers in the detection
7 and apprehension of individuals engaged in transporting,
8 harboring, sheltering, or encouraging aliens in violation of
9 section 274 of such Act (8 U.S.C. 1324).

10 (c) **CLARIFICATION.**—Nothing in this Act or any
11 other provision of law shall be construed as making any
12 immigration-related training a requirement for, or pre-
13 requisite to, any State or local law enforcement officer ex-
14 ercising the inherent authority of the officer to investigate,
15 identify, apprehend, arrest, detain, or transfer to Federal
16 custody illegal aliens during the normal course of carrying
17 out the law enforcement duties of the officer.

18 (d) **TECHNICAL AMENDMENT.**—Section 287(g) of the
19 Immigration and Nationality Act (8 U.S.C. 1357(g)) is
20 amended by striking “Attorney General” each place it ap-
21 pears and inserting “Secretary of Homeland Security”.

1 **SEC. 233. COMMUNICATION BETWEEN GOVERNMENT AGEN-**
2 **CIES AND THE DEPARTMENT OF HOMELAND**
3 **SECURITY.**

4 Section 642 of the Illegal Immigration Reform and
5 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is
6 amended by adding at the end the following new sub-
7 sections:

8 “(d) **ENFORCEMENT.**—

9 “(1) **INELIGIBILITY FOR FEDERAL LAW EN-**
10 **FORCEMENT AID.**—Upon a determination that any
11 person, or any Federal, State, or local government
12 agency or entity, is in violation of subsection (a) or
13 (b), the Attorney General shall not provide to such
14 person, agency, or entity any grant amount pursuant
15 to any law enforcement grant program carried out
16 by any element of the Department of Justice, includ-
17 ing the program under section 241(i) of the Immi-
18 gration and Nationality Act (8 U.S.C. 241(i)), or
19 pursuant to any grant program authorized under
20 title I of the Housing and Community Development
21 Act of 1974 (42 U.S.C. 5301 et seq.), and shall en-
22 sure that no such grant amounts are provided, di-
23 rectly or indirectly, to such person, agency, or entity.
24 In the case of grant amounts that otherwise would
25 be provided to such person, agency, or entity pursu-

1 ant to a formula, such amounts shall be reallocated
2 among eligible recipients.

3 “(2) **VIOLATIONS BY GOVERNMENT OFFI-**
4 **CIALS.**—In any case in which a Federal, State, or
5 local government official is in violation of subsection
6 (a) or (b), the government agency or entity that em-
7 ploys (or, at the time of the violation, employed) the
8 official shall be subject to the sanction described in
9 paragraph (1).

10 “(3) **DURATION.**—The sanction described in
11 paragraph (1) shall remain in effect until the Sec-
12 retary of Homeland Security determines that the
13 person, agency, or entity has ceased violating sub-
14 sections (a) and (b).

15 “(e) **PRIVATE RIGHT OF ACTION.**—A citizen or na-
16 tional of the United States who is domiciled in a State
17 or in a political subdivision of a State shall have a right
18 of action in the United States district court of the State
19 in which such citizen or national is domiciled to obtain
20 declaratory and injunctive relief to remedy a violation of
21 subsection (a) or (b) by an agency, agent, or official of
22 the State or political subdivision.”.

1 **SEC. 234. REDUCING ILLEGAL IMMIGRATION AND ALIEN**
 2 **SMUGGLING ON TRIBAL LANDS.**

3 (a) **GRANTS AUTHORIZED.**—The Secretary of Home-
 4 land Security may award grants to Indian tribes with
 5 lands adjacent to an international border of the United
 6 States that have been adversely affected by illegal immi-
 7 gration.

8 (b) **USE OF FUNDS.**—Grants awarded under sub-
 9 section (a) may be used for—

- 10 (1) law enforcement activities;
- 11 (2) health care services;
- 12 (3) environmental restoration; and
- 13 (4) the preservation of cultural resources.

14 (c) **REPORT.**—Not later than 180 days after the date
 15 of enactment of this Act, the Secretary of Homeland Secu-
 16 rity shall submit to the Committee on the Judiciary of the
 17 Senate and the Committee on the Judiciary of the House
 18 of Representatives a report that—

- 19 (1) describes the level of access of Border Pa-
 20 trol agents on tribal lands;
- 21 (2) describes the extent to which enforcement of
 22 immigration laws may be improved by enhanced ac-
 23 cess to tribal lands;
- 24 (3) contains a strategy for improving such ac-
 25 cess through cooperation with tribal authorities; and

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

5 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
6 are authorized to be appropriated \$10,000,000 for each
7 of fiscal years 2007 through 2011 to carry out this sec-
8 tion.

9 **SEC. 235. IMMUNITY.**

10 (a) **PERSONAL IMMUNITY.**—Notwithstanding any
11 other provision of law, a law enforcement officer of a
12 State, or of a political subdivision of a State, shall be im-
13 mune, to the same extent as a Federal law enforcement
14 officer, from personal liability arising out of the enforce-
15 ment of any immigration law. The immunity provided by
16 this subsection shall only apply to an officer of a State,
17 or of a political subdivision of a State, who is acting within
18 the scope of such officer's official duties.

19 (b) **AGENCY IMMUNITY.**—Notwithstanding any other
20 provision of law, a law enforcement agency of a State, or
21 of a political subdivision of a State, shall be immune from
22 any claim for money damages based on Federal, State,
23 or local civil rights law for an incident arising out of the
24 enforcement of any immigration law, except to the extent
25 that the law enforcement officer of such agency, whose ac-

tion the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

Subtitle E—Additional Provisions

SEC. 241. NO PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT FOR PUBLIC BENEFITS.

(a) **POST-SECONDARY EDUCATION BENEFITS.**—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) is amended—

(1) in subsection (a), by striking “on the basis of residence within a State (or a political subdivision)”; and

(2) by adding at the end the following new subsections:

“(c) **ANNUAL REPORT.**—The Office of Civil Rights of the United States Department of Justice shall annually submit to Congress a report on which, if any, post-secondary educational institutions have provided benefits in contravention of this section.

“(d) **LIMITATION ON FEDERAL FINANCIAL ASSISTANCE.**—No Federal agency shall provide any grant, reimbursement, or other financial assistance to a post-secondary educational institution determined under subsection (c) to continue to provide benefits in contravention

1 of this section. Any funds withheld under this subsection
 2 shall be reallocated among qualifying educational institu-
 3 tions that are in compliance with subsection (a).”.

4 (b) **PUBLIC BENEFITS.**—The Personal Responsibility
 5 and Work Opportunity Reconciliation Act of 1996 (Public
 6 Law 104–193) is amended—

7 (1) in section 411(d) (8 U.S.C. 1621(d)), by
 8 striking “provides for such eligibility.” and inserting
 9 “provides for the eligibility of United States citizens
 10 and nationals for such benefit regardless of state
 11 residence.”;

12 (2) by amending subsection (d) of section 432
 13 (8 U.S.C. 1642) to read as follows:

14 “(d) **DECLARATIVE RIGHTS.**—A lawful resident of a
 15 State may, after exhausting any available administrative
 16 remedies, seek declarative and injunctive relief in Federal
 17 district court from a practice of a government agency or
 18 agent of such State or of a political subdivision therein
 19 that provides a Federal, State, or local public benefit to
 20 an alien in violation of immigration laws, including the
 21 Immigration and Nationality Act.”; and

22 (3) in section 433(a) (8 U.S.C. 1643(a))—

23 (A) by striking paragraph (2); and

1 (B) by striking “LIMITATION” and all that
 2 follows through “Nothing” and inserting “LIMI-
 3 TATION.—Nothing”.

4 **SEC. 242. AUTHORIZED APPROPRIATIONS.**

5 In addition to amounts otherwise authorized to be ap-
 6 propriated, there are authorized to be appropriated such
 7 sums as may be necessary for each of fiscal years 2007
 8 through 2011 to carry out this title.

9 **TITLE III—VISA REFORM AND**
 10 **ALIEN STATUS**
 11 **Subtitle A—Limitations on Visa**
 12 **Issuance, Validity Due to Abuse,**
 13 **and Suspension of the Visa**
 14 **Waiver Program**

15 **SEC. 301. CURTAILMENT OF VISAS FOR COUNTRIES DENY-**
 16 **ING OR DELAYING REPATRIATION OF NA-**
 17 **TIONALS.**

18 Section 244 of the Immigration and Nationality Act
 19 (8 U.S.C. 1253) is amended by adding at the end the fol-
 20 lowing new subsection:

21 “(e) **PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-**
 22 **CANT LIKELIHOOD OF REMOVAL.—**

23 “(1) **IN GENERAL.—**The Secretary of Homeland
 24 Security shall establish and maintain a public listing
 25 of every alien who is subject to a final order of re-

1 moval and with respect to whom the Secretary or
2 any Federal court has determined that there is no
3 significant likelihood of removal in the reasonably
4 foreseeable future due to the refusal, or unreason-
5 able delay, of all countries designated by the alien
6 under this section to receive the alien. The public
7 listing shall indicate whether such alien has been re-
8 leased from Federal custody, and the city and state
9 in which such alien resides.

10 “(2) **DISCONTINUATION OF VISAS.**—During any
11 month in which 24 or more of the citizens, subjects,
12 or nationals of any foreign state have remained on
13 the public listing described in paragraph (1)
14 throughout such month, such foreign state shall be
15 deemed to have denied or unreasonably delayed the
16 acceptance of such aliens, and the Secretary of
17 Homeland Security shall make the notification to the
18 Secretary of State prescribed in subsection (d) of
19 this section. The Secretary of State shall accordingly
20 discontinue the issuance of non-immigrant visas to
21 citizens, subjects, or nationals of such foreign state
22 until such time as the number of aliens on the public
23 listing from such foreign state has either (A) de-
24 clined to fewer than six, or (B) remained below 24
25 for at least 30 days.”.

1 **SEC. 302. CANCELLATION OF VISAS.**

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

4 (1) in paragraph (1), by inserting “and any
5 other nonimmigrant visa issued by the United States
6 that is in the possession of the alien” after “such
7 visa”; and

8 (2) in paragraph (2)(A), by inserting “or for-
9 eign residence” after “nationality”.

10 **SEC. 303. NO JUDICIAL REVIEW OF VISA REVOCATION.**

11 Section 221(i) of the Immigration and Nationality
12 Act (8 U.S.C. 1201(i)) is amended by striking “, except
13 in the context of a removal proceeding if such revocation
14 provides the sole ground for removal under section
15 237(a)(1)(B)”.

16 **SEC. 304. SUSPENSION OF VISA WAIVER PROGRAM.**

17 (a) **IN GENERAL.**—Notwithstanding any other provi-
18 sion of law, the visa waiver program established under sec-
19 tion 217 of the Immigration and Nationality Act is sus-
20 pended until the Secretary of Homeland Security deter-
21 mines and certifies to Congress that—

22 (1) the automated entry-exit control system au-
23 thorized under section 110 of the Illegal Immigra-
24 tion Reform and Immigrant Responsibility Act of
25 1996 (8 U.S.C. 1221 note), as amended, is fully im-
26 plemented and functional;

1 (2) all United States ports of entry have func-
 2 tional biometric machine readers; and

3 (3) all nonimmigrants, including Border Cross-
 4 ing Card holders, are processed through the auto-
 5 mated entry-exit system.

6 (b) **REPEALER.**—Subparagraph (B) of section
 7 217(a)(3) of the Immigration and Nationality Act (8
 8 U.S.C. 1187(a)(3)) is repealed.

9 **SEC. 305. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
 10 **GRAM.**

11 (a) **WORLDWIDE LEVEL OF DIVERSITY IMMI-**
 12 **GRANTS.**—Section 201 of the Immigration and Nation-
 13 ality Act (8 U.S.C. 1151) is amended—

14 (1) in subsection (a)—

15 (A) by inserting “and” at the end of para-
 16 graph (1);

17 (B) by striking “; and” at the end of para-
 18 graph (2) and inserting a period; and

19 (C) by striking paragraph (3); and

20 (2) by striking subsection (e).

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

23 (1) by striking subsection (c);

24 (2) in subsection (d), by striking “(a), (b), or
 25 (c),” and inserting “(a) or (b),”;

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

7 (c) **PROCEDURE FOR GRANTING IMMIGRANT STA-**
 8 **TUS.**—Section 204 of such Act (8 U.S.C. 1154) is amend-
 9 ed—

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

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

15 **SEC. 306. EXTENDED FAMILY PREFERENCE CATEGORIES.**

16 (a) **IN GENERAL.**—Section 203(a) of the Immigra-
 17 tion and Nationality Act (8 U.S.C. 1153(a)) is amended
 18 to read as follows:

19 “(a) **PREFERENCE ALLOCATION FOR FAMILY-SPON-**
 20 **SORED IMMIGRANTS.**—Qualified immigrants who are the
 21 spouses or children of an alien lawfully admitted for per-
 22 manent residence shall be subject to the worldwide level
 23 specified in section 201(c) for family-sponsored immi-
 24 grants, and shall be allocated visas in a number not to
 25 exceed such level.”.

1 (b) **WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-**
 2 **MIGRANTS.**—Section 201(c) of the Immigration and Na-
 3 tionality Act (8 U.S.C. 1151(c)) is amended—

4 (1) by striking “480,000” and inserting
 5 “87,934”; and

6 (2) by striking “226,000” and inserting
 7 “87,934”.

8 (c) **NUMERICAL LIMITATION TO ANY SINGLE FOR-**
 9 **EIGN STATE.**—Section 202 of the Immigration and Na-
 10 tionality Act (8 U.S.C. 1152) is amended—

11 (1) in subsection (a)(4), by striking subpara-
 12 graph (A) and inserting the following new subpara-
 13 graph:

14 “(A) **75 PERCENT NOT SUBJECT TO PER**
 15 **COUNTRY LIMITATION.**—Of the visa numbers
 16 made available under section 203(a) in any fis-
 17 cal year, 75 percent shall be issued without re-
 18 gard to the numerical limitation under para-
 19 graph (2).”; and

20 (2) in subsection (e)—

21 (A) in paragraph (1), by adding “and” at
 22 the end;

23 (B) by striking paragraph (2); and

24 (C) by redesignating paragraph (3) as
 25 paragraph (2).

1 (d) **PROCEDURE FOR GRANTING IMMIGRANT STA-**
2 **TUS.**—Section 204 of the Immigration and Nationality
3 Act (8 U.S.C. 1154) is amended—

4 (1) in subsection (a)(1)—

5 (A) in subparagraph (A)(i), by striking
6 “paragraph (1), (3), or (4) of”;

7 (B) in subparagraph (B), by striking
8 “203(a)(2)” and “203(a)(2)(A)” each place
9 such terms appear and inserting “203(a)”; and

10 (C) in subparagraph (D)(i)—

11 (i) in subclause (I), by striking “a pe-
12 titioner for preference status under para-
13 graph (1), (2), or (3)” and all that follows
14 through the period at the end and insert-
15 ing “to be an individual under 21 years of
16 age for purposes of adjudicating such peti-
17 tion, and for purposes of admission as an
18 immediate relative under section
19 201(b)(2)(A)(i), notwithstanding the actual
20 age of the individual.”; and

21 (ii) in subclause (III), by striking
22 “paragraph (1), (2), or (3) of section
23 203(a), whichever paragraph is applica-
24 ble,” and inserting “section 203(a), and

1 under 21 years of age (notwithstanding the
2 actual age of the individual),”; and

3 (2) in subsection (f), by striking “201(b),
4 203(a)(1), or 203(a)(3), as appropriate.” and insert-
5 ing “201(b).”.

6 (e) **CLASSES OF DEPORTABLE ALIENS.**—Section
7 237(a)(1)(E)(ii) of the Immigration and Nationality Act
8 (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking
9 “203(a)(2)” and inserting “203(a)”.

10 (f) **CONDITIONAL PERMANENT RESIDENT STATUS**
11 **FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGH-**
12 **TERS.**—Section 216(g)(1)(C) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1186a(g)(1)(C)) is amended by
14 striking “203(a)(2)” and inserting “203(a)”.

15 (g) **EFFECTIVE DATE.**—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 307. SPONSORSHIP LEVELS.**

19 Section 213A(f) of the Immigration and Nationality
20 Act (8 U.S.C. 1183a(f)) is amended by striking “125 per-
21 cent of the Federal poverty line” and inserting “225 per-
22 cent of the Federal poverty line” each place it appears.

1 **Subtitle B—Visa Term Compliance**
2 **Bonds**

3 **SEC. 311. DEFINITION AND ISSUANCE OF VISA TERM COM-**
4 **PLIANCE BONDS.**

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

6 (1) **VISA TERM COMPLIANCE BOND.**—The term
7 “visa term compliance bond” means a written
8 suretyship undertaking entered into by an alien indi-
9 vidual seeking admission to the United States on a
10 nonimmigrant visa whose performance is guaranteed
11 by a bail agent.

12 (2) **SURETYSHIP UNDERTAKING.**—The term
13 “suretyship undertaking” means a written agree-
14 ment, executed by a bail agent, which binds all par-
15 ties to its certain terms and conditions and which
16 provides obligations for the visa applicant while
17 under the bond and penalties for forfeiture to ensure
18 the obligations of the principal under the agreement.

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

24 (4) **SURETY.**—The term “surety” means an en-
25 tity, as defined by, and that is in compliance with,

1 sections 9304 through 9308 of title 31, United
2 States Code, that agrees—

3 (A) to guarantee the performance, where
4 appropriate, of the principal under a visa term
5 compliance bond;

6 (B) to perform as required in the event of
7 a forfeiture; and

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

10 (b) **ISSUANCE OF BOND.**—A consular officer may re-
11 quire an applicant for a nonimmigrant visa, as a condition
12 for granting such application, to obtain a visa term com-
13 pliance bond.

14 (c) **VALIDITY, EXPIRATION, RENEWAL, AND CAN-**
15 **CELLATION OF BONDS.**—

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

18 (A) states the full, correct, and proper
19 name of the alien principal;

20 (B) states the amount of the bond;

21 (C) is guaranteed by a surety and
22 countersigned by an attorney-in-fact who is
23 properly appointed;

24 (D) is an original signed document;

1 (E) is filed with the Secretary of Home-
2 land Security along with the original application
3 for a visa; and

4 (F) is not executed by electronic means.

5 (2) **EXPIRATION.**—A visa term compliance bond
6 undertaking shall expire at the earliest of—

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

8 (B) at the expiration, cancellation, or sur-
9 render of the visa; or

10 (C) immediately upon nonpayment of the
11 premium.

12 (3) **RENEWAL.**—The bond may be renewed—

13 (A) annually with payment of proper pre-
14 mium at the option of the bail agent or surety;
15 and

16 (B) provided there has been no breach of
17 conditions, default, claim, or forfeiture of the
18 bond.

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

21 (A) for nonrenewal;

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

25 (C) upon termination of the visa;

1 (D) upon death, incarceration of the prin-
2 cipal, or the inability of the surety to produce
3 the principal for medical reasons;

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

6 (F) if the principal departs from the
7 United States for any reason without permis-
8 sion of the Secretary of Homeland Security and
9 the surety or bail agent; or

10 (G) if the principal is surrendered by the
11 surety.

12 (5) **EFFECT OF EXPIRATION OR CANCELLA-**
13 **TION.**—When a visa term compliance bond expires
14 without being immediately renewed, or is canceled,
15 the nonimmigrant status of the alien shall be re-
16 voked immediately.

17 (6) **SURRENDER OF PRINCIPAL; FORFEITURE**
18 **OF BOND PREMIUM.**—

19 (A) **SURRENDER.**—At any time before a
20 breach of any of the conditions of the bond, the
21 surety or bail agent may surrender the prin-
22 cipal, or the principal may surrender, to any of-
23 fice or facility of the Department of Homeland
24 Security charged with immigration enforcement
25 or border protection.

1 (B) **FORFEITURE OF BOND PREMIUM.**—A
2 principal may be surrendered without the re-
3 turn of any bond premium if the visa holder—

4 (i) changes address or, if required,
5 pre-approved itinerary without notifying
6 the surety or bail agent and the Secretary
7 of Homeland Security in writing at least
8 three working days after such change;

9 (ii) changes schools, jobs, or occupa-
10 tions without written permission of the
11 surety, bail agent, and the Secretary;

12 (iii) conceals himself or herself;

13 (iv) fails to report to the Secretary as
14 required at least annually; or

15 (v) violates the contract with the bail
16 agent or surety, commits any act that may
17 lead to a breach of the bond, or otherwise
18 violates any other obligation or condition
19 of the visa established by the Secretary.

20 (7) **CERTIFIED COPY OF UNDERTAKING OR**
21 **WARRANT TO ACCOMPANY SURRENDER.**—

22 (A) **IN GENERAL.**—A person desiring to
23 make a surrender of the visa holder—

1 (i) shall have the right to petition any
2 Federal court for an arrest warrant for the
3 arrest of the visa holder;

4 (ii) shall forthwith be provided a cer-
5 tified copy of the arrest warrant and the
6 undertaking; and

7 (iii) shall have the right to pursue, ap-
8 prehend, detain, and deliver the visa hold-
9 er, together with the certified copy of the
10 arrest warrant and the undertaking, to any
11 official or facility of the Department of
12 Homeland Security charged with immigra-
13 tion enforcement or border protection or
14 any detention facility authorized to hold
15 Federal detainees.

16 (B) **EFFECTS OF DELIVERY.**—Upon deliv-
17 ery of a person under subparagraph (A)(iii)—

18 (i) the official to whom the delivery is
19 made shall detain the visa holder in cus-
20 tody and issue a written certificate of sur-
21 render; and

22 (ii) the court issuing the warrant de-
23 scribed in subparagraph (A)(i) and the
24 Secretary of Homeland Security shall im-
25 mediately exonerate the surety and bail

1 agent from any further liability on the
2 bond.

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

6 (A) **BREACH OF BOND; PROCEDURE, FOR-**
7 **FEITURE, NOTICE.**—

8 (i) If a visa holder violates any condi-
9 tions of the visa or the visa bond, the Sec-
10 retary of Homeland Security shall—

11 (I) order the visa canceled;

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

14 (III) order the bail agent and
15 surety to take the visa holder into
16 custody and surrender the visa holder
17 to the Secretary; and

18 (IV) mail notice to the bail agent
19 and surety via certified mail return
20 receipt at each of the addresses in the
21 bond.

22 (ii) A bail agent or surety shall have
23 full and complete access to all information,
24 electronic or otherwise, in the care, cus-
25 tody, and control of the United States

1 Government or any State or local govern-
2 ment or any subsidiary or police agency
3 thereof regarding the visa holder that the
4 court issuing the warrant believes is crucial
5 in locating the visa holder.

6 (iii) If the visa holder is later ar-
7 rested, detained, or otherwise located out-
8 side the United States and the outlying
9 possessions of the United States (as de-
10 fined in section 101(a) of the Immigration
11 and Nationality Act (8 U.S.C. 1101(a)),
12 the Secretary of Homeland Security
13 shall—

14 (I) order that the bail agent and
15 surety are completely exonerated, and
16 the bond canceled and terminated;
17 and

18 (II) if the Secretary has issued
19 an order under clause (i), the surety
20 may request, by written, properly filed
21 motion, reinstatement of the bond.
22 This subclause may not be construed
23 to prevent the Secretary from revok-
24 ing or resetting a higher bond.

25 (iv) The bail agent or surety must—

1 (I) produce the visa bond holder;

2 or

3 (II)(aa) prove within 180 days
4 that producing the bond holder was
5 prevented—

6 (AA) by the bond hold-
7 er's illness or death;

8 (BB) because the bond
9 holder is detained in custody
10 in any city, State, country,
11 or political subdivision there-
12 of;

13 (CC) because the bond
14 holder has left the United
15 States or its outlying posses-
16 sions (as defined in section
17 101(a) of the Immigration
18 and Nationality Act (8
19 U.S.C. 1101(a)); or

20 (DD) because required
21 notice was not given to the
22 bail agent or surety; and

23 (bb) prove within 180 days that
24 the inability to produce the bond hold-

1 er was not with the consent or conniv-
2 ance of the bail agent or sureties.

3 (v) If the bail agent or surety does
4 not comply with the terms of this bond
5 within 60 days after the mailing of the no-
6 tice required under subparagraph
7 (A)(i)(IV), a portion of the face value of
8 the bond shall be assessed as a penalty
9 against the surety, as follows:

10 (I) If compliance occurs more
11 than 60 days but not more than 90
12 days after the mailing of the notice,
13 the amount assessed shall be one-third
14 of the face value of the bond.

15 (II) If compliance occurs more
16 than 90 days, but not more than 180
17 days, after the mailing of the notice,
18 the amount assessed shall be two-
19 thirds of the face value of the bond.

20 (III) If compliance does not
21 occur within 180 days after the mail-
22 ing of the notice, the amount assessed
23 shall be 100 percent of the face value
24 of the bond.

1 (vi) All penalty fees shall be paid by
2 the surety within 45 days after the end of
3 such 180-day period.

4 (B) The Secretary of Homeland Security
5 may waive the penalty fees or extend the period
6 for payment or both, if—

7 (i) a written request is filed with the
8 Secretary; and

9 (ii) the bail agent or surety provides
10 evidence satisfactory to the Secretary that
11 diligent efforts were made to effect compli-
12 ance of the visa holder.

13 (C) COMPLIANCE; EXONERATION; LIMITA-
14 TION OF LIABILITY.—

15 (i) COMPLIANCE.—The bail agent or
16 surety shall have the absolute right to lo-
17 cate, apprehend, arrest, detain, and sur-
18 render any visa holder, wherever he or she
19 may be found, who violates any of the
20 terms and conditions of the visa or bond.

21 (ii) EXONERATION.—Upon satisfying
22 any of the requirements of the bond, the
23 surety shall be completely exonerated.

1 (iii) **LIMITATION OF LIABILITY.**—The
2 total liability on any undertaking shall not
3 exceed the face amount of the bond.

4 (d) **REGULATIONS.**—The Secretary of State and the
5 Secretary of Homeland Security shall, after consultation,
6 issue provisional regulations implementing the provisions
7 of this section, to take effect no later than 120 days the
8 date of the enactment of this Act. Final regulations shall
9 be issued after public notice and comment, as provided
10 by law.

11 **SEC. 312. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

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

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

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

1 **SEC. 313. DETENTION OF ALIENS DELIVERED BY BONDS-**
 2 **MEN.**

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

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

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

22 **Subtitle C—Adjustment of Alien**
 23 **Status**

24 **SEC. 321. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.**

25 (a) **INELIGIBILITY FOR ADJUSTMENT OF STATUS.**—
 26 Section 245(c) of the Immigration and Nationality Act (8

1 U.S.C. 1255(c)) is amended by striking “(other than an
 2 immediate relative as defined in section 201(b) or a special
 3 immigrant described in subparagraphs (H), (I), (J), or
 4 (K) of section 101(a)(27))”.

5 (b) **INAPPLICABILITY OF CERTAIN PROVISIONS FOR**
 6 **CERTAIN IMMIGRANTS.**—Section 245(k) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1255(k)) is amended
 8 to read as follows:

9 “(k) **INAPPLICABILITY OF CERTAIN PROVISIONS FOR**
 10 **CERTAIN IMMIGRANTS.**—An alien who is eligible to receive
 11 an immigrant visa under paragraph (1), (2), or (3) of sec-
 12 tion 203(b), as an immediate relative as defined in section
 13 201(b), or, in the case of an alien who is an immigrant
 14 described in subparagraph (C), (H), (I), (J), or (K) of
 15 section 101(a)(27), under section 203(b)(4), may adjust
 16 status pursuant to subsection (a) and notwithstanding
 17 paragraphs (2), (7), and (8) of subsection (c), if—

18 “(1) the alien, on the date of filing an applica-
 19 tion for adjustment of status, is present in the
 20 United States pursuant to a lawful admission; and

21 “(2) the alien, subsequent to such lawful admis-
 22 sion has not, for an aggregate period exceeding 180
 23 days—

24 “(A) failed to maintain continuously a law-
 25 ful status;

1 “(B) engaged in unauthorized employment;

2 or

3 “(C) otherwise violated the terms and con-

4 ditions of the alien’s admission.”.

5 **SEC. 322. EXPANSION OF NATURALIZATION REQUIREMENT**

6 **TO CERTAIN NONIMMIGRANT ALIENS.**

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

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

13 “(1) the child was born in wedlock in the
14 United States to a parent either of whom is (A) a
15 citizen or national of the United States, or (B) an
16 alien who is lawfully admitted for permanent resi-
17 dence and maintains his or her residence (as defined
18 in subsection 101(a)(33)) in the United States; or

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

24 For purposes of this subsection, a child is not considered
25 to be ‘born in wedlock’ if the mother and the father of

1 the child are not married to each other, or such marriage
 2 is only a common law marriage.”.

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

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

10 **SEC. 323. TEMPORARY PROTECTED STATUS.**

11 (a) **IN GENERAL.**—Section 244 of the Immigration
 12 and Nationality Act (8 U.S.C. 1254a) is amended—

13 (1) in subsection (a)—

14 (A) by striking paragraph (3)(D);

15 (B) in paragraph (4)—

16 (i) by striking subparagraph (B);

17 (ii) by moving the text of subpara-
 18 graph (A) up and to the right so that it
 19 follows immediately after the paragraph
 20 heading; and

21 (iii) by striking “(A)”; and

22 (C) in paragraph (5), by striking “to deny
 23 temporary protected status to an alien based on
 24 the alien’s immigration status or”;

25 (2) in subsection (b)—

1 (A) in paragraph (1)—

2 (i) in subparagraph (A), by adding
3 “or” at the end;

4 (ii) in subparagraph (B)—

5 (I) in clause (i), by striking “dis-
6 ruption of living conditions” and in-
7 serting “physical destruction of homes
8 and businesses”;

9 (II) by amending clause (ii) to
10 read as follows:

11 “(ii) the foreign state is unable, tem-
12 porarily, to house and employ the aliens
13 who are nationals of the state residing in
14 the United States, but has officially re-
15 quested designation and submitted to the
16 Secretary of State a specific plan to repa-
17 triate such nationals as expeditiously as
18 possible; and”;

19 (III) in clause (iii), by striking “;
20 or” and inserting a period;

21 (iii) by striking subparagraph (C);
22 and

23 (iv) by adding at the end the fol-
24 lowing:

1 “An initial designation, or extension of a designation,
2 of a foreign state (or part of such foreign state) under
3 this paragraph shall not become effective if the Secretary
4 of Homeland Security finds that permitting the aliens to
5 remain temporarily in the United States is contrary to the
6 national interest of the United States.”

7 (B) in the last sentence of paragraph (2),
8 by striking “18 months” and inserting “12
9 months”;

10 (C) in paragraph (3)—

11 (i) in subparagraph (A), by inserting
12 “all” after “and shall determine whether”;

13 (ii) in subparagraph (B), by inserting
14 “all” after “no longer continues to meet”;
15 and

16 (iii) by amending subparagraph (C) to
17 read as follows:

18 “(C) **EXTENSION OF DESIGNATION.**—If
19 the Secretary of Homeland Security determines
20 under subparagraph (A) that a foreign state (or
21 part of such foreign state) continues to meet all
22 the conditions for designation under paragraph
23 (1) and that the foreign state warrants an ex-
24 tension, the period of designation of the foreign
25 State is extended for an additional period of 6

1 months (or, in the discretion of the Secretary,
2 a period of 12 months).”; and

3 (D) in paragraph (5)—

4 (i) by striking subparagraph (B);

5 (ii) by moving the text of subpara-
6 graph (A) up and to the right so that it
7 follows immediately after the paragraph
8 heading; and

9 (iii) by striking “(A) DESIGNA-
10 TIONS.—”;

11 (3) in subsection (c)—

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

14 (B) in paragraph (2)—

15 (i) in subparagraph (A), by striking
16 “of paragraph (1)—” and all that follows
17 through the end and inserting the fol-
18 lowing: “, the provisions of section
19 212(a)(1) may be waived in the Secretary
20 of Homeland Security’s discretion if a de-
21 nial of temporary protected status would
22 separate the alien from a spouse or child
23 of the alien in the United States.”;

24 (ii) in subparagraph (B)—

1 (I) by amending clause (i) to
2 read as follows:

3 “(i) the alien is inadmissible under
4 section 212(a) by reason of having been
5 convicted of a crime committed in the
6 United States, or the alien is deportable
7 under section 237(a) (other than under
8 section 237(a)(1)(B));”;

9 (II) in clause (ii), by striking the
10 period at the end and inserting “; or”;
11 and

12 (III) by adding at the end the
13 following new clause:

14 “(iii) the alien was unlawfully present
15 in the United States on the effective date
16 of the designation of the applicable foreign
17 state (or part of a state), or the effective
18 date of any extension of such designation,
19 unless a law to the contrary is enacted be-
20 fore such date, except that if the Congress
21 is adjourned sine die on such date, the
22 alien may be granted temporary protected
23 status for a period of not more than 4
24 months.”;

25 (C) in paragraph (3)—

1 (i) by striking “, or” at the end of
2 subparagraph (B) and inserting a semi-
3 colon;

4 (ii) in subparagraph (C)—

5 (I) by inserting “and record the
6 alien’s current address” after “reg-
7 ister”; and

8 (II) by striking the period at the
9 end and inserting a semicolon; and

10 (iii) by adding at the end the fol-
11 lowing new subparagraphs:

12 “(D) the alien commits a crime after being
13 granted temporary protected status; or

14 “(E) the alien travels, no matter how brief-
15 ly, to the foreign state (or part of such state)
16 the designation of which was the basis of the
17 alien being granted such status.”;

18 (D) in paragraph (4), in each of subpara-
19 graphs (A) and (B), by inserting before the pe-
20 riod at the end the following: “, unless the alien
21 travels, no matter how briefly, to the foreign
22 state (or part of such state) the designation of
23 which was the basis of the alien being granted
24 such status”; and

25 (E) by striking paragraph (6);

1 (4) in subsection (d), by striking paragraph (4);

2 (5) in subsection (e), by striking “, unless the

3 Attorney General determines that extreme hardship

4 exists” in the first sentence;

5 (6) in subsection (f)—

6 (A) by inserting “and” at the end of para-

7 graph (2);

8 (B) in paragraph (3), by striking “Attor-

9 ney General; and” and inserting “Secretary of

10 Homeland Security, except to the foreign state

11 (or part of such state) the designation of which

12 was the basis of the alien being granted such

13 status.”; and

14 (C) by striking paragraph (4); and

15 (7) in subsection (h)—

16 (A) in paragraph (1), by inserting “or the

17 House of Representatives” after “Senate”;

18 (B) in paragraph (2), by striking “three-

19 fifths” and inserting “two-thirds”; and

20 (C) by inserting “and the House of Rep-

21 resentatives” after “Senate” each place such

22 term appears in paragraphs (2) and (3).

23 (b) **INELIGIBILITY OF CERTAIN ALIENS.**—

24 (1) **IN GENERAL.**—In the case of a foreign

25 state (or part of a foreign state) initially designated

1 under section 244 of the Immigration and Nation-
2 ality Act (8 U.S.C. 1254a), or having such a des-
3 ignation extended, before the date of the enactment
4 of this Act, an alien who is a national of such state
5 (or in the case of an alien having no nationality, is
6 a person who last habitually resided in such state),
7 and was unlawfully present in the United States on
8 the date of such designation or extension, shall be
9 subject to paragraph (2).

10 (2) **ALIENS INELIGIBLE.**—An alien described in
11 paragraph (1) shall not be considered eligible for
12 temporary protected status under section 244 pursu-
13 ant to any initial or succeeding extension of a des-
14 ignation described in such paragraph that takes ef-
15 fect after the date of the enactment of this Act, un-
16 less a law to the contrary is enacted before such ef-
17 fective date, except that if the Congress is adjourned
18 sine die on such effective date, the alien may be
19 granted temporary protected status for a period of
20 not more than 4 months.

21 **SEC. 324. COMPLETION OF BACKGROUND AND SECURITY**
22 **CHECKS.**

23 Section 103 of the Immigration and Nationality Act
24 (8 U.S.C. 1103) is amended by adding at the end the fol-
25 lowing new subsection:

1 “(i) Notwithstanding any other provision of law, the
 2 Secretary of Homeland Security, the Attorney General, or
 3 any court shall not—

4 “(1) grant or order the grant of adjustment of
 5 status to that of an alien lawfully admitted for per-
 6 manent residence;

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

10 “(3) issue any documentation evidencing or re-
 11 lated to such grant by the Attorney General, the
 12 Secretary, or any court,
 13 until such background and security checks as the Sec-
 14 retary may in his discretion require have been completed
 15 to the satisfaction of the Secretary.”.

16 **SEC. 325. DENIAL OF BENEFITS TO TERRORISTS AND**
 17 **CRIMINALS.**

18 Chapter 4 of title III of the Immigration and Nation-
 19 ality Act (8 U.S.C. 1501 et seq.) is amended by adding
 20 at the end the following new section:

21 **“CONSTRUCTION**

22 **“SEC. 362. (a)** Nothing in this Act or any other pro-
 23 vision of law shall be construed to require the Secretary
 24 of Homeland Security, the Attorney General, the Sec-
 25 retary of State, the Secretary of Labor, or any other au-
 26 thorized head of any agency to grant any application, ap-

1 prove any petition, or grant or continue any status or ben-
 2 efit under the immigration laws by, to, or on behalf of—

3 “(1) any alien described in subparagraphs
 4 (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or
 5 subparagraphs (A)(i), (A)(iii), or (B) of section
 6 237(a)(4);

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

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

14 “(b) An official described in subsection (a) may—

15 “(1) with respect to an alien described in sub-
 16 section (a)(1), deny or withhold any such applica-
 17 tion, petition, status, or benefit on such basis; or

18 “(2) with respect to an alien described in para-
 19 graph (2) or (3) of subsection (a), withhold pending
 20 resolution of the investigation, case, or law enforce-
 21 ment checks any such application, petition, status,
 22 or benefit on such basis.”.

23 **SEC. 326. REPEAL OF SECTION 245(I).**

24 Section 245(i) of the Immigration and Nationality
 25 Act (8 U.S.C. 1255(i)) is repealed.

1 **SEC. 327. AUTHORIZED APPROPRIATIONS.**

2 In addition to amounts otherwise authorized to be ap-
3 propriated, there are authorized to be appropriated such
4 sums as may be necessary for each of fiscal years 2007
5 through 2011 to carry out this title.

6 **TITLE IV—WORKPLACE EN-**
7 **FORCEMENT AND IDENTI-**
8 **FICATION INTEGRITY**

9 **Subtitle A—In General**

10 **SEC. 401. SHORT TITLE.**

11 This title may be cited as the “Employment Security
12 Act of 2005”.

13 **SEC. 402. CONGRESSIONAL FINDINGS.**

14 Congress makes the following findings:

15 (1) The failure of Federal, State and local gov-
16 ernments to control and sanction the unauthorized
17 employment and unlawful exploitation of illegal alien
18 workers is the primary cause of illegal immigration.

19 (2) The use of modern technology not available
20 in 1986 will enable employers to rapidly and accu-
21 rately verify the identity and work authorization of
22 their employees and independent contractors.

23 (3) The Federal Government and the American
24 people share a compelling interest in protection of
25 United States employment authorization, income tax

1 withholding, and social security accounting systems,
 2 against unauthorized access by illegal aliens.

3 (4) Limited data-sharing between the Depart-
 4 ment of Homeland Security, the Internal Revenue
 5 Service, and the Social Security Administration is
 6 essential to the integrity of these vital programs,
 7 which protect the employment and retirement secu-
 8 rity of all working Americans.

9 (5) The Federal judiciary must be open to pri-
 10 vate United States citizens, legal foreign workers,
 11 and law-abiding enterprises who seek judicial protec-
 12 tion against injury to their wages and working con-
 13 ditions due to unlawful competition from illegal alien
 14 workers and the United States enterprises that uti-
 15 lize the labor or services provided by illegal aliens,
 16 especially where lack of resources constrains enforce-
 17 ment of Federal immigration law Federal immigra-
 18 tion officials.

19 **SEC. 403. EFFECTIVE DATES; IMPLEMENTATION.**

20 (a) **EFFECTIVE DATE.**—Except where otherwise pro-
 21 vided in this Act, the provisions of this title shall take ef-
 22 fect not later than 45 days after the date of the enactment
 23 of this Act.

24 (b) **INTERIM WORK ELIGIBILITY VERIFICATION PRO-**
 25 **GRAM.**—The provisions of section 411 of this Act, (requir-

1 ing use by employers of the Interim Work Eligibility
2 Verification Program, as extended in scope by section
3 411(b), shall be implemented not later than 12 months
4 after the date of the enactment of this Act.

5 (c) **ALIEN WORK ELIGIBILITY DATABASE.**—The pro-
6 visions of section 421 of this Act (establishing the Alien
7 Work Eligibility Database and transferring the Interim
8 Work Eligibility Program previously operated by the De-
9 partment of Homeland Security to the Social Security Ad-
10 ministration) shall be implemented not later than 24
11 months after the date of the enactment of this Act.

12 (d) **WORK ELIGIBILITY VERIFICATION SYSTEM.**—
13 The provisions of section 412 of this Act (creating the
14 Work Eligibility Verification System) shall be imple-
15 mented as follows:

16 (1) **IN GENERAL.**—The Commissioner and the
17 Secretary shall issue regulations to carry out the
18 Work Eligibility Verification System not later than
19 12 months after the date of the enactment of this
20 Act.

21 (2) **PROVISION FOR ISSUANCE OF NEW SOCIAL**
22 **SECURITY CARDS.**—Such regulations shall include
23 provision for the issuance and use of the new social
24 security cards in accordance with section 422 of this
25 Act.

1 (A) **APPLICATION PROCEDURES.**—The ap-
 2 plication procedures for new Social Security
 3 cards described in section 422 shall be imple-
 4 mented not later than 12 months after the im-
 5 plementation of the Alien Work Eligibility
 6 Database at the Social Security Administration.

7 (B) **VERIFICATION REQUIREMENTS.**—The
 8 verification requirements described in section
 9 274A(a)(1)(B) of the Immigration and Nation-
 10 ality Act, as amended by section 412 this Act,
 11 shall be effective for employers hiring—

12 (i) a noncitizen, beginning 12 months
 13 after the establishment of the Alien Work
 14 Eligibility Database; or

15 (ii) a citizen or national of the United
 16 States, not later than 10 years after the
 17 date of the enactment of this Act.

18 (3) **INDEPENDENT CONTRACTORS.**—Inde-
 19 pendent contractors shall, for purposes of implemen-
 20 tation of the verification requirements of section 412
 21 of this Act, be treated as applicants for employment.

22 (4) **PILOT PROGRAM FOR FEDERAL WORKSITES**
 23 **AND THE DISTRICT OF COLUMBIA.**—

24 (A) **IN GENERAL.**—The Secretary of
 25 Homeland Security and the Social Security

1 Commissioner, after consultation, shall imple-
2 ment the verification requirements of section
3 412 for all applicants for employment at facili-
4 ties and worksites in the United States oper-
5 ated by the Federal government, and for all em-
6 ployers in the District of Columbia, beginning
7 four years after the date of enactment of this
8 Act.

9 (B) **REPORT.**—The Secretary of Homeland
10 Security and the Social Security Commissioner
11 shall jointly submit a report to Congress evalu-
12 ating implementation of the Interim Work Eli-
13 gibility Verification Program and providing rec-
14 ommendations for full implementation of the
15 Work Eligibility Verification System within 12
16 months after implementation of the Interim
17 Program.

18 (5) **EARLY IMPLEMENTATION OPTION.**—An em-
19 ployer may elect to require that the verification re-
20 quirements of section 412 shall be effective for all
21 applicants for employment with the employer begin-
22 ning five years after the date of the enactment of
23 this Act.

1 **Subtitle B—Reform of the Work**
 2 **Eligibility Verification System**

3 **SEC. 411. BASIC PILOT PROGRAM RENAMED INTERIM**
 4 **WORK ELIGIBILITY VERIFICATION PROGRAM;**
 5 **VERIFICATION REQUIREMENT FOR INDE-**
 6 **PENDENT CONTRACTORS.**

7 (a) **RENAMING OF BASIC PILOT PROGRAM.**—The
 8 basic pilot program established under section 403(a) of
 9 the Illegal Immigration Reform and Immigrant Responsi-
 10 bility Act of 1996 (division C of Public Law 104–208; 8
 11 U.S.C. 1324a note) is hereby renamed as the “Interim
 12 Work Eligibility Verification Program”.

13 (b) **EXTENSION OF SCOPE OF PROGRAM.**—The Sec-
 14 retary of Homeland Security and the Commissioner of So-
 15 cial Security shall provide for the implementation of the
 16 Interim Work Eligibility Verification Program throughout
 17 the United States on a timely basis, consistent with sec-
 18 tion 403(b) and such Program shall continue in operation
 19 until the Commissioner certifies to the Secretary that the
 20 transfer of functions to the Work Eligibility Verification
 21 System (as created by section 412) is complete.

22 (c) **REQUIREMENT FOR USE OF EMPLOYMENT ELIGI-**
 23 **BILITY VERIFICATION.**—

24 (1) **IN GENERAL.**—Any person or other entity
 25 that hires any individual for employment in the

1 United States, or engages an independent contractor
 2 to perform services of any kind in the United States,
 3 shall participate in the Interim Work Eligibility
 4 Verification Program.

5 (2) **SANCTIONS FOR NONCOMPLIANCE.**—Section
 6 402(e) of the Illegal Immigration Reform and Immigrant
 7 Responsibility Act of 1996 (division C of Public
 8 Law 104–208; 8 U.S.C. 1324a note) is amended
 9 by striking paragraphs (2) and (3) and inserting the
 10 following new paragraph:

11 “(2) If a person or other entity is required to
 12 participate in a work eligibility confirmation pro-
 13 gram in this subsection and fails to comply with the
 14 requirements of such program with respect to an in-
 15 dividual who is subject to such program, such failure
 16 shall be treated as a violation of section
 17 274A(a)(1)(B) of the Immigration and Nationality
 18 Act with respect to that individual.”.

19 **SEC. 412. WORK ELIGIBILITY VERIFICATION SYSTEM.**

20 (a) **IN GENERAL.**—Section 274A of the Immigration
 21 and Nationality Act (8 U.S.C. 1324a(a)) is amended to
 22 read as follows:

23 **“WORK ELIGIBILITY VERIFICATION SYSTEM**

24 **“SEC. 274A. (a)(1) IN GENERAL.—**

25 **“(A) REQUIREMENTS FOR EMPLOYEES.—**No in-
 26 dividual may commence employment with an em-

1 ployer in the United States unless such individual
2 has—

3 “(i) where required by law, obtained a
4 work authorization document that has been de-
5 termined by the Commissioner of Social Secu-
6 rity to comply with the requirements of section
7 205(c)(2)(G) of the Social Security Act; and

8 “(ii) displayed such document to the em-
9 ployer pursuant to the employer’s request for
10 purposes of the verification required under sub-
11 paragraph (B).

12 **“(B) REQUIREMENTS FOR EMPLOYERS.—**

13 “(i) **IN GENERAL.**—No employer may hire
14 for employment an individual in the United
15 States in any capacity unless such employer
16 verifies under this subparagraph, where re-
17 quired by law, that such individual has in the
18 individual’s possession a work authorization
19 document described in subparagraph (A)(i) and
20 that such individual is authorized to work in
21 the United States in such capacity.

22 “(ii) **VERIFICATION PROCEDURES.**—Con-
23 firmation of authorization to work shall be
24 made by query to the Social Security Adminis-
25 tration in accordance with regulations to be

1 promulgated by the Commissioner of Social Se-
2 curity and the Secretary of Homeland Security.
3 Such regulations shall ensure against
4 fraudulent use of the documents and provide
5 for accurate, prompt, and secure verification of
6 the authorization of such individual to work in
7 the United States in such capacity. The
8 verification system so adopted shall be made
9 available at minimal cost to the employer. The
10 verification system shall at a minimum include
11 use of—

12 “(I) a card-reader verification system
13 approved by the Commissioner as capable
14 of reading the electronic identification strip
15 borne by the work authorization document;

16 “(II) telephonic and online computer
17 verification systems which shall be estab-
18 lished by the Commissioner as valid alter-
19 native verification methods; and

20 “(III) a unique transaction code to be
21 produced by the verification system and
22 provided to an employer as evidence of em-
23 ployer compliance with the requirements of
24 this paragraph, and as confirmation of the
25 employee’s work authorization.

1 “(iii) **VERIFICATION OF CITIZENS.**—In the
2 case of United States citizen or national,
3 verification means confirming the cardholder’s
4 identity and social security number with the So-
5 cial Security Administration.

6 “(iv) **VERIFICATION OF NON-CITIZENS.**—In
7 the case of a noncitizen, verification means con-
8 firming the cardholder’s identity and social se-
9 curity number with the Social Security Admin-
10 istration and confirming the cardholder’s term
11 of authorization to work in the United States
12 through the Alien Work Eligibility Database.

13 “(v) **EXCEPTION.**—The Secretary of
14 Homeland Security may, after consultation with
15 the Commissioner of Social Security and the
16 Secretary of Labor, issue regulations providing
17 for alternative work eligibility verification proce-
18 dures for United States citizens or nationals in
19 individual cases where display of a work author-
20 ization document would be a hardship, because
21 the individual is less than 18 or more than 67
22 years of age, or does not possess a required
23 document due to religious conviction, or is eligi-
24 ble for a rehabilitation or other sheltered em-
25 ployment development or assistance program.

1 Such procedures shall at a minimum require
2 compliance by the employer with the attestation
3 requirements of subsection (b) and confirmation
4 of the individual's citizenship status and social
5 security number.

6 “(vi) **ACCESS TO DATABASE.**—The Com-
7 missioner shall ensure that, by means of such
8 procedures, the employer will have such access
9 to the Alien Work Eligibility Database estab-
10 lished and operated by the Commissioner of So-
11 cial Security pursuant to section 421, so as to
12 enable the employer to verify the citizenship,
13 lawful immigration status, and work eligibility
14 information presented by an individual seeking
15 work with the employer in any capacity.

16 “(vii) **GOOD FAITH COMPLIANCE.**—Not-
17 withstanding any other provision of law, an em-
18 ployer who establishes that the employer com-
19 plied in good faith with the requirements of this
20 subparagraph shall not be liable for hiring an
21 unauthorized worker or for discharging an au-
22 thorized worker, if—

23 “(I) such hiring or discharge occurred
24 due to an error in the telephone, online, or
25 card-reader verification system or the Alien

1 Work Eligibility Database which was un-
2 known to the employer at the time of such
3 employment action; and

4 “(II) the employer, upon being in-
5 formed of the error, discharges the unau-
6 thorized worker, or rescinds the discharge
7 of the authorized worker retroactive to the
8 date such discharge occurred.

9 “(C) **SECURITY AND EFFECTIVENESS.**—The
10 regulations issued by the Commissioner of Social Se-
11 curity, in consultation with the Secretary of Home-
12 land Security, shall ensure that—

13 “(i) the telephonic and online computer
14 verification systems described in subparagraph
15 (B)(ii)(II) are as secure and reliable as the
16 card-reader verification system described in
17 subclause (I) of such subparagraph;

18 “(ii) any personal information encrypted
19 on the work authorization document is secured
20 against disclosure to unauthorized third parties;
21 and

22 “(iii) a procedure to promptly correct any
23 error in personal data maintained in the
24 verification system is available to any employee
25 or applicant for employment for whom the

1 Work Authorization Verification System has
2 been unable to initially confirm work authoriza-
3 tion.

4 “(2) **CONTINUING EMPLOYMENT.**—It is unlawful for
5 a person or other entity, after hiring an alien for employ-
6 ment in accordance with paragraph (1), to continue to em-
7 ploy the alien in the United States knowing the alien is
8 (or has become) an unauthorized alien with respect to
9 such employment.

10 “(3) **USE OF LABOR THROUGH CONTRACT.**—A person
11 or other entity who uses a contract, subcontract, or ex-
12 change, entered into, renegotiated, or extended after the
13 date of enactment of this section, to obtain the labor of
14 an alien in the United States without confirming that the
15 contractor, subcontractor, or actual employer of the alien
16 has verified the work authorization of the alien as required
17 by this section shall be considered to have hired the alien
18 for employment in the United States in violation of para-
19 graph (1)(A).

20 “(4) **APPLICATION TO GOVERNMENT ENTITIES.**—For
21 purposes of this section, the term ‘entity’ shall refer to
22 any entity of the Federal or any State government, or any
23 political subdivision thereof, and as well as any other enti-
24 ty exempted from taxation of income by a Federal or State
25 government.

1 “(b) **ELIGIBILITY VERIFICATION FORMS.**—

2 “(1) **EMPLOYER ATTESTATION OF COMPLI-**
3 **ANCE.**—The verification procedures prescribed under
4 subsection (a)(1)(B) shall include an attestation,
5 made under penalty of perjury and in a format des-
6 ignated or established by the Commissioner of Social
7 Security by regulation, that the employer has com-
8 plied with such procedures.

9 “(2) **INDIVIDUAL ATTESTATION OF EMPLOY-**
10 **MENT AUTHORIZATION.**—The individual must attest,
11 under penalty of perjury in the format designated
12 for purposes of paragraph (1), that the individual is
13 a citizen or national of the United States, an alien
14 lawfully admitted for permanent residence, or an
15 alien who is authorized by this Act or by the Sec-
16 retary of Homeland Security to be referred, re-
17 cruited, or hired for such employment. Such attesta-
18 tion must include the individual’s social security
19 number, and may be manifested by either a hand-
20 written or electronic signature.

21 “(3) **RETENTION OF VERIFICATION FORM.**—
22 After completion of such form in accordance with
23 paragraphs (1) and (2), the employer must retain a
24 paper, microfilm, or electronic version of the form
25 and make it available for inspection, as provided in

1 subparagraph (5), during a period beginning on the
2 date of the hiring, recruiting or referral of the indi-
3 vidual and ending three years after the date of re-
4 cruiting, referral without hiring, hiring, or termi-
5 nation from employment, whichever is later. The
6 verification form shall include the transaction code
7 described in subsection (a)(1)(B)(ii)(III).

8 “(4) **COPYING OF DOCUMENTATION PER-**
9 **MITTED.**—Notwithstanding any other provision of
10 law, the person or entity may copy a document as
11 presented by an individual pursuant to this sub-
12 section.

13 “(5) **LIMITATION ON USE OF ATTESTATION**
14 **FORM.**—A form designated or established by the
15 Commissioner of Social Security under this section,
16 and any information provided by an individual or
17 employer on such form, may not be used for pur-
18 poses other than implementation and enforcement of
19 the criminal, immigration, employment, social secu-
20 rity, or tax laws of the United States, or of the
21 State wherein the attestation was made.

22 “(c) **NO AUTHORIZATION OF NATIONAL IDENTIFICA-**
23 **TION CARDS.**—Nothing in this section shall be construed
24 to authorize, directly or indirectly, the issuance or use of

1 national identification cards or the establishment of a na-
2 tional identification card.

3 “(d) **ENFORCEMENT BY THE DEPARTMENT OF**
4 **HOMELAND SECURITY.**—

5 “(1) **IN GENERAL.**—The Secretary of Homeland
6 Security may assess a penalty, payable to the Sec-
7 retary, and shall issue an order to comply with Fed-
8 eral immigration law, against any employer who—

9 “(A) hires an individual for employment in
10 the United States in any capacity who is known
11 by the employer not to be authorized to work
12 in the United States in such capacity; or

13 “(B) fails to comply with the procedures
14 prescribed by the Secretary pursuant to this
15 section in connection with the employment of
16 any individual.

17 “(2) **AMOUNT.**—Such penalty shall not exceed
18 \$50,000 for each occurrence of a violation described
19 in paragraph (1) with respect to the individual, plus,
20 in the event of the removal of such individual from
21 the United States based on findings developed in
22 connection with the assessment or collection of such
23 penalty, the costs incurred by the Federal Govern-
24 ment, cooperating State and local governments, and

1 State and local law enforcement agencies, in connec-
2 tion with such removal.

3 “(3) **ACTIONS BY SECRETARY.**—If any person is
4 assessed a penalty under paragraph (1) and fails to
5 pay the assessment when due, or any person other-
6 wise fails to meet any requirement of this section,
7 the Secretary may bring a civil action in any district
8 court of the United States within the jurisdiction of
9 which such person’s assets are located or in which
10 such person resides or is found for the recovery of
11 the amount of the assessment or for appropriate eq-
12 uitable relief to redress the violation or enforce the
13 provisions of this section, and process may be served
14 in any other district. The district courts of the
15 United States shall have jurisdiction over actions
16 brought under this section by the Secretary without
17 regard to the amount in controversy.

18 “(e) **COMPLAINTS AND INVESTIGATIONS.**—

19 “(1) **IN GENERAL.**—The Secretary of Homeland
20 Security shall establish procedures for private par-
21 ties and agencies of any State or political subdivision
22 therein to file a written, signed complaint, including
23 a complaint filed in electronic form, alleging viola-
24 tions of this section, consistent with this subsection.

1 “(A) **REVIEW AND INITIAL DETERMINA-**
2 **TION.**—Each complaint shall be reviewed and a
3 determination made as to whether the com-
4 plaint, on its face, provides sufficient informa-
5 tion to identify the entity and any persons
6 claimed to be in violation of this section, and
7 whether the alleged violation occurred or is oc-
8 curring within 180 days of the date the com-
9 plaint is filed. A notice of such determination
10 shall be provided to the complainant.

11 “(B) **ENFORCEMENT INVESTIGATION.**—If
12 the review under subparagraph (A) indicates
13 that sufficient information has been provided,
14 the Secretary shall conduct a civil or criminal
15 enforcement investigation.

16 “(C) **ASSISTANCE.**—The Secretary may
17 authorize a law enforcement agency of the State
18 or local jurisdiction in which a civil or criminal
19 investigation is authorized to conduct or assist
20 in such investigation.

21 “(2) **CIVIL ENFORCEMENT BY OTHER PAR-**
22 **TIES.**—

23 “(A) **IN GENERAL.**—Any private party, or
24 an agency of any political subdivision of any
25 State, may file a civil complaint directly with

1 the Office of the Chief Administrative Hearing
2 Officer of the Department of Justice against a
3 person or entity that has recruited, hired, or
4 employed 12 or more unauthorized aliens within
5 any 365 day period.

6 “(B) **TIME OF VIOLATION.**—The alleged
7 violation shall have occurred within 180 days of
8 the date the complaint was filed.

9 “(C) **PROCEDURES FOR ADJUDICATION.**—
10 The adjudication of the complaint shall be con-
11 ducted pursuant to the requirements for admin-
12 istrative adjudication procedures established by
13 the chapter 5 of title 5, United States Code
14 (popularly known as the Administrative Proce-
15 dure Act). The complainant shall have the bur-
16 den of proof in such proceedings.

17 “(D) **RECOVERY.**—A prevailing complain-
18 ant shall be entitled to issuance of an order for
19 compliance against the entity or persons found
20 to be in violation, as well as a civil penalty with
21 damages equal to three times the amount of
22 any civil fines or monetary penalties that could
23 be levied against the entity and the persons,
24 plus reasonable attorneys’ fees and costs.

1 “(3) **AUTHORITY IN INVESTIGATIONS.**—In con-
2 ducting investigations and hearings under sub-
3 sections (d) or (e), immigration officers and admin-
4 istrative law judges shall have reasonable access to
5 examine evidence of any person or entity being in-
6 vestigated, and may compel by subpoena the attend-
7 ance of witnesses and the production of evidence at
8 any designated place or hearing. Upon application
9 by the Secretary, an appropriate district court of the
10 United States may issue an order requiring compli-
11 ance with such subpoena and any failure to obey
12 such order may be punished by such court as a con-
13 tempt thereof.

14 “(f) **APPELLATE REVIEW OF DECISIONS AND OR-**
15 **DERS.**—

16 “(1) **DEPARTMENT OF HOMELAND SECURITY**
17 **ENFORCEMENT ACTIONS.**—

18 “(A) **IN GENERAL.**—A decision by the Sec-
19 retary under subsections (d) or (e)(1) to assess
20 a civil penalty or to issue an order for compli-
21 ance shall become final unless, within 45 days
22 of the date of such decision, a party adversely
23 affected by such decision files a petition for ad-
24 ministrative review with the Office of the Chief
25 Administrative Hearing Officer of the Executive

1 Officer for Immigration Review in the Depart-
2 ment of Justice.

3 “(B) **REGULATIONS.**—The Chief Adminis-
4 trative Hearing Officer shall promulgate regula-
5 tions governing proceedings for review of the
6 petition under this paragraph.

7 “(C) **JUDICIAL REVIEW.**—A party assert-
8 ing an error of law or the infringement of a
9 right protected by the Constitution made in a
10 decision by the Office of the Chief Administra-
11 tive Hearing Officer may, within 45 days of the
12 date of such decision, file a petition for judicial
13 review in the Court of Appeals for the District
14 of Columbia Circuit.

15 “(2) **OTHER ENFORCEMENT ACTIONS.**—A deci-
16 sion by the Office of the Chief Administrative Hear-
17 ing Officer under subsection (e)(2) to issue an order
18 for compliance or to assess a civil penalty or dam-
19 ages shall become final unless, within 45 days of the
20 date of such decsiion, a party adversely affected by
21 such decision files a petition for judicial review in
22 the United States district court for the judicial dis-
23 trict wherein the entity or person that is the subject
24 to the complaint is domiciled.

1 “(g) **PROHIBITION OF INDEMNITY BONDS.**—It is un-
2 lawful for a person or other entity, in the hiring, recruit-
3 ing, or referring for employment of any individual, to re-
4 quire the individual to post a bond or security, or other-
5 wise to provide or agree to provide any financial guarantee
6 or indemnity against any potential liability arising under
7 this section.

8 “(h) **MISCELLANEOUS PROVISIONS.**—

9 “(1) **DOCUMENTATION.**—In providing docu-
10 mentation or endorsement of authorization of any
11 alien for employment in the United States, the Sec-
12 retary shall provide that any limitation with respect
13 to the duration or type of employment or employer
14 shall be conspicuously stated on the documentation.

15 “(2) **PREEMPTION.**—The provisions of this sec-
16 tion do not preempt any State or local law that may
17 impose additional or increased civil or criminal pen-
18 alties upon those who recruit, hire, employ or shelter
19 unauthorized aliens in violation of Federal law.

20 “(3) **DEFINITIONS.**—For purposes of this sec-
21 tion:

22 “(A) The term ‘authorized to work in the
23 United States’, when applied to an individual,
24 means that the individual is not an unauthor-
25 ized alien.

1 “(B) The term ‘employer’ means—

2 “(i) any person or entity who hires an
3 individual; or

4 “(ii) any individual earning self-em-
5 ployment income (as defined in section
6 211(b) of the Social Security Act (42
7 U.S.C. 411(b))).

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

11 “(D) The term ‘hire’ means to recruit,
12 refer, or hire an individual for employment in
13 the United States.

14 “(E) The term ‘unauthorized alien’ means,
15 with respect to the employment of an alien at
16 a particular time, that the alien is not at that
17 time—

18 “(i) an alien lawfully admitted for
19 permanent residence; or

20 “(ii) otherwise authorized to be so em-
21 ployed by this Act or by the Secretary of
22 Homeland Security.

23 “(F) The term ‘work authorization docu-
24 ment’ means—

1 “(i) in the case of a citizen or national
2 of the United States, a social security card
3 described in section 205(c)(2)(G)(ii) of the
4 Social Security Act (42 U.S.C.
5 405(c)(2)(G)(ii)), as amended by this Act,
6 or a State driver’s license or identification
7 card that has been certified pursuant to
8 section 202(a)(2) of the REAL ID Act of
9 2005 (Public Law 109–13) and is compat-
10 ible with the card-reader verification sys-
11 tem described in subsection
12 (a)(1)(B)(ii)(I); or

13 “(ii) in the case of a noncitizen, a so-
14 cial security card described in section
15 205(c)(2)(G)(iii) of the Social Security
16 Act, as amended.”.

17 (b) INVESTIGATION NOT A WARRANTLESS ENTRY.—
18 Section 287(e) of the Immigration and Nationality Act (8
19 U.S.C. 1357(e)) is amended by adding at the end the fol-
20 lowing: “An investigation authorized pursuant to sub-
21 sections (d) or (e) of section 274A is not a warrantless
22 entry.”.

1 **SEC. 413. PROTECTION FOR UNITED STATES WORKERS AND**
 2 **INDIVIDUALS REPORTING IMMIGRATION LAW**
 3 **VIOLATIONS.**

4 Section 274B(a) of the Immigration and Nationality
 5 Act (8 U.S.C. 1324b(a)) is amended by adding at the end
 6 the following:

7 “Notwithstanding any other provision of law, the
 8 rights protected by this paragraph include the right
 9 of any individual to report a violation or suspected
 10 violation of any immigration law to the Department
 11 of Homeland Security or a law enforcement agen-
 12 cy.”.

13 **SEC. 414. INADMISSIBILITY FOR FAILURE TO PRESENT**
 14 **DOCUMENTATION OF WORK ELIGIBILITY.**

15 Section 212(a)(9)(B)(i) of the Immigration and Na-
 16 tionality Act (8 U.S.C. 1182(a)(9)(B)) is amended—

17 (1) in subclause (I), by striking “or” at the
 18 end;

19 (2) in subclause (II), by adding “or” at the
 20 end; and

21 (3) by inserting after subclause (II) the fol-
 22 lowing new subclause:

23 “(III) commenced employment
 24 without complying with the require-
 25 ments of section 274A(a)(1)(A),”.

1 **Subtitle C—Work Eligibility**
2 **Verification Reform in the So-**
3 **cial Security Administration**

4 **SEC. 421. ALIEN WORK ELIGIBILITY DATABASE.**

5 (a) **IN GENERAL.**—The Commissioner for Social Se-
6 curity shall establish and maintain an Alien Work Eligi-
7 bility Database.

8 (b) **CONTENTS OF DATABASE.**—The Database shall
9 include data comprised of the immigration and work au-
10 thorization status (including expiration dates) of individ-
11 uals and the work and residency eligibility information (in-
12 cluding expiration dates) with respect to individuals who
13 are not citizens or nationals of the United States but are
14 authorized to work in the United States. Such data shall
15 incorporate the employment authorization information,
16 processes and procedures maintained by the Department
17 of Homeland Security for the operation of the Work Eligi-
18 bility Verification System, as established pursuant to sec-
19 tion 274A of the Immigration and Nationality Act (8
20 U.S.C. 1324a), as amended by section 412.

21 (c) **OPERATION OF DATABASE.**—The Commissioner
22 shall maintain ongoing consultations with the Secretary
23 of Homeland Security to ensure efficient and effective
24 transfer and maintenance of the Database.

1 (d) INCORPORATION OF ONGOING PILOT PRO-
 2 GRAMS.—The Alien Work Eligibility Database shall incor-
 3 porate the information, processes, and procedures em-
 4 ployed in connection with the Interim Work Eligibility
 5 Verification Program, as designated by section 411 of this
 6 Act, into the operation and maintenance of the Database
 7 under subsection (a).

8 **SEC. 422. ANTI-FRAUD MEASURES FOR SOCIAL SECURITY**
 9 **CARDS.**

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

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

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

15 (3) by adding at the end the following new
 16 clauses:

17 “(ii) In addition to the requirements de-
 18 scribed in clause (i), the Social Security card
 19 shall be a machine-readable, tamper-resistant
 20 document, incorporating at a minimum the pho-
 21 tograph, security features and machine readable
 22 technology and data elements required to meet
 23 the minimum standards for Federal use pre-
 24 scribed for State identification cards in Section
 25 202 of the REAL ID Act of 2005, Public Law

1 109–12. The Commissioner shall specify the re-
2 quired machine-readable technology in consulta-
3 tion with the Secretary of Homeland Security,
4 so as to enable employers to use the Work Au-
5 thorization Document, in conformance with the
6 employment eligibility verification procedures of
7 sections 274A of the Immigration and Nation-
8 ality Act and section 421 of the TRUE En-
9 forcement and Border Security Act of 2005, to
10 request and obtain verification of work author-
11 ization, with respect to the individual to whom
12 the card has been issued.

13 “(iii) Social Security cards issued to non-
14 citizens shall have, in addition to the character-
15 istics described in clauses (i) and (ii), a dif-
16 ferent color or other readily distinguishable fea-
17 ture than cards that are issued to United
18 States citizens and shall be compatible with
19 document authentication standards required for
20 verification of immigration documents by sec-
21 tion 303(b)(1) of the Enhanced Border Security
22 and Visa Entry Reform Act of 2002 (Public
23 Law 107–173).

24 “(iv) Each Social Security card issued
25 under this subparagraph shall contain physical

1 security features designed to prevent tampering,
2 counterfeiting, or duplication of the card for
3 fraudulent purposes. The Commissioner shall
4 maintain an ongoing program to develop meas-
5 ures in relation to the Social Security card and
6 the issuance thereof to preclude fraudulent use
7 thereof.

8 “(v) The Commissioner shall provide for
9 the issuance (or reissuance) of a Social Security
10 card which meets the preceding requirements of
11 this subparagraph to each individual who—

12 “(I) has been assigned a Social Secu-
13 rity account number under subparagraph
14 (B),

15 “(II) has attained the minimum age
16 applicable, in the jurisdiction in which such
17 individual engages in employment, for le-
18 gally engaging in such employment, and

19 “(III) files an application for such
20 card under this clause in such form and
21 manner as shall be prescribed by the Com-
22 missioner.”.

1 **SEC. 423. NOTIFICATION BY COMMISSIONER OF FAILURE**
2 **TO CORRECT SOCIAL SECURITY INFORMA-**
3 **TION.**

4 The Commissioner of Social Security shall promptly
5 notify the Secretary of Homeland Security of the failure
6 of any individual to provide, upon any request of the Com-
7 missioner made pursuant to section 205(c)(2) of the Social
8 Security Act (42 U.S.C. 405(c)(2)), evidence necessary,
9 under such section to—

- 10 (1) establish the age, citizenship, immigration
11 or work eligibility status of the individual;
12 (2) establish such individual's true identity;
13 (3) determine which (if any) social security ac-
14 count number has previously been assigned to such
15 individual.

16 **SEC. 424. RESTRICTION ON ACCESS AND USE; NO NATIONAL**
17 **IDENTIFICATION CARD.**

18 Section 405(c)(2) of the Social Security Act (42
19 U.S.C. 405(c)(2) is amended by adding at the end the fol-
20 lowing new subparagraph:

21 “(I)(i) Access to any information contained
22 in the Alien Work Eligibility Database shall be
23 prohibited for any purpose other than the ad-
24 ministration or enforcement of Federal immi-
25 gration, social security, and tax laws, unless
26 otherwise authorized by Federal law.

1 “(ii) Nothing in this Act may be construed
2 to require the presentment of a social security
3 card for any purpose other than administration
4 or enforcement of the social security and immi-
5 gration laws of the United States, or to estab-
6 lish the social security card as a national identi-
7 fication (ID) card.

8 “(J) No person or entity may—

9 “(i) use the information in the Alien
10 Work Eligibility Database for any purpose
11 other than as permitted by Federal law; or

12 “(ii) require that any person present
13 or carry on his person a social security
14 card for any purpose other than as per-
15 mitted by Federal law.

16 Whoever knowingly uses, discloses, publishes, or
17 permits the unauthorized use of information in
18 the Alien Work Eligibility Database in violation
19 of this section shall be fined not more than
20 \$10,000, by the Social Security Administration.
21 Sixty percent of any such fine imposed shall be
22 awarded to each individual injured by such vio-
23 lation.”.

1 **SEC. 425. SHARING OF INFORMATION WITH THE COMMIS-**
2 **SIONER OF INTERNAL REVENUE SERVICE.**

3 Section 405(c)(2)(H) of the Social Security Act (42
4 U.S.C. 605(c)(2)(H)) is amended to read as follows:

5 “(H) The Commissioner of Social Security
6 shall share with the Secretary of the Treas-
7 ury—

8 “(i) the information obtained by the
9 Commissioner pursuant to the second sen-
10 tence of subparagraph (B)(ii) and to sub-
11 paragraph (C)(ii) for the purpose of ad-
12 ministering those sections of the Internal
13 Revenue Code of 1986 that grant tax bene-
14 fits based on support or residence of chil-
15 dren;

16 “(ii) information relating to the detec-
17 tion of wages or income from self-employ-
18 ment of unauthorized aliens (as defined by
19 section 274 of the Immigration and Na-
20 tionality Act (8 U.S.C. 1324a)), or the in-
21 vestigation of false statements or fraud by
22 such persons incident to administration of
23 the immigration, social security, or tax
24 laws of the United States; and

25 “(iii) information disclosed under this
26 subparagraph shall be solely for the use of

1 the officers and employees to whom such
2 information is disclosed in such response
3 or investigation.”.

4 **SEC. 426. SHARING OF INFORMATION WITH THE SEC-**
5 **RETARY OF HOMELAND SECURITY.**

6 Section 405(c)(2) of the Social Security Act (42
7 U.S.C. 405(c)(2)), as amended by section 424, is amended
8 by adding at the end the following new subparagraph:

9 “(K) Upon the issuance of a Social Secu-
10 rity account number under subparagraph (B) to
11 any individual or the issuance of a Social Secu-
12 rity card under subparagraph (G) to any indi-
13 vidual, the Commissioner of Social Security
14 shall transmit to the Secretary of Homeland Se-
15 curity such information received by the Com-
16 missioner in the individual’s application for
17 such number or such card as such Secretary de-
18 termines necessary and appropriate for admin-
19 istration of the immigration or social security
20 laws of the United States.”.

1 **Subtitle D—Work Eligibility**
2 **Verification System Reform in**
3 **the Internal Revenue Agency**

4 **SEC. 431. SHARING OF INFORMATION WITH THE SEC-**
5 **RETARY OF HOMELAND SECURITY AND THE**
6 **COMMISSIONER OF SOCIAL SECURITY.**

7 Section 6103(i) of the Internal Revenue Code of 1986
8 is amended by adding at the end the following new para-
9 graph:

10 “(9) **DISCLOSURE OF INFORMATION RELATING**
11 **TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—**

12 “(A) Upon receipt by the Secretary of a
13 written request, by the Secretary of Homeland
14 Security, or the Social Security Commissioner,
15 the Secretary shall disclosure return informa-
16 tion to officers and employees of such agency
17 who are personally and directly—

18 “(i) engaged in preparation for any
19 judicial or administrative civil or criminal
20 enforcement proceeding against an alien
21 under the Immigration and Nationality Act
22 (8 U.S.C. 1101 et seq), other than the ad-
23 judication of any application for a change
24 in immigration status or other benefit by
25 such alien, or

1 “(ii) preparation for a civil or criminal
2 enforcement proceeding against a citizen or
3 national of the United States under sec-
4 tions 274, 274A, or 274C of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1324,
6 1324a, or 1324c), or

7 “(iii) any investigation which may re-
8 sult in such a proceeding.

9 “(B) **LIMITATION ON USE OF INFORMA-**
10 **TION.—**

11 “(i) Information disclosed under this
12 paragraph shall be solely for the use of the
13 officers and employees to whom such infor-
14 mation is disclosed in such response or in-
15 vestigation.

16 “(ii) Should the proceeding for which
17 such information has been disclosed not
18 commence within two years after the date
19 on which the information was disclosed by
20 the Secretary, the such information shall
21 be returned to the Secretary in its entirety,
22 and shall not be retained in any form by
23 the requestor, unless the taxpayer is noti-
24 fied in writing as to the information that
25 has been retained.”.

1 **SEC. 432. INELIGIBILITY FOR NONRESIDENT ALIEN TAX**
2 **STATUS.**

3 Section 7701(b)(1) of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 subparagraph:

6 “(C)(i) An alien who is present in the
7 United States while working in any capacity in
8 violation of section 274A of the Immigration
9 and Nationality Act (8 U.S.C. 1324a) during
10 any portion of a calendar year shall be treated
11 as an undocumented alien with respect to such
12 calendar year.

13 “(ii) Such an undocumented alien shall not
14 be eligible for nonresident alien tax status dur-
15 ing such calendar year.

16 “(iii) The Secretary shall provide the Sec-
17 retary of Homeland Security and the Social Se-
18 curity Commissioner with information sufficient
19 to establish the identity and last known address
20 of any undocumented alien identified by the
21 Secretary.”.

22 **SEC. 433. UNLAWFUL USE OF INDIVIDUAL TAXPAYER IDEN-**
23 **TIFICATION NUMBERS.**

24 Chapter 75 of the Internal Revenue Code of 1986 is
25 amended by inserting after section 7217 the following:

1 **“SEC. 7218. PROHIBITED USES OF TAXPAYER IDENTIFICA-**
 2 **TION NUMBERS.**

3 “(a) It is unlawful for a person to request or use for
 4 any purpose the taxpayer identification number (TIN) as-
 5 signed to an alien described in section 7701(b)(1), other
 6 than a resident alien described in subparagraph (A), ex-
 7 cept where required by regulation, or requested for admin-
 8 istration of the tax laws by an officer or employee of the
 9 Internal Revenue Service.

10 “(b) Any person who willfully violates this section
 11 shall be guilty of a misdemeanor and, upon conviction
 12 thereof, shall be punished by a fine of not more than
 13 \$2,000 or imprisonment for not more than 1 year, or
 14 both.”.

15 **SEC. 434. NO DEDUCTION ALLOWED FOR COMPENSATION**
 16 **PAID TO UNAUTHORIZED WORKERS.**

17 (a) **IN GENERAL.**—Section 162(c)(2) of the Internal
 18 Revenue Code of 1986 is amended by adding at the end
 19 the following new paragraph:

20 “(4) **WAGES PAID TO OR ON BEHALF OF UNAU-**
 21 **THORIZED ALIENS.**—

22 “(A) **IN GENERAL.**—No deduction shall be
 23 allowed under subsection (a) for any recruiting
 24 expense or wage paid to or behalf of an unau-
 25 thorized alien, as defined under section
 26 274A(h)(3) of the Immigration and Nationality

1 Act (8 U.S.C. 1324a(h)(3)), unless the alien’s
 2 eligibility for employment was first verified
 3 through the Alien Work Eligibility Verification
 4 System, as implemented by the TRUE Enforce-
 5 ment and Border Security Act of 2005.

6 “(B) **DEFINITIONS.**—For the purposes of
 7 this paragraph:

8 “(i) The term ‘recruiting expense’
 9 means any payment made to a third party
 10 to identify, recruit, or prepare an indi-
 11 vidual for employment.

12 “(ii) The term ‘wages’ means all re-
 13 munerations for employment, including the
 14 cash value of all remuneration (to include
 15 benefits) paid in any medium other than
 16 cash.”.

17 (b) **7-YEAR LIMITATION ON ASSESSMENT AND COL-**
 18 **LECTION.**—Subsection (c) of section 6501 of such Code
 19 (relating to exceptions) is amended by adding at the end
 20 the following new paragraph:

21 “(10) **DEDUCTION CLAIMED FOR RECRUITING**
 22 **EXPENSE OR WAGES OF UNAUTHORIZED ALIENS.**—
 23 In the case of a return of tax on which a deduction
 24 is shown in violation of section 162(c)(4), any tax
 25 under chapter 1 may be assessed, or a proceeding

1 for the collection of such tax may be begun without
 2 assessment, at any time within 7 years after the re-
 3 turn is filed.”.

4 (c) **AVAILABILITY OF INFORMATION.**—The Commis-
 5 sioner of Social Security shall make available to the Com-
 6 missioner of Internal Revenue any information related to
 7 the investigation and enforcement of section 162(c)(4) of
 8 the Internal Revenue Code of 1986, including any no-
 9 match letter and any information in the suspense earnings
 10 file.

11 (d) **EFFECTIVE DATE.**—The amendments made by
 12 subsections (a) and (b) shall apply to taxable years begin-
 13 ning with the first taxable year beginning at least 365
 14 days after enactment of this Act.

15 **Subtitle E—Identification**

16 **Document Integrity**

17 **SEC. 441. CONSULAR IDENTIFICATION DOCUMENTS.**

18 (a) **ACCEPTANCE OF FOREIGN IDENTIFICATION DOC-**
 19 **UMENTS.**—

20 (1) **IN GENERAL.**—For purposes of personal
 21 identification, no agency, commission, entity, or
 22 agent of the executive or legislative branches of the
 23 Federal Government may accept, acknowledge, rec-
 24 ognize, or rely on any identification document issued
 25 by a foreign government, unless otherwise mandated

1 by Federal law. For purposes of this section, an
2 agent shall include:

3 (A) a Federal contractor or grantee; or

4 (B) an institution or entity exempted from
5 Federal income taxation under the Internal
6 Revenue Code of 1986.

7 (2) **EXCEPTIONS.**—

8 (A) **IN GENERAL.**—A person who is not a
9 citizen or national of the United States may
10 present for personal identification purposes an
11 official identification document issued by a for-
12 eign government, or other foreign identification
13 document recognized by treaty, if—

14 (i) such noncitizen also simultaneously
15 presents valid verifiable documentation of
16 lawful presence in the United States issued
17 by an agency of the Federal Government;

18 (ii) reporting a violation of law or
19 seeking government assistance in an emer-
20 gency; or

21 (iii) such use is expressly permitted by
22 Federal law.

23 (B) **NONAPPLICATION.**—The provisions of
24 paragraph (1) shall not apply to—

1 (i) inspections of alien applicants for
2 admission to the United States; or

3 (ii) verification of personal identifica-
4 tion outside the United States.

5 (3) **LISTING OF ACCEPTABLE DOCUMENTS.**—

6 The Secretary of Homeland Security shall issue,
7 maintain in printed and electronic media, and dis-
8 seminate to the public at no cost an updated listing,
9 compiled in consultation with the Secretary of State,
10 and including sample facsimiles, of all acceptable
11 Federal documents that satisfy the requirements of
12 paragraph (2)(A). Such listing may, at the discre-
13 tion of the Secretary of Homeland Security, include
14 a similar listing of documents establishing employ-
15 ment authorization or identity under section
16 274A(b) of the Immigration and Nationality Act (8
17 U.S.C. 1324a(b)).

18 (b) **ESTABLISHMENT OF PERSONAL IDENTITY.**—Sec-
19 tion 274C of the Immigration and Nationality Act (8
20 U.S.C. 1324c) is amended—

21 (1) in subsection (a)—

22 (A) by redesignating paragraph (6) as
23 paragraph (7); and

24 (B) by inserting after paragraph (5) the
25 following new paragraph:

1 “(6) to use to establish personal identity, before
2 any agent of the Federal Government, or before any
3 agency of the Federal Government or of a State or
4 any political subdivision therein, a travel or identi-
5 fication document issued by a foreign government
6 that is not accepted by the Secretary of Homeland
7 Security to establish personal identity for purposes
8 of admission to the United States at a port of entry,
9 except where a person who is not a citizen of the
10 United States (A) simultaneously presents valid
11 verifiable documentation of lawful presence in the
12 United States issued by an agency of the Federal
13 Government, or (B) is reporting a violation of law
14 or seeking government assistance in an emergency,
15 or (C) such use is expressly permitted by Federal
16 law.”; and

17 (2) in subsection (d)—

18 (A) by redesignating paragraphs (2)
19 though (7) as paragraphs (3) through (8), re-
20 spectively; and

21 (B) by inserting after paragraph (1) the
22 following new paragraph:

23 “(2) **CIVIL COMPLAINT PROCEDURE.**—

24 “(A) The Secretary of Homeland Security
25 shall establish procedures to file a written,

1 signed complaint, which may be submitted in
2 electronic form, alleging a violation of sub-
3 section (a). A complaint may be filed by a state
4 or local government agency, or by a private
5 party injured by a violation of subsection (a).

6 “(B) Each complaint filed shall be re-
7 viewed and a determination made as to whether
8 the complaint, on its face, provides sufficient in-
9 formation to identify the entity and any persons
10 claimed to be in violation of this section, to
11 identify the prohibited activity, and whether the
12 alleged violation occurred or is occurring within
13 180 days of the date the complaint was filed. A
14 notice of such determination shall be provided
15 to the complainant.

16 “(C) If the review under paragraph (2) in-
17 dicates that sufficient information has been pro-
18 vided, the Secretary shall conduct a civil or
19 criminal enforcement investigation.

20 “(D) The Secretary may authorize a law
21 enforcement agency of the state or local juris-
22 diction in which a civil or criminal investigation
23 is authorized to conduct or assist in such inves-
24 tigation.”.

1 (c) **QUALIFIED IMMUNITY**.—Actions taken in viola-
 2 tion of subsection (a) of this section, or section 274C of
 3 the Immigration and Nationality Act (8 U.S.C. 1324c),
 4 as amended by subsection (b), shall be deemed outside the
 5 official capacity of the elected official or officer, employee,
 6 or agent of a Federal agency so acting.

7 **SEC. 442. MACHINE-READABLE TAMPER-RESISTANT IMMI-**
 8 **GRATION DOCUMENTS.**

9 Section 303 of the Enhanced Border Security and
 10 Visa Entry Reform Act of 2002 (Public Law 107–173)
 11 (8 U.S.C. 1732) is amended—

12 (1) in the header, by striking “**ENTRY AND**
 13 **EXIT DOCUMENTS**” and inserting “**TRAVEL AND**
 14 **ENTRY DOCUMENTS AND EVIDENCE OF STA-**
 15 **TUS**”;

16 (2) in subsection (b)(1)—

17 (A) by striking “Not later than October
 18 26, 2004, the Attorney General” and inserting
 19 “The Secretary of Homeland Security”; and

20 (B) by striking “visas and” each place it
 21 appears and inserting “visas, evidence of status,
 22 and”; and

23 (3) by striking subsection (d); and inserting
 24 after subsection (c) the following new subsections:

1 “(d) **OTHER DOCUMENTS.**—Not later than October
2 26, 2007, every document, other than an interim docu-
3 ment, issued by the Department of Homeland Security,
4 which may be used as evidence of immigrant, non-
5 immigrant, parole, asylee, or refugee status, shall be ma-
6 chine-readable, tamper-resistant, and incorporate a bio-
7 metric identifier to allow the Department of Homeland Se-
8 curity to electronically verify the identity and status of the
9 alien.

10 “(e) **AUTHORIZATION OF APPROPRIATIONS.**—

11 “(1) **IN GENERAL.**—There are authorized to be
12 appropriated such sums as may be necessary to
13 carry out this section, including reimbursements to
14 international and domestic standards organizations.

15 “(2) **FEE.**—During any fiscal year for which
16 appropriations sufficient to issue documents de-
17 scribed in subsection (d) have not been made by
18 Congress, the Secretary is authorized to implement
19 and collect a fee sufficient to cover the direct cost
20 of issuance of such document from the alien to
21 whom the document will be issued.

22 “(3) **EXCEPTION.**—The fee described in para-
23 graph (2) may not be levied against nationals of a
24 foreign state, where the Secretary has determined
25 that the total estimated population of such state who

1 are unlawfully present in the United States does not
2 exceed 3,000 aliens.”.

3 **SEC. 443. BIRTH CERTIFICATES.**

4 (a) **MINIMUM STANDARDS FOR FEDERAL RECOGNI-**
5 **TION.—**

6 (1) **IN GENERAL.**—A Federal agency may not
7 accept, for any official purpose, a birth certificate
8 issued by a State to any person unless the State sat-
9 isfies the requirements of this section.

10 (2) **STATE CERTIFICATIONS.**—The Secretary of
11 Homeland Security shall determine whether a State
12 is meeting the requirements of this section based on
13 certifications made by the State to the Secretary.
14 Such certifications shall be made at such times and
15 in such manner as the Secretary, in consultation
16 with the Secretary of Health and Human Services,
17 may prescribe by regulation.

18 (3) **MINIMUM DOCUMENT STANDARDS.**—

19 (A) **IN GENERAL.**—Each birth certificate
20 issued to a person by the State shall be printed
21 on safety paper and shall include the seal of the
22 issuing custodian of record and such other fea-
23 tures as the Secretary determines necessary to
24 prevent tampering, counterfeiting, or otherwise
25 duplicating the birth certificate for fraudulent

1 purposes. The Secretary may not require birth
2 certificates issued by all States to conform to a
3 single design.

4 (B) **ELECTRONIC ISSUANCE AND TRACKING**
5 **SYSTEM.**—The Secretary of Homeland Security,
6 in consultation with the Secretary of Health
7 and Human Services and the Commissioner of
8 Social Security, shall develop an electronic sys-
9 tem for issuing and tracking birth certificates
10 so that entities requiring such documents can
11 quickly confirm their validity.

12 (4) **MINIMUM ISSUANCE STANDARDS.**—

13 (A) **IN GENERAL.**—Before issuing an au-
14 thenticated copy of a birth certificate of any
15 child, a State shall require the requestor to pro-
16 vide, and shall verify—

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

19 (ii) the date and location of the child's
20 birth;

21 (iii) the maiden name of the child's
22 mother; and

23 (iv) substantial proof of the reques-
24 tor's identity.

1 (B) **ISSUANCE TO PERSONS NOT NAMED**
2 **ON BIRTH CERTIFICATE.**—A State shall not
3 issue a birth certificate to a requestor who is
4 not named on the birth certificate unless the re-
5 questor presents legal authorization in support
6 of the request.

7 (C) **ISSUANCE TO FAMILY MEMBERS.**—Not
8 later than 1 year after the date of enactment of
9 this Act, the Secretary, in consultation with the
10 Secretary of Health and Human Services and
11 appropriate State representatives, shall estab-
12 lish minimum standards for issuance of a birth
13 certificate to specific family members, their au-
14 thorized representatives, and others who dem-
15 onstrate that the certificate is needed for the
16 protection of the requestor's personal or prop-
17 erty rights.

18 (D) **WAIVERS.**—A State may waive the re-
19 quirements set forth in subparagraphs (A)
20 through (C) in exceptional circumstances, such
21 as the incapacitation of the registrant.

22 (E) **APPLICATION BY ELECTRONIC**
23 **MEANS.**—A State shall employ third party
24 verification, or equivalent verification, of the
25 identity of the requestor for applications by

1 electronic means, through the mail, or by phone
2 or fax.

3 (F) **VERIFICATION OF DOCUMENTS.**—A
4 State shall verify the documents used to provide
5 proof of identity of the requestor.

6 (5) **EFFECTIVE DATE.**—This subsection shall
7 take effect on May 11, 2008.

8 (b) **APPLICABILITY OF MINIMUM STANDARDS TO**
9 **LOCAL GOVERNMENTS.**—The minimum standards set
10 forth in subsection (a) for birth certificates issued by a
11 State shall apply to birth certificates issued by a local gov-
12 ernment in the State. It shall be the responsibility of the
13 State to ensure that local governments in the State comply
14 with the minimum standards.

15 (c) **OTHER REQUIREMENTS.**—When issuing and ad-
16 ministering birth certificates, each State shall—

17 (1) establish and implement minimum building
18 security standards for State and local vital record
19 offices;

20 (2) restrict public access to birth certificates
21 and information gathered in the issuance process to
22 ensure that access is restricted to entities with which
23 the State has a binding privacy protection agree-
24 ment;

1 (3) subject all persons with access to vital
2 records to appropriate security clearance require-
3 ments;

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

7 (5) establish and implement internal operating
8 system standards for paper and for electronic sys-
9 tems;

10 (6) establish a central database that can pro-
11 vide interoperative data exchange with other States
12 and with Federal agencies, subject to privacy restric-
13 tions and confirmation of the authority and identity
14 of the requestor;

15 (7) ensure that birth and death records are
16 matched in a comprehensive and timely manner, and
17 that all electronic birth records and paper birth cer-
18 tificates of decedents are marked deceased; and

19 (8) cooperate with the Secretary in the imple-
20 mentation of electronic verification of vital events
21 under subsection (f).

22 (d) **VERIFICATION OF BIRTH RECORDS PROVIDED IN**
23 **SOCIAL SECURITY APPLICATIONS.—**

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

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

5 (B) by adding at the end the following new
 6 subclause:

7 “(II) With respect to an applica-
 8 tion for a social security account num-
 9 ber for an individual, other than for
 10 purposes of enumeration at birth, the
 11 Commissioner shall require inde-
 12 pendent verification of any birth
 13 record provided by the applicant in
 14 support of the application.”.

15 (2) **EFFECTIVE DATE.**—The amendment made
 16 by subsection (a) shall take effect and apply with re-
 17 spect to applications filed on or after the date that
 18 is 180 days after the date of the enactment of this
 19 Act.

20 (e) **ELECTRONIC BIRTH AND DEATH REGISTRATION**
 21 **SYSTEMS.**—In consultation with the Secretary of Health
 22 and Human Services and the Commissioner of Social Se-
 23 curity, the Secretary of Homeland Security shall—

24 (1) work with the States to establish a common
 25 data set and common data exchange protocol for

1 electronic birth registration systems and death reg-
2 istration systems;

3 (2) coordinate requirements for such systems to
4 align with a national model;

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

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

15 (5) establish uniform field requirements for
16 State birth registries;

17 (6) not later than six months after the date of
18 the enactment of this Act, submit to Congress a re-
19 port examining whether there is a need for Federal
20 laws to address penalties for fraud and misuse of
21 vital records and whether violations are sufficiently
22 enforced;

23 (7) not later than one year after the date of the
24 enactment of this Act—

1 (A) establish a process with the Secretary
2 of Defense that will result in the sharing of
3 data, with the States and the Social Security
4 Administration, regarding deaths of United
5 States military personnel and the birth and
6 death of their dependents; and

7 (B) establish a process with the Secretary
8 of State to improve registration, notification,
9 and the sharing of data with the States and the
10 Social Security Administration, regarding births
11 and deaths of United States citizens abroad;
12 and

13 (8) not later than three years after the date of
14 the establishment of databases provided for under
15 this section, require States to record and retain elec-
16 tronic records of pertinent identification information
17 collected from requesters who are not the reg-
18 istrants.

19 (f) **ELECTRONIC VERIFICATION OF VITAL EVENTS.**—

20 (1) **LEAD AGENCY.**—The Secretary of Health
21 and Human Services shall lead the implementation
22 of electronic verification of a person's birth and
23 death.

24 (2) **REGULATIONS.**—In carrying out paragraph
25 (1), such Secretary shall promulgate regulations to

1 establish a means by which authorized Federal and
2 State agency users with a single interface will be
3 able to generate an electronic query to any partici-
4 pating vital records jurisdiction throughout the
5 United States to verify the contents of a paper birth
6 certificate. Pursuant to the regulations, an electronic
7 response from the participating vital records juris-
8 diction as to whether there is a birth record in the
9 database of such jurisdiction that matches the paper
10 birth certificate will be returned to the user, along
11 with an indication if the matching birth record has
12 been marked as deceased. The regulations shall take
13 effect not later than five years after the date of the
14 enactment of this Act.

15 (g) **GRANTS TO STATES AND LOCAL GOVERN-**
16 **MENTS.—**

17 (1) **IN GENERAL.**—The Secretary of Homeland
18 Security may make grants to a State or local gov-
19 ernment to assist the State or local government to
20 conform to the minimum standards set forth in this
21 section.

22 (2) **AUTHORIZATION OF APPROPRIATIONS.—**
23 There are authorized to be appropriated to such Sec-
24 retary for each of the fiscal years 2007 through

1 2011 such sums as may be necessary to carry out
2 this section.

3 (h) **AUTHORITY.**—

4 (1) **PARTICIPATION WITH FEDERAL AGEN-**
5 **CIES.**—All authority to issue regulations, certify
6 standards, and issue grants under this section shall
7 be carried out by the Secretary, with the concur-
8 rence of the Secretary of Health and Human Serv-
9 ices and in consultation with State vital statistics of-
10 fices and appropriate Federal agencies.

11 (2) **EXTENSION OF DEADLINES.**—The Sec-
12 retary may grant to a State an extension of time to
13 meet the requirements of subsection (b)(1)(A) of
14 this section if, in the discretion of the Secretary, the
15 State provides adequate justification for noncompli-
16 ance.

17 (i) **REPEAL.**—Section 7211 of the Intelligence Re-
18 form and Terrorism Prevention Act of 2004 (Public Law
19 108–458) is repealed.

1 **Subtitle F—Limitations on Illegal**
 2 **Alien Collection of Social Security**

3 **SEC. 451. EXCLUSION OF UNAUTHORIZED EMPLOYMENT**
 4 **FROM EMPLOYMENT UPON WHICH CRED-**
 5 **ITABLE WAGES MAY BE BASED.**

6 Section 210(a)(19) of the Social Security Act (42
 7 U.S.C. 410(a)(19)) is amended—

8 (1) by striking “(19) Service” and inserting the
 9 following:

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

13 “(B) Service”.

14 **SEC. 452. EXCLUSION OF UNAUTHORIZED FUNCTIONS AND**
 15 **SERVICES FROM TRADE OR BUSINESS FROM**
 16 **WHICH CREDITABLE SELF-EMPLOYMENT IN-**
 17 **COME MAY BE DERIVED.**

18 Section 211(c) of the Social Security Act (42 U.S.C.
 19 411(c)) is amended by inserting after paragraph (6) the
 20 following new paragraph:

21 “(7) The performance of a function or service
 22 in the United States by an alien during any period
 23 for which the alien is not authorized to perform such
 24 function or service in the United States.”.

1 **SEC. 453. EFFECTIVE DATE.**

2 The amendments made by this subtitle shall apply
 3 with respect to wages earned, and self-employment income
 4 derived, before, on, or after the date of the enactment of
 5 this Act. Notwithstanding section 215(f)(1) of the Social
 6 Security Act (42 U.S.C. 415(f)(1)), as soon as practicable
 7 after the date of the enactment of this Act, the Commis-
 8 sioner of Social Security shall recompute all primary in-
 9 surance amounts to the extent necessary to carry out such
 10 amendments. Such amendments shall affect benefits only
 11 for months after the date of the enactment of this Act.

12 **SEC. 454. AUTHORIZED APPROPRIATIONS.**

13 In addition to amounts otherwise authorized to be ap-
 14 propriated, there are authorized to be appropriated such
 15 sums as may be necessary for each of fiscal years 2007
 16 through 2011 to carry out this title.

17 **TITLE V—PENALTIES AND**
 18 **ENFORCEMENT**
 19 **Subtitle A—Criminal and Civil**
 20 **Penalties**

21 **SEC. 501. CRIMINAL PENALTIES FOR ALIEN SMUGGLING.**

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

24 (1) in paragraph (1)(B)—

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

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

3 (C) in clause (iii), by striking “20 years”
4 and inserting “40 years”;
5 (2) in paragraph (2)—

6 (A) in subparagraph (A), by striking “one
7 year, or both; or” and inserting “3 years, or
8 both”;

9 (B) in subparagraph (B)—

10 (i) in clause (i), by adding at the end
11 the following: “be fined under title 18,
12 United States Code, and imprisoned not
13 less than 5 years nor more than 25
14 years,”;

15 (ii) in clause (ii), by striking “or” at
16 the end and inserting the following: “be
17 fined under title 18, United States Code,
18 and imprisoned not less than 3 years not
19 more than 20 years, or”;

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

1 (iv) by striking the matter following
 2 clause (iii) and inserting the following new
 3 subparagraph:

4 “(C) in the case of a third or subsequent
 5 offense described in subparagraph (B) and for
 6 any other violation, shall be fined under title
 7 18, United States Code, and imprisoned not
 8 less than 5 years nor more than 15 years.”;

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

11 (4) in paragraph (3)(B), by striking “brought
 12 into” and inserting “transported, harbored, shel-
 13 tered, or encouraged or induced to enter or reside
 14 in”; and

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

17 **SEC. 502. STRENGTHENED ENFORCEMENT OF ALIEN REG-**
 18 **ISTRATION LAWS.**

19 (a) **FORMS AND PROCEDURE.**—Section 264(e) of the
 20 Immigration and Nationality Act (8 U.S.C. 1304(e)) is
 21 amended—

22 (1) in the first sentence, by inserting “willfully”
 23 before “fails to comply”; and

1 (2) in the second sentence, by striking “\$100”
2 and “thirty days” and inserting “\$2,000” and “18
3 months”.

4 (b) **PENALTIES.**—Section 266 of such Act (8 U.S.C.
5 1306) is amended—

6 (1) in subsection (a), by striking “\$1,000” and
7 “six months” and inserting “\$2,000” and “18
8 months”;

9 (2) in subsection (b), by inserting “willfully”
10 before “fails to give written notice”, and by striking
11 “\$200” and “thirty days” and inserting “\$2,000”
12 and “18 months”;

13 (3) in subsection (c)—

14 (A) by striking “be guilty of a mis-
15 demeanor and shall, upon conviction thereof,”;
16 and

17 (B) by striking “\$1,000” and “six
18 months” and inserting “\$2,000” and “18
19 months”; and

20 (4) by inserting after subsection (d) the fol-
21 lowing new subsection:

22 “(e) **AUTHORITY TO ARREST.**—No officer or person
23 shall have authority to make an arrest for a violation of
24 any provision of this section except officers and employees
25 so authorized under the provisions of section 287, and all

1 other law enforcement officers whose duty it is to enforce
 2 criminal laws, unless designated, individually or as a class,
 3 by the Secretary of Homeland Security.”.

4 **SEC. 503. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF**
 5 **ALIENS AT IMPROPER TIME OR PLACE,**
 6 **AVOIDANCE OF EXAMINATION OR INSPEC-**
 7 **TION, UNLAWFUL PRESENCE AND MISREPRE-**
 8 **SENTATION OR CONCEALMENT OF FACTS.**

9 Section 275 of the Immigration and Nationality Act
 10 (8 U.S.C. 1325) is amended to read as follows:

11 “**ENTRY AT IMPROPER TIME OR PLACE; AVOIDANCE OF**
 12 **EXAMINATION OR INSPECTION; UNLAWFUL PRES-**
 13 **ENCE; MISREPRESENTATION OR CONCEALMENT OF**
 14 **FACTS**

15 “**SEC. 275. (a) IN GENERAL.**—Any alien who—

16 “(1) enters or attempts to enter the United
 17 States at any time or place other than as designated
 18 by immigration officers;

19 “(2) eludes examination or inspection by immi-
 20 gration officers; or

21 “(3) attempts to enter or obtains entry to the
 22 United States by a willfully false or misleading rep-
 23 resentation or the willful concealment of a material
 24 fact,

25 shall, for the first commission of any such offense, be fined
 26 under title 18, United States Code, or imprisoned not

1 more than 2 years, or both. For each subsequent unlawful
2 entry or attempted entry in violation of this section, an
3 alien shall be fined under title 18, United States Code,
4 or imprisoned not more than 5 years, or both.

5 “(b) **IMPROPER TIME OR PLACE; CIVIL PEN-**
6 **ALTIES.**—Any alien who is apprehended while entering (or
7 attempting to enter) the United States at a time or place
8 other than as designated by immigration officers shall be
9 subject to a civil penalty of—

10 “(1) at least \$100 and not more than \$10,000
11 for each such entry (or attempted entry); or

12 “(2) three times the amount specified in para-
13 graph (1) in the case of an alien who has been pre-
14 viously subject to a civil penalty under this sub-
15 section.

16 Civil penalties under this subsection are in addition to,
17 and not in lieu of, any criminal or other civil penalties
18 that may be imposed.

19 “(c) **MARRIAGE FRAUD.**—An individual who know-
20 ingly enters into a marriage for the purpose of evading
21 any provision of the immigration laws shall be fined not
22 more than \$500,000, imprisoned not more than 10 years,
23 or both.

24 “(d) **IMMIGRATION-RELATED ENTREPRENEURSHIP**
25 **FRAUD.**—Any individual who knowingly established a

1 commercial enterprise for the purpose of evading any pro-
2 vision of the immigration laws shall be fined not more than
3 \$500,000, or imprisoned not more than 10 years, or
4 both.”.

5 **SEC. 504. CIVIL AND CRIMINAL PENALTIES FOR ALIENS UN-**
6 **LAWFULLY PRESENT IN THE UNITED STATES.**

7 (a) **IN GENERAL.**—Title II of the Immigration and
8 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
9 adding after section 275 the following new section:

10 **“CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN**
11 **THE UNITED STATES**

12 **“SEC. 275A. (a) IN GENERAL.**—In addition to any
13 other violation, an alien present in the United States in
14 violation of this Act shall be guilty of a misdemeanor and
15 shall be fined under title 18, United States Code, impris-
16 oned not more than 1 year, or both. The assets of any
17 alien present in the United States in violation of this Act
18 shall be subject to forfeiture under title 19, United States
19 Code.

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

1 (b) **INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL**
 2 **ENTRY.**—Section 275(a) of the Immigration and Nation-
 3 ality Act (8 U.S.C. 1325(a)) is amended by striking “6
 4 months,” and inserting “1 year,”.

5 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
 6 tion shall be construed to limit the authority of any State
 7 or political subdivision therein to enforce criminal trespass
 8 laws against aliens whom a law enforcement agency has
 9 verified to be present in the United States in violation of
 10 this Act.

11 **SEC. 505. INCREASED PENALTIES FOR REENTRY OF RE-**
 12 **MOVED ALIENS.**

13 (a) **IN GENERAL.**—Subsection (a) of section 276 of
 14 the Immigration and Nationality Act (8 U.S.C. 1326) is
 15 amended to read as follows:

16 “(a) Subject to subsection (b), any alien shall be fined
 17 under title 18, United States Code, or imprisoned not
 18 more than 2 years, or both, who—

19 “(1) has been denied admission, excluded, de-
 20 ported, or removed or has departed the United
 21 States while an order of exclusion, deportation, or
 22 removal is outstanding; and

23 “(2) thereafter enters, attempts to enter, or is
 24 at any time found in, the United States, unless, in
 25 the case of an alien previously denied admission and

1 removed, the alien establishes that the alien was not
2 required to obtain from the Secretary of Homeland
3 Security advance consent to reapply for admission
4 under this Act or any prior Act.”.

5 (b) **CRIMINAL PENALTIES FOR REENTRY OF CER-**
6 **TAIN REMOVED ALIENS.**—Subsection (b) of such section
7 is amended—

8 (1) in paragraph (3), by striking “sentence.”
9 and inserting “sentence;”; and

10 (2) in paragraph (4), by striking “(unless the
11 Attorney General has expressly consented to such
12 alien’s reentry)”.

13 (c) **REENTRY OF ALIENS REMOVED PRIOR TO COM-**
14 **PLETION OF IMPRISONMENT.**—Subsection (c) of such sec-
15 tion is amended—

16 (1) by inserting “(as in effect before the effec-
17 tive date of the amendments made by section 305 of
18 the Illegal Immigration Reform and Immigrant Re-
19 sponsibility Act of 1996), or removed under section
20 241(a)(4),” after “242(h)(2)”;

21 (2) by striking “(unless the Attorney General
22 has expressly consented to such alien’s reentry)”;

23 (3) by inserting “or removal” after “time of de-
24 portation”; and

1 (4) by inserting “or removed” after “reentry of
2 deported”.

3 (d) **CHALLENGE TO VALIDITY OF ORDER.**—Sub-
4 section (d) of such section is amended—

5 (1) in the matter before paragraph (1), by
6 striking “deportation order” and inserting “deporta-
7 tion or removal order”; and

8 (2) in paragraph (2), by inserting “or removal”
9 after “deportation”.

10 (e) **EFFECTIVE DATE.**—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act and shall apply to criminal proceedings involv-
13 ing aliens who enter, attempt to enter, or are found in
14 the United States, after such date.

15 **SEC. 506. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT**
16 **FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS**
17 **OF CITIZENSHIP.**

18 (a) **CIVIL PENALTIES FOR DOCUMENT FRAUD.**—Sec-
19 tion 274C(d)(3) of the Immigration and Nationality Act
20 (8 U.S.C. 1324c(d)(3)) is amended—

21 (1) in subparagraph (A), by striking “\$250 and
22 not more than \$2,000” and inserting “\$500 and not
23 more than \$4,000”; and

1 (2) in subparagraph (B), by striking “\$2,000
2 and not more than \$5,000” and inserting “\$4,000
3 and not more than \$10,000”.

4 (b) **FRAUD AND FALSE STATEMENTS.**—Chapter 47
5 of title 18, United States Code, is amended—

6 (1) in section 1015, by striking “not more than
7 5 years” and inserting “not more than 10 years”;
8 and

9 (2) in section 1028(b)—

10 (A) in paragraph (1), by striking “15
11 years” and inserting “20 years”;

12 (B) in paragraph (2), by striking “three
13 years” and inserting “six years”;

14 (C) in paragraph (3), by striking “20
15 years” and inserting “25 years”; and

16 (D) in paragraph (6), by striking “one
17 year” and inserting “two years”.

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

20 (1) in subsection (a)—

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

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

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

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

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

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

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

11 (d) **CRIMES OF VIOLENCE.**—

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

15 **“CHAPTER 52—ILLEGAL ALIENS**

16 **“SEC. 1131. ENHANCED PENALTIES FOR CERTAIN CRIMES**
 17 **COMMITTED BY ILLEGAL ALIENS.**

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

23 “(b) If an alien who violates subsection (a) was pre-
 24 viously ordered removed under the Immigration and Na-
 25 tionality Act (8 U.S.C. 1101 et seq.) on the grounds of

1 having committed a crime, the alien shall be sentenced to
 2 not less than 15 years in prison.

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

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

“**CHAPTER 52—ILLEGAL ALIENS**

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

10 **SEC. 507. RENDERING INADMISSIBLE AND DEPORTABLE**
 11 **ALIENS PARTICIPATING IN CRIMINAL**
 12 **STREET GANGS.**

13 (a) **INADMISSIBLE.**—Section 212(a)(2) of the Immi-
 14 gration and Nationality Act (8 U.S.C. 1182(a)(2)) is
 15 amended by adding at the end the following:

16 “(J) **CRIMINAL STREET GANG PARTICIPA-**
 17 **TION.**—

18 “(i) **IN GENERAL.**—Any alien is inad-
 19 missible if—

20 “(I) the alien has been removed
 21 under section 237(a)(2)(F); or

22 “(II) the consular officer or the
 23 Secretary of Homeland Security

1 knows, or has reasonable ground to
2 believe that the alien—

3 “(aa) is a member of a
4 criminal street gang and has
5 committed, conspired, or threat-
6 ened to commit, or seeks to enter
7 the United States to engage sole-
8 ly, principally, or incidentally in,
9 a gang crime or any other unlaw-
10 ful activity; or

11 “(bb) is a member of a
12 criminal street gang designated
13 under section 219A.

14 “(ii) **DEFINITIONS.**—For purposes of
15 this subparagraph:

16 “(I) **CRIMINAL STREET GANG.**—
17 The term ‘criminal street gang’ means
18 an ongoing group, group, club organi-
19 zation or informal association of five
20 or more persons who engage, or have
21 engaged within the past 5 years in a
22 continuing series of 3 or more gang
23 crimes (one of which is a crime of vio-
24 lence, as defined in section 16 of title
25 18, United States Code).

1 “(II) **GANG CRIME.**—The term
2 ‘gang crime’ means conduct consti-
3 tuting any Federal or State crime,
4 punishable by imprisonment for one
5 year or more, in any of the following
6 categories:

7 “(aa) A crime of violence (as
8 defined in section 16 of title 18,
9 United States Code).

10 “(bb) A crime involving ob-
11 struction of justice, tampering
12 with or retaliating against a wit-
13 ness, victim, or informant, or
14 burglary.

15 “(cc) A crime involving the
16 manufacturing, importing, dis-
17 tributing, possessing with intent
18 to distribute, or otherwise dealing
19 in a controlled substance or listed
20 chemical (as those terms are de-
21 fined in section 102 of the Con-
22 trolled Substances Act (21
23 U.S.C. 802)).

24 “(dd) Any conduct punish-
25 able under section 844 of title

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1 18, United States Code (relating
2 to explosive materials), sub-
3 section (d), (g)(1) (where the un-
4 derlying conviction is a violent
5 felony (as defined in section
6 924(e)(2)(B) of such title) or is a
7 serious drug offense (as defined
8 in section 924(e)(2)(A)), (i), (j),
9 (k), (o), (p), (q), (u), or (x) of
10 section 922 of such title (relating
11 to unlawful acts), or subsection
12 (b), (c), (g), (h), (k), (l), (m), or
13 (n) of section 924 of such title
14 (relating to penalties), section
15 930 of such title (relating to pos-
16 session of firearms and dan-
17 gerous weapons in Federal facili-
18 ties), section 931 of such title
19 (relating to purchase, ownership,
20 or possession of body armor by
21 violent felons), sections 1028 and
22 1029 of such title (relating to
23 fraud and related activity in con-
24 nection with identification docu-
25 ments or access devices), section

1 1952 of such title (relating to
2 interstate and foreign travel or
3 transportation in aid of racket-
4 eering enterprises), section 1956
5 of such title (relating to the laun-
6 dering of monetary instruments),
7 section 1957 of such title (relat-
8 ing to engaging in monetary
9 transactions in property derived
10 from specified unlawful activity),
11 or sections 2312 through 2315 of
12 such title (relating to interstate
13 transportation of stolen motor ve-
14 hicles or stolen property).

15 “(ee) Any conduct punish-
16 able under section 274 (relating
17 to bringing in and harboring cer-
18 tain aliens), section 277 (relating
19 to aiding or assisting certain
20 aliens to enter the United
21 States), or section 278 (relating
22 to importation of alien for im-
23 moral purpose) of this Act.”.

1 (b) **DEPORTABLE.**—Section 237(a)(2) of the Immi-
 2 gration and Nationality Act (8 U.S.C. 1227(a)(2)) is
 3 amended by adding at the end the following:

4 “(F) **CRIMINAL STREET GANG PARTICIPA-**
 5 **TION.**—

6 “(i) **IN GENERAL.**—Any alien is de-
 7 portable who—

8 “(I) is a member of a criminal
 9 street gang and is convicted of com-
 10 mitting, or conspiring, threatening, or
 11 attempting to commit, a gang crime;
 12 or

13 “(II) is determined by the Sec-
 14 retary of Homeland Security to be a
 15 member of a criminal street gang des-
 16 ignated under section 219A.

17 “(ii) **DEFINITIONS.**—For purposes of
 18 this subparagraph, the terms ‘criminal
 19 street gang’ and ‘gang crime’ have the
 20 meaning given such terms in section
 21 212(a)(2)(J)(ii).”.

22 (c) **DESIGNATION OF CRIMINAL STREET GANGS.**—

23 (1) **IN GENERAL.**—Chapter 2 of title II of the
 24 Immigration and Nationality Act (8 U.S.C. 1181 et
 25 seq.) is amended by adding at the end the following:

1 “**DESIGNATION OF CRIMINAL STREET GANGS**

2 “**SEC. 219A. (a) DESIGNATION.—**

3 “(1) **IN GENERAL.**—The Attorney General is
4 authorized to designate a group or association as a
5 criminal street gang in accordance with this sub-
6 section if the Attorney General finds that the group
7 or association meets the criteria described in section
8 212(a)(2)(J)(ii)(I).

9 “(2) **PROCEDURE.—**

10 “(A) **NOTICE.—**

11 “(i) **TO CONGRESSIONAL LEADERS.—**

12 Seven days before making a designation
13 under this subsection, the Attorney Gen-
14 eral shall, by classified communication, no-
15 tify the Speaker and Minority Leader of
16 the House of Representatives, the Presi-
17 dent pro tempore, Majority Leader, and
18 Minority Leader of the Senate, and the
19 members of the relevant committees of the
20 House of Representatives and the Senate,
21 in writing, of the intent to designate a
22 group or association under this subsection,
23 together with the findings made under
24 paragraph (1) with respect to that group

1 or association, and the factual basis there-
2 fore.

3 “(ii) **PUBLICATION IN FEDERAL REG-**
4 **ISTER.**—The Attorney shall publish the
5 designation in the Federal Register seven
6 days after providing the notification under
7 clause (i).

8 “(B) **EFFECT OF DESIGNATION.**—

9 “(i) A designation under this sub-
10 section shall take effect upon publication
11 under subparagraph (A)(ii).

12 “(ii) Any designation under this sub-
13 section shall cease to have effect upon an
14 Act of Congress disapproving such des-
15 ignation.

16 “(3) **RECORD.**—In making a designation under
17 this subsection, the Attorney General shall create an
18 administrative record.

19 “(4) **PERIOD OF DESIGNATION.**—

20 “(A) **IN GENERAL.**—A designation under
21 this subsection shall be effective for all purposes
22 until revoked under paragraph (5) or (6) or set
23 aside pursuant to subsection (b).

24 “(B) **REVIEW OF DESIGNATION UPON PE-**
25 **TITION.**—

1 “(i) **IN GENERAL.**—The Attorney
2 General shall review the designation of a
3 criminal street gang under the procedures
4 set forth in clauses (iii) and (iv) if the des-
5 ignated gang or association files a petition
6 for revocation within the petition period
7 described in clause (ii).

8 “(ii) **PETITION PERIOD.**—For pur-
9 poses of clause (i)—

10 “(I) if the designated gang or as-
11 sociation has not previously filed a pe-
12 tition for revocation under this sub-
13 paragraph, the petition period begins
14 2 years after the date on which the
15 designation was made; or

16 “(II) if the designated gang or
17 association has previously filed a peti-
18 tion for revocation under this sub-
19 paragraph, the petition period begins
20 2 years after the date of the deter-
21 mination made under clause (iv) on
22 that petition.

23 “(iii) **PROCEDURES.**—Any criminal
24 street gang that submits a petition for rev-
25 ocation under this subparagraph must pro-

1 vide evidence in that petition that the rel-
 2 evant circumstances described in para-
 3 graph (1) are sufficiently different from
 4 the circumstances that were the basis for
 5 the designation such that a revocation with
 6 respect to the gang is warranted.

7 “(iv) **DETERMINATION.**—

8 “(I) **IN GENERAL.**—Not later
 9 than 180 days after receiving a peti-
 10 tion for revocation submitted under
 11 this subparagraph, the Attorney Gen-
 12 eral shall make a determination as to
 13 such revocation.

14 “(II) **PUBLICATION OF DETER-**
 15 **MINATION.**—A determination made by
 16 the Attorney General under this
 17 clause shall be published in the Fed-
 18 eral Register.

19 “(III) **PROCEDURES.**—Any rev-
 20 ocation by the Attorney General shall
 21 be made in accordance with para-
 22 graph (6).

23 “(C) **OTHER REVIEW OF DESIGNATION.**—

24 “(i) **IN GENERAL.**—If in a 4-year pe-
 25 riod no review has taken place under sub-

1 paragraph (B), the Attorney General shall
2 review the designation of the criminal
3 street gang in order to determine whether
4 such designation should be revoked pursu-
5 ant to paragraph (6).

6 “(ii) **PROCEDURES.**—If a review does
7 not take place pursuant to subparagraph
8 (B) in response to a petition for revocation
9 that is filed in accordance with that sub-
10 paragraph, then the review shall be con-
11 ducted pursuant to procedures established
12 by the Attorney General. The results of
13 such review and the applicable procedures
14 shall not be reviewable in any court.

15 “(iii) **PUBLICATION OF RESULTS OF**
16 **REVIEW.**—The Attorney General shall pub-
17 lish any determination made pursuant to
18 this subparagraph in the Federal Register.

19 “(5) **REVOCATION BY ACT OF CONGRESS.**—The
20 Congress, by an Act of Congress, may block or re-
21 voke a designation made under paragraph (1).

22 “(6) **REVOCATION BASED ON CHANGE IN CIR-**
23 **CUMSTANCES.**—

24 “(A) **IN GENERAL.**—The Attorney General
25 may revoke a designation made under para-

1 graph (1) at any time, and shall revoke a des-
2 ignation upon completion of a review conducted
3 pursuant to subparagraphs (b) and (c) of para-
4 graph (4) if the Attorney General finds that—

5 “(i) the circumstances that were the
6 basis for the designation have changed in
7 such a manner as to warrant revocation; or
8 “(ii) the national security of the
9 United States warrants a revocation.

10 “(B) **PROCEDURE.**—The procedural re-
11 quirements of paragraphs (2) and (3) shall
12 apply to a revocation under this paragraph. Any
13 revocation shall take effect on the date specified
14 in the revocation or upon publication in the
15 Federal Register if no effective date is specified.

16 “(7) **EFFECT OF REVOCATION.**—The revocation
17 of a designation under paragraph (5) or (6) shall
18 not affect any action or proceeding based on conduct
19 committed prior to the effective date of such revoca-
20 tion.

21 “(8) **USE OF DESIGNATION IN HEARING.**—If a
22 designation under this subsection has become effec-
23 tive under paragraph (2)(B), an alien in a removal
24 proceeding shall not be permitted to raise any ques-
25 tion concerning the validity of the issuance of such

1 designation as a defense or an objection at any hear-
2 ing.

3 “(b) **JUDICIAL REVIEW OF DESIGNATION.**—

4 “(1) **IN GENERAL.**—Not later than 60 days
5 after publication of the designation in the Federal
6 Register, an group or association designated as a
7 criminal street gang may seek judicial review of the
8 designation in the United States Court of Appeals
9 for the District of Columbia Circuit.

10 “(2) **BASIS OF REVIEW.**—Review under this
11 subsection shall be based solely upon the administra-
12 tive record.

13 “(3) **SCOPE OF REVIEW.**—The court shall hold
14 unlawful and set aside a designation the court finds
15 to be—

16 “(A) arbitrary, capricious, an abuse of dis-
17 cretion, or otherwise not in accordance with
18 law;

19 “(B) contrary to constitutional right,
20 power, privilege, or immunity;

21 “(C) in excess of statutory jurisdiction, au-
22 thority, or limitation, or short of statutory
23 right;

24 “(D) lacking substantial support in the ad-
25 ministrative record taken as a whole; or

1 “(E) not in accord with the procedures re-
2 quired by law.

3 “(4) **JUDICIAL REVIEW INVOKED.**—The pend-
4 ency of an action for judicial review of a designation
5 shall not affect the application of this section, unless
6 the court issues a final order setting aside the des-
7 ignation.

8 “(c) **RELEVANT COMMITTEE DEFINED.**—As used in
9 this section, the term ‘relevant committees’ means the
10 Committees on the Judiciary of the House of Representa-
11 tives and of the Senate.”.

12 (2) **CLERICAL AMENDMENT.**—The table of con-
13 tents for the Immigration and Nationality Act (8
14 U.S.C. 1101 et seq.) is amended by inserting after
15 the item relating to section 219 the following:

“Sec. 219A. Designation of criminal street gangs.”.

16 **SEC. 508. MANDATORY DETENTION OF SUSPECTED CRIMI-**
17 **NAL STREET GANG MEMBERS.**

18 (a) **IN GENERAL.**—Section 236(c)(1)(d) of the Immi-
19 gration and Nationality Act (8 U.S.C. 1226(c)(1)(d)) is
20 amended—

21 (1) by inserting “or 212(a)(2)(J)” after
22 “212(a)(3)(B)”; and

23 (2) by inserting “or 237(a)(2)(F)” before
24 “237(a)(4)(B)”.

1 (b) **ANNUAL REPORT.**—Not later than March 1 of
 2 each year (beginning 1 year after the date of the enact-
 3 ment of this Act), the Secretary of Homeland Security,
 4 after consultation with the appropriate Federal agencies,
 5 shall submit a report to the Committees on the Judiciary
 6 of the House of Representatives and of the Senate on the
 7 number of aliens detained under the amendments made
 8 by subsection (a).

9 **SEC. 509. INELIGIBILITY FROM PROTECTION FROM RE-**
 10 **MOVAL AND ASYLUM.**

11 (a) **INAPPLICABILITY OF RESTRICTION ON REMOVAL**
 12 **TO CERTAIN COUNTRIES.**—Section 241(b)(3)(B) of the
 13 Immigration and Nationality Act (8 U.S.C.
 14 1251(b)(3)(B)) is amended, in the matter preceding
 15 clause (i), by inserting “who is described in section
 16 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is” after
 17 “to an alien”.

18 (b) **INELIGIBILITY FOR ASYLUM.**—Section
 19 208(b)(2)(A) of such act (8 U.S.C. 1158(b)(2)(A)) is
 20 amended—

- 21 (1) in clause (v), by striking “or” at the end;
- 22 (2) by redesignating clause (vi) as clause (vii);
- 23 and
- 24 (3) by inserting after clause (v) the following:

1 “(vi) the alien is described in section
 2 212(a)(2)(J)(i) or section 237(a)(2)(F)(i)
 3 (relating to participation in criminal street
 4 gangs); or”.

5 (c) DENIAL OF REVIEW OF DETERMINATION OF IN-
 6 ELIGIBILITY FOR TEMPORARY PROTECTED STATUS.—
 7 Section 244(c)(2) of such Act (8 U.S.C. 1254(c)(2)) is
 8 amended by adding at the end the following:

9 “(C) LIMITATION ON JUDICIAL REVIEW.—
 10 There shall be no judicial review of any finding
 11 under subparagraph (B) that an alien is de-
 12 scribed in section 208(b)(2)(A)(vi).”.

13 **SEC. 510. PENALTIES FOR MISUSING SOCIAL SECURITY**
 14 **NUMBERS OR FILING FALSE INFORMATION**
 15 **WITH SOCIAL SECURITY ADMINISTRATION.**

16 (a) MISUSE OF SOCIAL SECURITY NUMBERS.—

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

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

21 “(D) with intent to deceive, discloses, sells,
 22 or transfers his own social security account
 23 number, assigned to him by the Commissioner
 24 of Social Security (in the exercise of the Com-
 25 missioner’s authority under section 205(c)(2) to

1 establish and maintain records), to any person;
2 or”;

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

5 (C) by inserting after paragraph (8) the
6 following:

7 “(9) without lawful authority, offers, for a fee,
8 to acquire for any individual, or to assist in acquir-
9 ing for any individual, an additional social security
10 account number or a number that purports to be a
11 social security account number;

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

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

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

6 (2) **EFFECTIVE DATES.**—Paragraphs (7)(D)
7 and (9) of section 208(a) of the Social Security Act,
8 as added by paragraph (1), shall apply with respect
9 to each violation occurring after the date of enact-
10 ment of this Act. Paragraphs (10), (11), and (12)
11 of section 208(a) of such Act, as added by para-
12 graph (1)(C), shall apply with respect to each viola-
13 tion occurring on or after the effective date of this
14 Act.

15 (b) **REPORT ON ENFORCEMENT EFFORTS CON-**
16 **CERNING EMPLOYERS FILING FALSE INFORMATION RE-**
17 **TURNS.**—The Commissioner of Internal Revenue and the
18 Commissioner of Social Security shall submit an annual
19 report to the appropriate congressional committees on ef-
20 forts taken to identify and enforce penalties against em-
21 ployers that file incorrect information returns.

1 **Subtitle B—Detention, Removal**
2 **and Departure**

3 **SEC. 511. VOLUNTARY DEPARTURE.**

4 (a) **IN GENERAL.**—Section 240B of the Immigration
5 and Nationality Act (8 U.S.C. 1229c) is amended to read
6 as follows:

7 **“VOLUNTARY DEPARTURE**

8 **“SEC. 240B. (a) IN LIEU OF PROCEEDINGS.**—The
9 Secretary of Homeland Security may permit an alien vol-
10 untarily to depart the United States at the alien’s own
11 expense under this subsection, in lieu of being subject to
12 proceedings under section 240 and in lieu of applying for
13 another form of relief from removal, if the alien is not
14 deportable under paragraph (2)(A)(iii) or (4)(B) of section
15 237(a). Permission to depart voluntarily under this sub-
16 section shall not be valid for a period exceeding 90 days
17 and cannot be extended. The Secretary of Homeland Secu-
18 rity shall require an alien permitted to depart voluntarily
19 under this subsection to post a voluntary departure bond,
20 in an amount necessary to ensure that the alien will de-
21 part, to be surrendered upon proof that the alien has de-
22 parted the United States within the time specified.

23 **“(b) PRIOR TO SCHEDULING MERITS HEARING.**—
24 The Secretary of Homeland Security may permit an alien
25 voluntarily to depart the United States at the alien’s own

1 expense under this subsection prior to the scheduling of
2 the first merits hearing, in lieu of applying for another
3 form of relief from removal, if the alien is not deportable
4 under paragraph (2)(A)(iii) or (4)(B) of section 237(a).
5 Permission to depart voluntarily under this subsection
6 shall not be valid for a period exceeding 60 days and can-
7 not be extended. The Secretary shall require an alien per-
8 mitted to depart voluntarily under this subsection to post
9 a voluntary departure bond, in an amount necessary to
10 ensure that the alien will depart, to be surrendered upon
11 proof that the alien has departed the United States within
12 the time specified.

13 “(c) **ONCE FIRST MERITS HEARING SCHEDULED.**—

14 “(1) **IN GENERAL.**—Once the first merits hear-
15 ing has been scheduled under section 240, the Sec-
16 retary of Homeland Security may permit an alien
17 voluntarily to depart the United States at the alien’s
18 own expense under this subsection, in lieu of pur-
19 suing another form of relief from removal, if the im-
20 migration judge enters an order granting voluntary
21 departure in lieu of removal and finds that—

22 “(A) the alien has been physically present
23 in the United States for a period of at least one
24 year immediately preceding the date the notice
25 to appear was served under section 239(a);

1 “(B) the alien is, and has been, a person
2 of good moral character for at least 5 years im-
3 mediately preceding the alien’s application for
4 voluntary departure;

5 “(C) the alien is not deportable under
6 paragraph (2)(A)(iii) or (4)(B) of section
7 237(a); and

8 “(D) the alien has established by clear and
9 convincing evidence that the alien has the
10 means to depart the United States and intends
11 to do so.

12 “(2) **PERIOD.**—Permission to depart voluntarily
13 under this subsection shall not be valid for a period
14 exceeding 45 days and cannot be extended.

15 “(3) **BOND.**—The Secretary of Homeland Secu-
16 rity shall require an alien permitted to depart volun-
17 tarily under this subsection to post a voluntary de-
18 parture bond, in an amount necessary to ensure that
19 the alien will depart, to be surrendered upon proof
20 that the alien has departed the United States within
21 the time specified.

22 “(d) **ALIENS NOT ELIGIBLE.**—The Secretary of
23 Homeland Security shall not permit an alien to depart vol-
24 untarily under this section if the alien was previously per-

mitted to depart voluntarily under section 244(e) or this section, or to voluntarily return, at any time.

“(e) **CIVIL PENALTY FOR FAILURE TO DEPART.**—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than \$1,000 and not more than \$5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

“(f) **ADDITIONAL CONDITIONS.**—The Secretary of Homeland Security may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens. No court may review any regulation issued under this subsection.

“(g) **TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.**—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien’s arrival, subsections (a) through (c) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from with-

1 drawing the application for admission in accordance with
2 section 235(a)(4).

3 “(h) **REVIEW.**—There shall be no administrative or
4 judicial review of a denial of a request for an order of
5 voluntary departure. No court or agency shall order a stay
6 of an alien’s removal pending consideration of any claim
7 with respect to voluntary departure. The order permitting
8 the alien to depart voluntarily shall inform the alien that
9 the alien has no right to appeal any issue relating to the
10 removal proceeding.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 subsection (a) shall take effect on the date of the enact-
13 ment of this Act and shall apply to aliens who are in pro-
14 ceedings under the Immigration and Nationality Act on
15 or after such date if those proceedings have not resulted
16 in a final administrative order before such date.

17 (c) **VOLUNTARY DEPARTURE AGREEMENTS NEGO-**
18 **TIATED BY STATE OR LOCAL COURTS.**—

19 (1) The Secretary of Homeland Security may
20 permit an alien voluntarily to depart the United
21 States at the alien’s own expense under this sub-
22 section at any time prior to the scheduling of the
23 first merits hearing, in lieu of applying for another
24 form of relief from removal, if the alien—

25 (A) is deportable under section 237(a)(1),

1 (B) is charged in a criminal proceeding in
2 a state or local court for which conviction would
3 subject the alien to deportation under sub-
4 sections 237(a)(2) through (a)(6), and

5 (C) has accepted a plea bargain in such
6 proceeding which stipulates that the alien, after
7 consultation with counsel in such proceeding, (i)
8 voluntarily waives application for another form
9 of relief from removal, (ii) consents to transpor-
10 tation, under custody of a law enforcement offi-
11 cer of the state or local court, to an appropriate
12 international port of entry where departure
13 from the United States will occur, (iii) pos-
14 sesses or will promptly obtain travel documents
15 issued by the foreign state of which the alien is
16 a national or legal resident, and (iv) possesses
17 the means to purchase transportation from the
18 port of entry to the foreign state to which the
19 alien will depart from the United States.

20 (2) The Secretary shall promptly review an ap-
21 plication for voluntary departure for compliance with
22 the requirements of paragraph (1). The Secretary
23 shall permit voluntary departure under this sub-
24 section unless the state or local jurisdiction is in-
25 formed in writing no later than 30 days after such

1 application is filed, that the Secretary intends to
2 seek removal under section 240.

3 **SEC. 512. EXPEDITED EXCLUSION.**

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

7 “(i) **IN GENERAL.**—If an immigration
8 officer determines that an alien (other
9 than an alien described in subparagraph
10 (F)) who is arriving in the United States,
11 or who has not been admitted or paroled
12 into the United States and has not been
13 physically present in the United States
14 continuously for the 5- year period imme-
15 diately prior to the date of the determina-
16 tion of inadmissibility under this para-
17 graph, is inadmissible under section
18 212(a)(6)(c) or 212(a)(7), the officer shall
19 order the alien removed from the United
20 States without further hearing or review,
21 unless—

22 “(I) the alien has been charged
23 with a crime; or

24 “(II) the alien indicates an inten-
25 tion to apply for asylum under section

1 208 or a fear of persecution and the
2 officer determines that the alien has
3 been physically present in the United
4 States for less than 1 year.

5 “(ii) **CLAIMS FOR ASYLUM.**—If an im-
6 migration officer determines that an alien
7 (other than an alien described in subpara-
8 graph (F)) who is arriving in the United
9 States, or who has not been admitted or
10 paroled into the United States and has not
11 been physically present in the United
12 States continuously for the 5-year period
13 immediately prior to the date of the deter-
14 mination of inadmissibility under this
15 paragraph, is inadmissible under section
16 212(a)(6)(C) or 212(a)(7), and the alien
17 indicates either an intention to apply for
18 asylum under section 208 or a fear of per-
19 secution, the officer shall refer the alien
20 for an interview by an asylum officer under
21 subparagraph (B) if the officer determines
22 that the alien has been physically present
23 in the United States for less than 1 year.”.

1 **SEC. 513. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

2 (a) **IN GENERAL.**—Section 238 of the Immigration
3 and Nationality Act (8 U.S.C. 1228) is amended—

4 (1) by amending the section heading to read as
5 follows: “**EXPEDITED REMOVAL OF CRIMINAL**
6 **ALIENS**”;

7 (2) in subsection (a), by amending the sub-
8 section heading to read as follows: “**EXPEDITED RE-**
9 **MOVAL FROM CORRECTIONAL FACILITIES**”;

10 (3) in subsection (b), by amending the sub-
11 section heading to read as follows: “**REMOVAL OF**
12 **CRIMINAL ALIENS**”;

13 (4) in subsection (b), by striking paragraphs
14 (1) and (2) and inserting the following:

15 “(1) **IN GENERAL.**—The Secretary may, in the
16 case of an alien described in paragraph (2), deter-
17 mine the deportability of such alien and issue an
18 order of removal pursuant to the procedures set
19 forth in this subsection or section 240.

20 “(2) **ALIENS DESCRIBED.**—An alien is de-
21 scribed in this paragraph if the alien, whether or not
22 admitted into the United States, was convicted of
23 any criminal offense described in subparagraph
24 (A)(iii), (C), or (D) of section 237(a)(2).”;

25 (5) in the first subsection (c) (relating to pre-
26 sumption of deportability), by striking “convicted of

1 an aggravated felony” and inserting “described in
2 paragraph (b)(2)”;

3 (6) by redesignating the second subsection (c)
4 (relating to judicial removal) as subsection (d); and
5 (7) in subsection (d)(5) (as so redesignated), by
6 striking “, who is deportable under this Act,”.

7 (b) **LIMIT ON INJUNCTIVE RELIEF.**—Section
8 242(f)(2) of such Act (8 U.S.C. 1252(f)(2)) is amended
9 by inserting “or stay, whether temporarily or otherwise,”
10 after “enjoin”.

11 **SEC. 514. REINSTATEMENT OF PREVIOUS REMOVAL OR-**
12 **DERS.**

13 Section 241(a)(5) of the Immigration and Nationality
14 Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

15 “(5) **REINSTATEMENT OF PREVIOUS REMOVAL**
16 **ORDERS.**—

17 “(A) **REMOVAL.**—The Secretary of Home-
18 land Security shall remove an alien who is an
19 applicant for admission (other than an admis-
20 sible alien presenting himself or herself for in-
21 spection at a port of entry or an alien paroled
22 into the United States under section
23 212(d)(5)), after having been, on or after Sep-
24 tember 30, 1996, excluded, deported, or re-

1 moved, or having departed voluntarily under an
 2 order of exclusion, deportation, or removal.

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

18 **SEC. 515. CANCELLATION OF REMOVAL.**

19 Section 240A(c) of the Immigration and Nationality
 20 Act (8 U.S.C. 1229b(c)) is amended by adding at the end
 21 the following:

22 “(7) An alien who is inadmissible under section
 23 212(a)(9)(B)(i).”.

24 **SEC. 516. DETENTION OF DANGEROUS ALIENS.**

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

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

4 (A) in section 208(b)(2)(A) (8 U.S.C.
5 1158(b)(2)(A)), by amending clause (v) to read
6 as follows:

7 “(v) the alien is described in section 212(a)(3)(B),
8 212(a)(3)(F), or 237(a)(4)(B) unless, in the case only of
9 an alien described in section 212(a)(3)(B)(i)(IV), the Sec-
10 retary of Homeland Security or the Attorney General de-
11 termines that there are not reasonable grounds for regard-
12 ing the alien as a danger to the security of the United
13 States; or”;

14 (B) in section 240A(c) (8 U.S.C.
15 1229b(c)), by amending paragraph (4) to read
16 as follows:

17 “(4) An alien described in section 212(a)(3) or
18 237(a)(4).”;

19 (C) in section 240B(b)(1)(C) (8 U.S.C.
20 1229c(b)(1)(C)), by striking “deportable
21 under” and inserting “described in”;

22 (D) in section 241(b)(3)(B) (8 U.S.C.
23 1251(b)(3)(B))—

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

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

3 (iii) by inserting after clause (iv) the
4 following:

5 “(v) the alien is described in section
6 212(a)(3)(B), 212(a)(3)(F), or
7 237(a)(4)(B), unless, in the case only of
8 an alien described in section
9 212(a)(3)(B)(i)(IV), the Secretary of
10 Homeland Security or the Attorney Gen-
11 eral determines that there are not reason-
12 able grounds for regarding the alien as a
13 danger to the security of the United
14 States.”; and

15 (iv) by striking “For purposes of
16 clause (iv)” and all that follows; and
17 (E) in section 249 (8 U.S.C. 1259)—

18 (i) by striking “inadmissible under
19 section 212(a)(3)(E) or under section” and
20 inserting “described in section
21 212(a)(3)(E) or”; and

22 (ii) in subsection (d), by striking “to
23 citizenship and is not deportable under”
24 and inserting “for citizenship and is not
25 described in”.

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

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

6 (B) acts and conditions constituting a
7 ground for inadmissibility, excludability, depor-
8 tation, or removal occurring or existing before,
9 on, or after such effective date.

10 (b) **DETENTION OF DANGEROUS ALIENS.**—

11 (1) **IN GENERAL.**—Section 241(a) of the Immi-
12 gration and Nationality Act (8 U.S.C. 1231(a)) is
13 amended—

14 (A) by striking “Attorney General” and in-
15 serting “Secretary of Homeland Security” each
16 place it appears;

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

1 (C) in paragraph (6), by striking “removal
2 period and, if released,” and inserting “removal
3 period, in the discretion of the Secretary, with-
4 out any limitations other than those specified
5 by the Secretary of Homeland Security by regu-
6 lation, until the alien is removed. If an alien is
7 released, the alien”.

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

13 **SEC. 517. ALTERNATIVES TO DETENTION.**

14 The Secretary of Homeland Security shall implement
15 pilot programs in six States with the largest estimated
16 populations of deportable aliens to study the effectiveness
17 of alternatives to detention, including electronic moni-
18 toring devices and intensive supervision programs, in en-
19 suring alien appearance at court and compliance with re-
20 moval orders.

21 **SEC. 518. RELEASE OF ALIENS FROM NONCONTIGUOUS**
22 **COUNTRIES.**

23 (a) **MINIMUM BOND.**—Section 236(a)(2) of the Im-
24 migration and Nationality Act (8 U.S.C. 1226(a)(2)) is
25 amended—

1 (1) by striking “on”;

2 (2) in subparagraph (a)—

3 (A) by inserting “except as provided under
4 subparagraph (B), upon the giving of a” before
5 “bond”; and

6 (B) by striking “or” at the end;

7 (3) by redesignating subparagraph (B) as sub-
8 paragraph (C); and

9 (4) by inserting after subparagraph (A) the fol-
10 lowing:

11 “(B) if the alien is a national of a non-
12 contiguous country, has not been admitted or
13 paroled into the United States, and was appre-
14 hended within 100 miles of the international
15 border of the United States or presents a flight
16 risk, as determined by the Secretary of Home-
17 land Security, upon the giving of a bond of at
18 least \$5,000 with security approved by, and
19 containing conditions prescribed by, the Sec-
20 retary of Homeland Security or the Attorney
21 General; or”.

22 (b) **REPORT.**—Two years after the effective date of
23 this Act, the Secretary of Homeland Security shall submit
24 a report to Congress on the number of aliens from non-

1 contiguous countries who are apprehended between land
2 border ports of entry.

3 **SEC. 519. CONTINUANCES; CHANGES OF VENUE.**

4 (a) **IN GENERAL.**—Section 240(b)(1) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1229a(b)(1)) is
6 amended by adding at the end the following:
7 “The immigration judge may not grant a continuance to
8 permit an alien to become eligible for relief under any pro-
9 vision of law. In proceedings under this section or under
10 section 236, the immigration judge may not grant a
11 change of venue for an alien who has not been inspected
12 and admitted or paroled into the United States. For all
13 other aliens, the immigration judge may grant a change
14 of venue only if the alien demonstrates that the alien can-
15 not obtain a fair proceeding in the current venue.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall take effect on the date of the enact-
18 ment of this Act and shall apply to continuances and
19 changes of venue sought after such date.

20 **SEC. 520. AUTHORIZATION OF APPROPRIATIONS.**

21 In addition to amounts otherwise authorized to be ap-
22 propriated, there are authorized to be appropriated such
23 sums as may be necessary for each of fiscal years 2007
24 through 2011 to carry out this title.

○

110TH CONGRESS
1ST SESSION

H. R. 3093

AN ACT

Making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2008, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That the following sums are appropriated, out of any
2 money in the Treasury not otherwise appropriated, for the
3 fiscal year ending September 30, 2008, and for other pur-
4 poses, namely:

5 **TITLE I—DEPARTMENT OF COMMERCE**
6 **TRADE AND INFRASTRUCTURE DEVELOPMENT**
7 **INTERNATIONAL TRADE ADMINISTRATION**
8 **OPERATIONS AND ADMINISTRATION**

9 For necessary expenses for international trade activi-
10 ties of the Department of Commerce provided for by law,
11 and for engaging in trade promotional activities abroad,
12 including expenses of grants and cooperative agreements
13 for the purpose of promoting exports of United States
14 firms, without regard to 44 U.S.C. 3702 and 3703; full
15 medical coverage for dependent members of immediate
16 families of employees stationed overseas and employees
17 temporarily posted overseas; travel and transportation of
18 employees of the United States and Foreign Commercial
19 Service between two points abroad, without regard to 49
20 U.S.C. 40118; employment of Americans and aliens by
21 contract for services; rental of space abroad for periods
22 not exceeding 10 years, and expenses of alteration, repair,
23 or improvement; purchase or construction of temporary
24 demountable exhibition structures for use abroad; pay-
25 ment of tort claims, in the manner authorized in the first

1 paragraph of 28 U.S.C. 2672 when such claims arise in
2 foreign countries; not to exceed \$327,000 for official rep-
3 resentation expenses abroad; purchase of passenger motor
4 vehicles for official use abroad, not to exceed \$45,000 per
5 vehicle; obtaining insurance on official motor vehicles; and
6 rental of tie lines, \$430,431,000, to remain available until
7 September 30, 2009, of which \$8,000,000 is to be derived
8 from fees to be retained and used by the International
9 Trade Administration, notwithstanding 31 U.S.C. 3302:
10 *Provided*, That \$49,564,000 shall be for Manufacturing
11 and Services; \$42,960,000 shall be for Market Access and
12 Compliance; \$65,601,000 shall be for the Import Adminis-
13 tration of which \$5,900,000 shall be for the Office of
14 China Compliance; \$245,702,000 shall be for the United
15 States and Foreign Commercial Service; and \$26,604,000
16 shall be for Executive Direction and Administration: *Pro-*
17 *vided further*, That the provisions of the first sentence of
18 section 105(f) and all of section 108(c) of the Mutual Edu-
19 cational and Cultural Exchange Act of 1961 (22 U.S.C.
20 2455(f) and 2458(c)) shall apply in carrying out these ac-
21 tivities without regard to section 5412 of the Omnibus
22 Trade and Competitiveness Act of 1988 (15 U.S.C. 4912);
23 and that for the purpose of this Act, contributions under
24 the provisions of the Mutual Educational and Cultural Ex-

1 change Act of 1961 shall include payment for assessments
2 for services provided as part of these activities.

3 **BUREAU OF INDUSTRY AND SECURITY**

4 **OPERATIONS AND ADMINISTRATION**

5 For necessary expenses for export administration and
6 national security activities of the Department of Com-
7 merce, including costs associated with the performance of
8 export administration field activities both domestically and
9 abroad; full medical coverage for dependent members of
10 immediate families of employees stationed overseas; em-
11 ployment of Americans and aliens by contract for services
12 abroad; payment of tort claims, in the manner authorized
13 in the first paragraph of 28 U.S.C. 2672 when such claims
14 arise in foreign countries; not to exceed \$15,000 for offi-
15 cial representation expenses abroad; awards of compensa-
16 tion to informers under the Export Administration Act of
17 1979, and as authorized by section 1 of title VI of the
18 Act of June 15, 1917 (22 U.S.C. 401(b)); and purchase
19 of passenger motor vehicles for official use and motor vehi-
20 cles for law enforcement use with special requirement vehi-
21 cles eligible for purchase without regard to any price limi-
22 tation otherwise established by law, \$78,776,000, to re-
23 main available until expended, of which \$14,767,000 shall
24 be for inspections and other activities related to national
25 security: *Provided*, That the provisions of the first sen-

1 tence of section 105(f) and all of section 108(c) of the
2 Mutual Educational and Cultural Exchange Act of 1961
3 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying
4 out these activities: *Provided further*, That payments and
5 contributions collected and accepted for materials or serv-
6 ices provided as part of such activities may be retained
7 for use in covering the cost of such activities, and for pro-
8 viding information to the public with respect to the export
9 administration and national security activities of the De-
10 partment of Commerce and other export control programs
11 of the United States and other governments.

12 **ECONOMIC DEVELOPMENT ADMINISTRATION**

13 **ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS**

14 For grants for economic development assistance as
15 provided by the Public Works and Economic Development
16 Act of 1965, and for trade adjustment assistance,
17 \$270,000,000, to remain available until expended.

18 **SALARIES AND EXPENSES**

19 For necessary expenses of administering the eco-
20 nomic development assistance programs as provided for by
21 law, \$32,800,000: *Provided*, That these funds may be used
22 to monitor projects approved pursuant to title I of the
23 Public Works Employment Act of 1976, title II of the
24 Trade Act of 1974, and the Community Emergency
25 Drought Relief Act of 1977.

1 MINORITY BUSINESS DEVELOPMENT AGENCY

2 MINORITY BUSINESS DEVELOPMENT

3 For necessary expenses of the Department of Com-
4 merce in fostering, promoting, and developing minority
5 business enterprise, including expenses of grants, con-
6 tracts, and other agreements with public or private organi-
7 zations, \$31,225,000.

8 ECONOMIC AND INFORMATION INFRASTRUCTURE

9 ECONOMIC AND STATISTICAL ANALYSIS

10 SALARIES AND EXPENSES

11 For necessary expenses, as authorized by law, of eco-
12 nomic and statistical analysis programs of the Department
13 of Commerce, \$86,500,000, to remain available until Sep-
14 tember 30, 2009.

15 BUREAU OF THE CENSUS

16 SALARIES AND EXPENSES

17 For expenses necessary for collecting, compiling, ana-
18 lyzing, preparing, and publishing statistics, provided for
19 by law, \$196,838,000.

20 PERIODIC CENSUSES AND PROGRAMS

21 For necessary expenses to collect and publish statis-
22 tics for periodic censuses and programs provided for by
23 law, \$1,035,406,000 (reduced by \$10,000,000), to remain
24 available until September 30, 2009: *Provided*, That none
25 of the funds provided in this or any other Act for any
26 fiscal year may be used for the collection of census data

1 on race identification that does not include “some other
2 race” as a category.

3 NATIONAL TELECOMMUNICATIONS AND INFORMATION

4 ADMINISTRATION

5 SALARIES AND EXPENSES

6 For necessary expenses, as provided for by law, of
7 the National Telecommunications and Information Ad-
8 ministration (NTIA), \$18,581,000 (increased by
9 \$5,000,000), to remain available until September 30,
10 2009: *Provided*, That notwithstanding 31 U.S.C. 1535(d),
11 the Secretary of Commerce shall charge Federal agencies
12 for costs incurred in spectrum management, analysis, and
13 operations, and related services and such fees shall be re-
14 tained and used as offsetting collections for costs of such
15 spectrum services, to remain available until expended: *Pro-*
16 *vided further*, That the Secretary of Commerce is author-
17 ized to retain and use as offsetting collections all funds
18 transferred, or previously transferred, from other Govern-
19 ment agencies for all costs incurred in telecommunications
20 research, engineering, and related activities by the Insti-
21 tute for Telecommunication Sciences of NTIA, in further-
22 ance of its assigned functions under this paragraph, and
23 such funds received from other Government agencies shall
24 remain available until expended.

1 PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING
2 AND CONSTRUCTION

3 For the administration of grants authorized by sec-
4 tion 392 of the Communications Act of 1934,
5 \$21,728,000, to remain available until expended as au-
6 thorized by section 391 of the Act: *Provided*, That not to
7 exceed \$2,000,000 shall be available for program adminis-
8 tration as authorized by section 391 of the Act: *Provided*
9 *further*, That, notwithstanding the provisions of section
10 391 of the Act, the prior year unobligated balances may
11 be made available for grants for projects for which appli-
12 cations have been submitted and approved during any fis-
13 cal year.

14 UNITED STATES PATENT AND TRADEMARK OFFICE
15 SALARIES AND EXPENSES

16 For necessary expenses of the United States Patent
17 and Trademark Office provided for by law, including de-
18 fense of suits instituted against the Under Secretary of
19 Commerce for Intellectual Property and Director of the
20 United States Patent and Trademark Office,
21 \$1,915,500,000, to remain available until expended: *Pro-*
22 *vided*, That the sum herein appropriated from the general
23 fund shall be reduced as offsetting collections assessed and
24 collected pursuant to section 31 of Act of July 5, 1946
25 (60 Stat. 437; 15 U.S.C. 1113) and 35 U.S.C. 41 and

1 376 are received during fiscal year 2008, so as to result
2 in a fiscal year 2008 appropriation from the general fund
3 estimated at \$0: *Provided further*, That during fiscal year
4 2008, should the total amount of offsetting fee collections
5 be less than \$1,915,500,000, this amount shall be reduced
6 accordingly: *Provided further*, That from amounts pro-
7 vided herein, not to exceed \$1,000 shall be made available
8 in fiscal year 2008 for official reception and representa-
9 tion expenses: *Provided further*, That in fiscal year 2008
10 from the amounts made available for “Salaries and Ex-
11 penses” for the United States Patent and Trademark Of-
12 fice (PTO), the amounts necessary to pay: (1) the dif-
13 ference between the percentage of basic pay contributed
14 by the PTO and employees under section 8334(a) of title
15 5, United States Code, and the normal cost percentage
16 (as defined by section 8331(17) of that title) of basic pay,
17 of employees subject to subchapter III of chapter 83 of
18 that title; and (2) the present value of the otherwise un-
19 funded accruing costs, as determined by the Office of Per-
20 sonnel Management, of post-retirement life insurance and
21 post-retirement health benefits coverage for all PTO em-
22 ployees, shall be transferred to the Civil Service Retire-
23 ment and Disability Fund, the Employees Life Insurance
24 Fund, and the Employees Health Benefits Fund, as ap-
25 propriate, and shall be available for the authorized pur-

1 poses of those accounts: *Provided further*, That sections
2 801, 802, and 803 of division B, of Public Law 108–447
3 shall remain in effect during fiscal year 2008.

4 **SCIENCE AND TECHNOLOGY**

5 **TECHNOLOGY ADMINISTRATION**

6 **SALARIES AND EXPENSES**

7 For necessary expenses for the Under Secretary for
8 Technology, \$1,000,000, to remain available until Sep-
9 tember 30, 2009.

10 **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

11 **SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES**

12 For necessary expenses of the National Institute of
13 Standards and Technology, \$500,517,000, to remain
14 available until expended, of which not to exceed
15 \$12,500,000 may be transferred to the “Working Capital
16 Fund”.

17 **INDUSTRIAL TECHNOLOGY SERVICES**

18 For necessary expenses of the Hollings Manufac-
19 turing Extension Partnership of the National Institute of
20 Standards and Technology, \$108,757,000, to remain
21 available until expended.

22 In addition, for necessary expenses of the Advanced
23 Technology Program of the National Institute of Stand-
24 ards and Technology, \$93,062,000, to remain available
25 until expended.

1 **CONSTRUCTION OF RESEARCH FACILITIES**

2 For construction of new research facilities, including
3 architectural and engineering design, and for renovation
4 and maintenance of existing facilities, not otherwise pro-
5 vided for the National Institute of Standards and Tech-
6 nology, as authorized by the Act entitled “An Act to estab-
7 lish the National Bureau of Standards” (15 U.S.C. 278c–
8 278e), \$128,865,000, to remain available until expended.

9 **NATIONAL OCEANIC AND ATMOSPHERIC**

10 **ADMINISTRATION**

11 **OPERATIONS, RESEARCH, AND FACILITIES**

12 **(INCLUDING TRANSFERS OF FUNDS)**

13 For necessary expenses of activities authorized by law
14 for the National Oceanic and Atmospheric Administration,
15 including maintenance, operation, and hire of aircraft and
16 vessels; grants, contracts, or other payments to nonprofit
17 organizations for the purposes of conducting activities
18 pursuant to cooperative agreements; and relocation of fa-
19 cilities, \$2,847,556,000 (reduced by \$500,000) (increased
20 by \$500,000), to remain available until September 30,
21 2009, except for funds provided for cooperative enforce-
22 ment which shall remain available until September 30,
23 2010: *Provided*, That fees and donations received by the
24 National Ocean Service for the management of national
25 marine sanctuaries may be retained and used for the sala-
26 ries and expenses associated with those activities, notwith-

1 standing 31 U.S.C. 3302: *Provided further*, That the Ad-
2 ministrator of the National Oceanic and Atmospheric Ad-
3 ministration may engage in formal and informal education
4 activities, including primary and secondary education, re-
5 lated to the agency's mission goals: *Provided further*, That
6 in addition, \$3,000,000 shall be derived by transfer from
7 the fund entitled "Coastal Zone Management" and in ad-
8 dition \$77,000,000 shall be derived by transfer from the
9 fund entitled "Promote and Develop Fishery Products and
10 Research Pertaining to American Fisheries": *Provided*
11 *further*, That of the \$2,938,556,000 provided for in direct
12 obligations under this heading \$2,847,556,000 is appro-
13 priated from the general fund, \$80,000,000 is provided
14 by transfer, and \$11,000,000 is derived from recoveries
15 of prior year obligations. *Provided further*, That any devi-
16 ation from the amounts designated for specific activities
17 in the report accompanying this Act, or any use of
18 deobligated balances of funds provided under this heading
19 in previous years, shall be subject to the procedures set
20 forth in section 505 of this Act.

21 In addition, for necessary retired pay expenses under
22 the Retired Serviceman's Family Protection and Survivor
23 Benefits Plan, and for payments for the medical care of
24 retired personnel and their dependents under the Depend-

1 ents, Medical Care Act (10 U.S.C. chapter 55), such sums
2 as may be necessary.

3 **NATIONAL ACADEMY OF SCIENCES'**

4 **CLIMATE CHANGE STUDY COMMITTEE**

5 Of the amounts provided for the "National Oceanic
6 and Atmospheric Administration, Operations, Research
7 and Facilities", \$6,000,000 shall be for necessary ex-
8 penses in support of an agreement between the Adminis-
9 trator of the National Oceanic and Atmospheric Adminis-
10 tration and the National Academies under which the Na-
11 tional Academies shall establish the Climate Change Study
12 Committee to investigate and study the serious and sweep-
13 ing issues relating to global climate change and make rec-
14 ommendations regarding what steps must be taken and
15 what strategies must be adopted in response to global cli-
16 mate change, including the science and technology chal-
17 lenges thereof.

18 The agreement shall provide for: establishment of and
19 appointment of members to the Climate Change Study
20 Committee by the National Academies; organization by
21 the National Academies of a Summit on Global Climate
22 Change to help define the parameters of the study, not
23 to exceed 3 days in length and to be attended by pre-
24 eminent experts on global climate change selected by the
25 National Academies; and issuance of a report by the Cli-
26 mate Change Study Committee not later than 2 years

1 after the date the Climate Change Study Committee is
2 first convened, containing its findings, conclusions, and
3 recommendations. Of such amount, \$1,000,000 shall be
4 for the Summit on Global Climate Change and \$5,000,000
5 shall be for the other activities of the Climate Change
6 Study Committee.

7 **PROCUREMENT, ACQUISITION AND CONSTRUCTION**

8 For procurement, acquisition and construction of
9 capital assets, including alteration and modification costs,
10 of the National Oceanic and Atmospheric Administration,
11 \$1,039,098,000, to remain available until September 30,
12 2010, except funds provided for construction of facilities
13 which shall remain available until expended: *Provided*,
14 That of the amounts provided for the National Polar-or-
15 biting Operational Environmental Satellite System, funds
16 shall only be made available on a dollar-for-dollar match-
17 ing basis with funds provided for the same purpose by the
18 Department of Defense: *Provided further*, That except to
19 the extent expressly prohibited by any other law, the De-
20 partment of Defense may delegate procurement functions
21 related to the National Polar-orbiting Operational Envi-
22 ronmental Satellite System to officials of the Department
23 of Commerce pursuant to section 2311 of title 10, United
24 States Code. *Provided further*, That any deviation from the
25 amounts designated for specific activities in the report ac-
26 companying this Act, or any use of deobligated balances

1 of funds provided under this heading in previous years,
2 shall be subject to the procedures set forth in section 505
3 of this Act.

4 **PACIFIC COASTAL SALMON RECOVERY**

5 For necessary expenses associated with the restora-
6 tion of Pacific salmon populations, \$64,825,000, to re-
7 main available until September 30, 2009: *Provided*, That
8 of the funds provided herein the Secretary of Commerce
9 may issue grants to the States of Washington, Oregon,
10 Idaho, California, and Alaska, and the Columbia River
11 and Pacific Coastal Tribes for projects necessary for res-
12 toration of salmon and steelhead populations that are list-
13 ed as threatened or endangered, or identified by a State
14 as at-risk to be so-listed, for maintaining populations nec-
15 essary for exercise of tribal treaty fishing rights or native
16 subsistence fishing, or for conservation of Pacific coastal
17 salmon and steelhead habitat, based on guidelines to be
18 developed by the Secretary of Commerce: *Provided further*,
19 That funds disbursed to States shall be subject to a
20 matching requirement of funds or documented in-kind
21 contributions of at least 33 percent of the Federal funds:
22 *Provided further*, That non-Federal funds provided pursu-
23 ant to the second proviso be used in direct support of this
24 program.

1 **COASTAL ZONE MANAGEMENT FUND**

2 **(INCLUDING TRANSFER OF FUNDS)**

3 Of amounts collected pursuant to section 308 of the
4 Coastal Zone Management Act of 1972 (16 U.S.C.
5 1456a), not to exceed \$3,000,000 shall be transferred to
6 the “Operations, Research, and Facilities” account to off-
7 set the costs of implementing such Act.

8 **FISHERIES FINANCE PROGRAM ACCOUNT**

9 Subject to section 502 of the Congressional Budget
10 Act of 1974, during fiscal year 2008, obligations of direct
11 loans may not exceed \$8,000,000 for Individual Fishing
12 Quota loans as authorized by the Merchant Marine Act,
13 1936.

14 **OTHER**

15 **DEPARTMENTAL MANAGEMENT**

16 **SALARIES AND EXPENSES**

17 For expenses necessary for the departmental manage-
18 ment of the Department of Commerce provided for by law,
19 including not to exceed \$5,000 for official entertainment,
20 \$58,693,000 (reduced by \$25,000,000).

21 **HCHB RENOVATION AND MODERNIZATION**

22 For expenses necessary for the renovation and mod-
23 ernization of the Herbert C. Hoover Building, \$3,364,000,
24 to remain available until expended.

1 **OFFICE OF INSPECTOR GENERAL**

2 For necessary expenses of the Office of Inspector
3 General in carrying out the provisions of the Inspector
4 General Act of 1978 (5 U.S.C. App.), \$23,426,000.

5 **NATIONAL INTELLECTUAL PROPERTY LAW**

6 **ENFORCEMENT COORDINATION COUNCIL**

7 For necessary expenses of the National Intellectual
8 Property Law Enforcement Coordination Council to co-
9 ordinate domestic and international intellectual property
10 protection and law enforcement relating to intellectual
11 property among Federal and foreign entities, \$1,000,000,
12 to remain available until September 30, 2009.

13 **GENERAL PROVISIONS—DEPARTMENT OF COMMERCE**

14 **(INCLUDING TRANSFER OF FUNDS)**

15 **SEC. 101.** During the current fiscal year, applicable
16 appropriations and funds made available to the Depart-
17 ment of Commerce by this Act shall be available for the
18 activities specified in the Act of October 26, 1949 (15
19 U.S.C. 1514), to the extent and in the manner prescribed
20 by the Act, and, notwithstanding 31 U.S.C. 3324, may
21 be used for advanced payments not otherwise authorized
22 only upon the certification of officials designated by the
23 Secretary of Commerce that such payments are in the
24 public interest.

25 **SEC. 102.** During the current fiscal year, appropria-
26 tions made available to the Department of Commerce by

1 this Act for salaries and expenses shall be available for
2 hire of passenger motor vehicles as authorized by 31
3 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C.
4 3109; and uniforms or allowances therefor, as authorized
5 by 5 U.S.C. 5901–5902.

6 **SEC. 103.** Not to exceed 5 percent of any appropria-
7 tion made available for the current fiscal year for the De-
8 partment of Commerce in this Act may be transferred be-
9 tween such appropriations, but no such appropriation shall
10 be increased by more than 10 percent by any such trans-
11 fers: *Provided*, That any transfer pursuant to this section
12 shall be treated as a reprogramming of funds under sec-
13 tion 505 of this Act and shall not be available for obliga-
14 tion or expenditure except in compliance with the proce-
15 dures set forth in that section: *Provided further*, That the
16 Secretary of Commerce shall notify the Committee on Ap-
17 propriations at least 15 days in advance of the acquisition
18 or disposal of any capital asset (including land, structures,
19 and equipment) not specifically provided for in this Act
20 or any other law appropriating funds for the Department
21 of Commerce.

22 **SEC. 104.** Any costs incurred by a department or
23 agency funded under this title resulting from personnel
24 actions taken in response to funding reductions included
25 in this title or from actions taken for the care and protec-

tion of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 105. Section 3315b of title 19, United States Code, is amended by inserting “, including food when sequestered,” following “for the establishment and operations of the United States Section and for the payment of the United States share of the expenses”.

SEC. 106. Section 214 of division B, Public Law 108–447 (118 Stat. 2884–86) is amended—

(1) by inserting “and subject to subsection (f)” after “program” in subsection (a); and

(2) by striking subsection (f) and inserting the following:

“(f) FUNDING.—There are authorized to be appropriated to carry out the provisions of this section, up to \$4,000,000 annually.”.

1 SEC. 107. (a) Section 318 of the National Marine
2 Sanctuaries Act (16 U.S.C. 1445c) is amended—

3 (1) by inserting “and subject to subsection (e)”
4 following the word “program” in subsection (a); and
5 (2) by striking subsection (e) and inserting the
6 following:

7 “(e) FUNDING.—There are authorized to be appro-
8 priated to the Secretary of Commerce up to \$500,000 an-
9 nually, to carry out the provisions of this section.”.

10 (b) Section 210 of the Department of Commerce and
11 Related Agencies Appropriations Act, 2001 (Public Law
12 106–553) is repealed.

13 SEC. 108. Notwithstanding the requirements of sub-
14 section (d) of section 4703 of title 5, United States Code,
15 the personnel management demonstration project estab-
16 lished by the Department of Commerce pursuant to such
17 section 4703 may be expanded to involve more than 5,000
18 individuals, and is extended indefinitely.

19 SEC. 109. (a) The Stevenson-Wydler Technology In-
20 novation Act of 1980 (15 U.S.C. 3701 et seq.) is amended
21 by striking section 5 and paragraphs (1) and (3) of section
22 4, and redesignating paragraphs (2) and (4) through (13)
23 of section 4 as paragraphs (1) through (11), respectively.

24 (b) Section 212(b) of the National Technical Infor-
25 mation Act of 1988 (15 U.S.C. 3704b) is amended by

1 striking “Under Secretary of Commerce for Technology”
 2 and inserting “Director of the National Institute of Stand-
 3 ards and Technology”.

4 TITLE II—DEPARTMENT OF JUSTICE

5 GENERAL ADMINISTRATION

6 SALARIES AND EXPENSES

7 For expenses necessary for the administration of the
 8 Department of Justice, \$104,777,000 (reduced by
 9 \$6,250,000) (reduced by \$5,000,000) (reduced by
 10 \$25,000,000), of which not to exceed \$3,317,000 is for
 11 security for and construction of Department of Justice fa-
 12 cilities, to remain available until expended: *Provided*, That
 13 not to exceed 45 permanent positions, 46 full-time equiva-
 14 lent workyears, and \$12,684,000 shall be expended for the
 15 Department Leadership Program: *Provided further*, That
 16 not to exceed 24 permanent positions, 24 full-time equiva-
 17 lent workyears, and \$3,734,000 shall be expended for the
 18 Office of Legislative Affairs: *Provided further*, That not
 19 to exceed 22 permanent positions, 22 full-time equivalent
 20 workyears, and \$2,968,000 shall be expended for the Of-
 21 fice of Public Affairs: *Provided further*, That the latter two
 22 aforementioned offices may utilize non-reimbursable de-
 23 tails of career employees within the caps described in the
 24 preceding two provisos.

1 **JUSTICE INFORMATION SHARING TECHNOLOGY**

2 For necessary expenses for information sharing tech-
3 nology, including planning, development, deployment and
4 departmental direction, \$100,500,000, to remain available
5 until expended, of which not less than \$21,000,000 is for
6 the unified financial management system.

7 **TACTICAL LAW ENFORCEMENT WIRELESS**

8 **COMMUNICATIONS**

9 For the costs of developing and implementing a na-
10 tion-wide Integrated Wireless Network supporting Federal
11 law enforcement and homeland security missions, and for
12 the costs of operations and maintenance of existing Land
13 Mobile Radio legacy systems, \$81,353,000, to remain
14 available until September 30, 2009: *Provided*, That the
15 Attorney General shall transfer to this account all funds
16 made available to the Department of Justice for the pur-
17 chase of portable and mobile radios: *Provided further*,
18 That any transfer made under the preceding proviso shall
19 be subject to section 505 of this Act.

20 **ADMINISTRATIVE REVIEW AND APPEALS**

21 For expenses necessary for the administration of par-
22 don and clemency petitions and immigration-related activi-
23 ties, \$251,499,000, of which, \$4,000,000 shall be derived
24 by transfer from the Executive Office for Immigration Re-
25 view fees deposited in the “Immigration Examination
26 Fee” account.

1 **DETENTION TRUSTEE**

2 For necessary expenses of the Federal Detention
3 Trustee, \$1,260,872,000, to remain available until ex-
4 pended: *Provided*, That the Trustee shall be responsible
5 for managing the Justice Prisoner and Alien Transpor-
6 tation System: *Provided further*, That not to exceed
7 \$5,000,000 shall be considered “funds appropriated for
8 State and local law enforcement assistance” pursuant to
9 18 U.S.C. 4013(b).

10 **OFFICE OF INSPECTOR GENERAL**

11 For necessary expenses of the Office of Inspector
12 General, \$74,708,000 including not to exceed \$10,000 to
13 meet unforeseen emergencies of a confidential character.

14 **UNITED STATES PAROLE COMMISSION**

15 **SALARIES AND EXPENSES**

16 For necessary expenses of the United States Parole
17 Commission as authorized, \$12,194,000.

18 **LEGAL ACTIVITIES**

19 **SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

20 For expenses necessary for the legal activities of the
21 Department of Justice, not otherwise provided for, includ-
22 ing not to exceed \$20,000 for expenses of collecting evi-
23 dence, to be expended under the direction of, and to be
24 accounted for solely under the certificate of, the Attorney
25 General; and rent of private or Government-owned space
26 in the District of Columbia, \$750,584,000, of which not

1 to exceed \$10,000,000 for litigation support contracts
2 shall remain available until expended: *Provided*, That of
3 the total amount appropriated, not to exceed \$1,000 shall
4 be available to the United States National Central Bu-
5 reau, INTERPOL, for official reception and representa-
6 tion expenses: *Provided further*, That notwithstanding sec-
7 tion 205 of this Act, upon a determination by the Attorney
8 General that emergent circumstances require additional
9 funding for litigation activities of the Civil Division, the
10 Attorney General may transfer such amounts to “Salaries
11 and Expenses, General Legal Activities” from available
12 appropriations for the current fiscal year for the Depart-
13 ment of Justice, as may be necessary to respond to such
14 circumstances: *Provided further*, That any transfer pursu-
15 ant to the previous proviso shall be treated as a re-
16 programming under section 505 of this Act and shall not
17 be available for obligation or expenditure except in compli-
18 ance with the procedures set forth in that section.

19 In addition, for reimbursement of expenses of the De-
20 partment of Justice associated with processing cases
21 under the National Childhood Vaccine Injury Act of 1986,
22 not to exceed \$6,833,000, to be appropriated from the
23 Vaccine Injury Compensation Trust Fund.

24 **SALARIES AND EXPENSES, ANTITRUST DIVISION**

25 For expenses necessary for the enforcement of anti-
26 trust and kindred laws, \$155,097,000, to remain available

1 until expended: *Provided*, That, notwithstanding any other
2 provision of law, fees collected for premerger notification
3 filings under the Hart-Scott-Rodino Antitrust Improve-
4 ments Act of 1976 (15 U.S.C. 18a), regardless of the year
5 of collection (and estimated to be \$139,000,000 in fiscal
6 year 2008), shall be retained and used for necessary ex-
7 penses in this appropriation, and shall remain available
8 until expended: *Provided further*, That the sum herein ap-
9 propriated from the general fund shall be reduced as such
10 offsetting collections are received during fiscal year 2008,
11 so as to result in a final fiscal year 2008 appropriation
12 from the general fund estimated at \$16,097,000.

13 **SALARIES AND EXPENSES, UNITED STATES ATTORNEYS**

14 For necessary expenses of the Offices of the United
15 States Attorneys, including inter-governmental and coop-
16 erative agreements, \$1,747,822,000 (increased by
17 \$750,000): *Provided*, That of the total amount appro-
18 priated, not to exceed \$8,000 shall be available for official
19 reception and representation expenses: *Provided further*,
20 That not to exceed \$20,000,000 shall remain available
21 until expended.

22 **UNITED STATES TRUSTEE SYSTEM FUND**

23 For necessary expenses of the United States Trustee
24 System, as authorized, \$189,000,000, to remain available
25 until expended and to be derived from the United States
26 Trustee System Fund: *Provided*, That amounts deposited

1 in the Fund in fiscal year 2008 in excess of \$184,000,000,
 2 but not to exceed \$231,899,000, shall be available until
 3 expended for the necessary expenses of the United States
 4 Trustee System as provided in section 589a(a) of title 28,
 5 United States Code: *Provided further*, That, notwith-
 6 standing any other provision of law, deposits to the Fund
 7 shall be available in such amounts as may be necessary
 8 to pay refunds due depositors.

9 **SALARIES AND EXPENSES, FOREIGN CLAIMS**

10 **SETTLEMENT COMMISSION**

11 For expenses necessary to carry out the activities of
 12 the Foreign Claims Settlement Commission, including
 13 services as authorized by 5 U.S.C. 3109, \$1,709,000.

14 **UNITED STATES MARSHALS SERVICE**

15 **SALARIES AND EXPENSES**

16 For necessary expenses of the United States Mar-
 17 shals Service, \$883,766,000; of which not to exceed
 18 \$6,000 shall be available for official reception and rep-
 19 resentation expenses; of which not to exceed \$4,000,000
 20 shall be for information technology systems and shall re-
 21 main available until expended; and of which not less than
 22 \$12,397,000 shall be available for the costs of courthouse
 23 security equipment, including furnishings, relocations, and
 24 telephone systems and cabling, and shall remain available
 25 until expended.

1 **CONSTRUCTION**

2 For construction in space controlled, occupied or uti-
3 lized by the United States Marshals Service for prisoner
4 holding and related support, \$2,451,000, to remain avail-
5 able until expended.

6 **FEES AND EXPENSES OF WITNESSES**

7 For fees and expenses of witnesses, for expenses of
8 contracts for the procurement and supervision of expert
9 witnesses, for private counsel expenses, including ad-
10 vances, and for expenses of foreign counsel, \$168,300,000,
11 to remain available until expended, of which not to exceed
12 \$10,000,000 is for construction of buildings for protected
13 witness safesites; not to exceed \$3,000,000 is for the pur-
14 chase and maintenance of armored and other vehicles for
15 witness security caravans; and not to exceed \$9,000,000
16 is for the purchase, installation, maintenance and upgrade
17 of secure telecommunications equipment and a secure
18 automated information network to store and retrieve the
19 identities and locations of protected witnesses.

20 **SALARIES AND EXPENSES, COMMUNITY RELATIONS**

21 **SERVICE**

22 For necessary expenses of the Community Relations
23 Service, \$9,794,000: *Provided*, That notwithstanding sec-
24 tion 205 of this Act, upon a determination by the Attorney
25 General that emergent circumstances require additional
26 funding for conflict resolution and violence prevention ac-

1 tivities of the Community Relations Service, the Attorney
 2 General may transfer such amounts to the Community Re-
 3 lations Service, from available appropriations for the cur-
 4 rent fiscal year for the Department of Justice, as may be
 5 necessary to respond to such circumstances: *Provided fur-*
 6 *ther*, That any transfer pursuant to the previous proviso
 7 shall be treated as a reprogramming under section 505
 8 of this Act and shall not be available for obligation or ex-
 9 penditure except in compliance with the procedures set
 10 forth in that section.

11 **ASSETS FORFEITURE FUND**

12 For expenses authorized by 28 U.S.C. 524(c)(1)(B),
 13 (F), and (G), \$20,990,000, to be derived from the Depart-
 14 ment of Justice Assets Forfeiture Fund.

15 **SALARIES AND EXPENSES, NATIONAL SECURITY DIVISION**

16 For expenses necessary to carry out the activities of
 17 the National Security Division, \$78,056,000; of which not
 18 to exceed \$5,000,000 for information technology systems
 19 shall remain available until expended: *Provided*, That not-
 20 withstanding section 205 of this Act, upon a determina-
 21 tion by the Attorney General that emergent circumstances
 22 require additional funding for the activities of the National
 23 Security Division, the Attorney General may transfer such
 24 amounts to this heading from available appropriations for
 25 the current fiscal year for the Department of Justice, as
 26 may be necessary to respond to such circumstances: *Pro-*

1 *vided further*, That any such transfer shall be treated as
2 a reprogramming under section 505 of this Act and shall
3 not be available for obligation or expenditure except in
4 compliance with the procedures set forth in that section.

5 **INTERAGENCY LAW ENFORCEMENT**

6 **INTERAGENCY CRIME AND DRUG ENFORCEMENT**

7 For necessary expenses for the identification, inves-
8 tigation, and prosecution of individuals associated with the
9 most significant drug trafficking and affiliated money
10 laundering organizations not otherwise provided for, to in-
11 clude inter-governmental agreements with State and local
12 law enforcement agencies engaged in the investigation and
13 prosecution of individuals involved in organized crime drug
14 trafficking, \$509,154,000, of which \$50,000,000 shall re-
15 main available until expended: *Provided*, That any
16 amounts obligated from these appropriations may be used
17 under authorities available to the organizations reim-
18 bursed from this appropriation.

19 **FEDERAL BUREAU OF INVESTIGATION**

20 **SALARIES AND EXPENSES**

21 For necessary expenses of the Federal Bureau of In-
22 vestigation for detection, investigation, and prosecution of
23 crimes against the United States; \$6,498,111,000 (in-
24 creased by \$5,500,000); of which not to exceed
25 \$150,000,000 shall remain available until expended; and

1 of which \$2,308,580,000 shall be for counterterrorism in-
2 vestigations, foreign counterintelligence, and other activi-
3 ties related to our national security: *Provided*, That not
4 to exceed \$205,000 shall be available for official reception
5 and representation expenses: *Provided further*, That not
6 to exceed \$170,000 shall be available in 2008 for expenses
7 associated with the celebration of the 100th anniversary
8 of the Federal Bureau of Investigation.

9 **CONSTRUCTION**

10 For necessary expenses to construct or acquire build-
11 ings and sites by purchase, or as otherwise authorized by
12 law (including equipment for such buildings); conversion
13 and extension of federally-owned buildings; and prelimi-
14 nary planning and design of projects; \$33,191,000 (re-
15 duced by \$5,000,000), to remain available until expended.

16 **DRUG ENFORCEMENT ADMINISTRATION**

17 **SALARIES AND EXPENSES**

18 For necessary expenses of the Drug Enforcement Ad-
19 ministration, including not to exceed \$70,000 to meet un-
20 foreseen emergencies of a confidential character pursuant
21 to 28 U.S.C. 530C; and expenses for conducting drug edu-
22 cation and training programs, including travel and related
23 expenses for participants in such programs and the dis-
24 tribution of items of token value that promote the goals
25 of such programs, \$1,842,569,000; of which not to exceed
26 \$75,000,000 shall remain available until expended; and of

1 which not to exceed \$100,000 shall be available for official
2 reception and representation expenses.

3 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND
4 EXPLOSIVES
5 SALARIES AND EXPENSES

6 For necessary expenses of the Bureau of Alcohol, To-
7 bacco, Firearms and Explosives, including the purchase of
8 not to exceed 822 vehicles for police-type use, of which
9 650 shall be for replacement only; not to exceed \$25,000
10 for official reception and representation expenses; for
11 training of State and local law enforcement agencies with
12 or without reimbursement, including training in connec-
13 tion with the training and acquisition of canines for explo-
14 sives and fire accelerants detection; and for provision of
15 laboratory assistance to State and local law enforcement
16 agencies, with or without reimbursement, \$1,013,980,000,
17 of which not to exceed \$1,000,000 shall be available for
18 the payment of attorneys' fees as provided by 18 U.S.C.
19 924(d)(2); and of which \$10,000,000 shall remain avail-
20 able until expended: *Provided*, That no funds appropriated
21 herein shall be available for salaries or administrative ex-
22 penses in connection with consolidating or centralizing,
23 within the Department of Justice, the records, or any por-
24 tion thereof, of acquisition and disposition of firearms
25 maintained by Federal firearms licensees: *Provided fur-*

1 *ther*, That no funds appropriated herein shall be used to
2 pay administrative expenses or the compensation of any
3 officer or employee of the United States to implement an
4 amendment or amendments to 27 CFR 178.118 or to
5 change the definition of “Curios or relics” in 27 CFR
6 178.11 or remove any item from ATF Publication
7 5300.11 as it existed on January 1, 1994: *Provided fur-*
8 *ther*, That none of the funds appropriated herein shall be
9 available to investigate or act upon applications for relief
10 from Federal firearms disabilities under 18 U.S.C. 925(c):
11 *Provided further*, That such funds shall be available to in-
12 vestigate and act upon applications filed by corporations
13 for relief from Federal firearms disabilities under section
14 925(c) of title 18, United States Code: *Provided further*,
15 That no funds made available by this or any other Act
16 may be used to transfer the functions, missions, or activi-
17 ties of the Bureau of Alcohol, Tobacco, Firearms and Ex-
18 plosives to other agencies or Departments in fiscal year
19 2008: *Provided further*, That, beginning in fiscal year
20 2008 and thereafter, no funds appropriated under this or
21 any other Act may be used to disclose part or all of the
22 contents of the Firearms Trace System database main-
23 tained by the National Trace Center of the Bureau of Al-
24 cohol, Tobacco, Firearms and Explosives or any informa-
25 tion required to be kept by licensees pursuant to section

1 923(g) of title 18, United States Code, or required to be
2 reported pursuant to paragraphs (3) and (7) of such sec-
3 tion 923(g), except to: (1) a Federal, State, local, tribal,
4 or foreign law enforcement agency, or a Federal, State,
5 or local prosecutor, solely in connection with and for use
6 in a criminal investigation or prosecution; or (2) a Federal
7 agency for a national security or intelligence purpose; and
8 all such data shall be immune from legal process, shall
9 not be subject to subpoena or other discovery, shall be in-
10 admissible in evidence, and shall not be used, relied on,
11 or disclosed in any manner, nor shall testimony or other
12 evidence be permitted based on the data, in a civil action
13 in any State (including the District of Columbia) or Fed-
14 eral court or in an administrative proceeding other than
15 a proceeding commenced by the Bureau of Alcohol, To-
16 bacco, Firearms and Explosives to enforce the provisions
17 of chapter 44 of such title, or a review of such an action
18 or proceeding; except that this proviso shall not be con-
19 strued to prevent: (A) the disclosure of statistical informa-
20 tion concerning total production, importation, and expor-
21 tation by each licensed importer (as defined in section
22 921(a)(9) of such title) and licensed manufacturer (as de-
23 fined in section 921(1)(10) of such title); (B) the sharing
24 or exchange of such information among and between Fed-
25 eral, State, local, or foreign law enforcement agencies,

1 Federal, State, or local prosecutors, and Federal national
2 security, intelligence, or counterterrorism officials; or (C)
3 the publication of annual statistical reports on products
4 regulated by the Bureau of Alcohol, Tobacco, Firearms
5 and Explosives, including total production, importation,
6 and exportation by each licensed importer (as so defined)
7 and licensed manufacturer (as so defined), or statistical
8 aggregate data regarding firearms traffickers and traf-
9 ficking channels, or firearms misuse, felons, and traf-
10 ficking investigations: *Provided further*, That no funds
11 made available by this or any other Act shall be expended
12 to promulgate or implement any rule requiring a physical
13 inventory of any business licensed under section 923 of
14 title 18, United States Code: *Provided further*, That no
15 funds under this Act may be used to electronically retrieve
16 information gathered pursuant to 18 U.S.C. 923(g)(4) by
17 name or any personal identification code: *Provided further*,
18 That no funds authorized or made available under this or
19 any other Act may be used to deny any application for
20 a license under section 923 of title 18, United States Code,
21 or renewal of such a license due to a lack of business activ-
22 ity, provided that the applicant is otherwise eligible to re-
23 ceive such a license, and is eligible to report business in-
24 come or to claim an income tax deduction for business ex-
25 penses under the Internal Revenue Code of 1986.

1 FEDERAL PRISON SYSTEM

2 SALARIES AND EXPENSES

3 For necessary expenses of the Federal Prison System
4 for the administration, operation, and maintenance of
5 Federal penal and correctional institutions, including pur-
6 chase (not to exceed 669, of which 642 are for replacement
7 only) and hire of law enforcement and passenger motor
8 vehicles, and for the provision of technical assistance and
9 advice on corrections related issues to foreign govern-
10 ments, \$5,171,440,000: *Provided*, That the Attorney Gen-
11 eral may transfer to the Health Resources and Services
12 Administration such amounts as may be necessary for di-
13 rect expenditures by that Administration for medical relief
14 for inmates of Federal penal and correctional institutions:
15 *Provided further*, That the Director of the Federal Prison
16 System, where necessary, may enter into contracts with
17 a fiscal agent or fiscal intermediary claims processor to
18 determine the amounts payable to persons who, on behalf
19 of the Federal Prison System, furnish health services to
20 individuals committed to the custody of the Federal Prison
21 System: *Provided further*, That not to exceed \$6,000 shall
22 be available for official reception and representation ex-
23 penses: *Provided further*, That not to exceed \$50,000,000
24 shall remain available for necessary operations until Sep-
25 tember 30, 2009: *Provided further*, That, of the amounts

1 provided for contract confinement, not to exceed
2 \$20,000,000 shall remain available until expended to
3 make payments in advance for grants, contracts and reim-
4 bursable agreements, and other expenses authorized by
5 section 501(c) of the Refugee Education Assistance Act
6 of 1980, for the care and security in the United States
7 of Cuban and Haitian entrants: *Provided further*, That the
8 Director of the Federal Prison System may accept donated
9 property and services relating to the operation of the pris-
10 on card program from a not-for-profit entity which has
11 operated such program in the past notwithstanding the
12 fact that such not-for-profit entity furnishes services
13 under contracts to the Federal Prison System relating to
14 the operation of pre-release services, halfway houses, or
15 other custodial facilities.

16 **BUILDINGS AND FACILITIES**

17 For the modernization, maintenance, and repair of
18 buildings and facilities, including all necessary expenses
19 incident thereto, by contract or force account,
20 \$95,003,000, to remain available until expended, of which
21 not to exceed \$14,000,000 shall be available to construct
22 areas for inmate work programs: *Provided*, That labor of
23 United States prisoners may be used for work performed
24 under this appropriation.

1 **FEDERAL PRISON INDUSTRIES, INCORPORATED**

2 The Federal Prison Industries, Incorporated, is here-
3 by authorized to make such expenditures, within the limits
4 of funds and borrowing authority available, and in accord
5 with the law, and to make such contracts and commit-
6 ments, without regard to fiscal year limitations as pro-
7 vided by section 9104 of title 31, United States Code, as
8 may be necessary in carrying out the program set forth
9 in the budget for the current fiscal year for such corpora-
10 tion, including purchase (not to exceed five for replace-
11 ment only) and hire of passenger motor vehicles.

12 **LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL**
13 **PRISON INDUSTRIES, INCORPORATED**

14 Not to exceed \$2,477,000 of the funds of the Federal
15 Prison Industries, Incorporated shall be available for its
16 administrative expenses, and for services as authorized by
17 5 U.S.C. 3109, to be computed on an accrual basis to be
18 determined in accordance with the corporation's current
19 prescribed accounting system, and such amounts shall be
20 exclusive of depreciation, payment of claims, and expendi-
21 tures which such accounting system requires to be capital-
22 ized or charged to cost of commodities acquired or pro-
23 duced, including selling and shipping expenses, and ex-
24 penses in connection with acquisition, construction, oper-
25 ation, maintenance, improvement, protection, or disposi-

1 tion of facilities and other property belonging to the cor-
 2 poration or in which it has an interest.

3 **OFFICE ON VIOLENCE AGAINST WOMEN**
 4 **VIOLENCE AGAINST WOMEN PREVENTION AND**
 5 **PROSECUTION PROGRAMS**

6 For grants, contracts, cooperative agreements, and
 7 other assistance for the prevention and prosecution of vio-
 8 lence against women, as authorized by the Omnibus Crime
 9 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
 10 et seq.) (“the 1968 Act”); the Violent Crime Control and
 11 Law Enforcement Act of 1994 (Public Law 103–322)
 12 (“the 1994 Act”); the Victims of Child Abuse Act of 1990
 13 (Public Law 101–647) (“the 1990 Act”); the Prosecu-
 14 torial Remedies and Other Tools to end the Exploitation
 15 of Children Today Act of 2003 (Public Law 108–21); the
 16 Victims of Trafficking and Violence Protection Act of
 17 2000 (Public Law 106–386) (“the 2000 Act”); and the
 18 Violence Against Women and Department of Justice Re-
 19 authorization Act of 2005 (Public Law 109–162) (“the
 20 2005 Act”); \$430,000,000 (increased by \$10,000,000), in-
 21 cluding amounts for administrative costs, to remain avail-
 22 able until expended as follows:

- 23 (1) \$12,000,000 for the court-appointed special
 24 advocate program, as authorized by section 217 of
 25 the 1990 Act.

1 (2) \$3,000,000 for child abuse training pro-
2 grams for judicial personnel and practitioners, as
3 authorized by section 222 of the 1990 Act.

4 (3) \$205,000,000 for grants to combat violence
5 against women, as authorized by part T of the 1968
6 Act, as amended by section 101 of the 2005 Act, of
7 which—

8 (A) \$20,000,000 shall be for transitional
9 housing assistance grants for victims of domes-
10 tic violence, stalking or sexual assault as au-
11 thorized by section 40299 of the 1994 Act, as
12 amended by section 602 of the 2005 Act; and

13 (B) \$2,000,000 shall be for the National
14 Institute of Justice for research and evaluation
15 of violence against women.

16 (4) \$63,000,000 for grants to encourage arrest
17 policies as authorized by part U of the 1968 Act, as
18 amended by section 102 of the 2005 Act.

19 (5) \$10,000,000 for sexual assault victims as-
20 sistance, as authorized by section 202 of the 2005
21 Act.

22 (6) \$40,000,000 (increased by \$10,000,000) for
23 rural domestic violence and child abuse enforcement
24 assistance grants, as authorized by section 40295 of

1 the 1994 Act, as amended by section 203 of the
2 2005 Act.

3 (7) \$6,000,000 for training programs as au-
4 thorized by section 40152 of the 1994 Act, as
5 amended by section 108 of the 2005 Act, and for re-
6 lated local demonstration projects.

7 (8) \$3,000,000 for grants to improve the stalk-
8 ing and domestic violence databases, as authorized
9 by section 40602 of the 1994 Act, as amended by
10 section 109 of the 2005 Act.

11 (9) \$10,000,000 for grants to reduce violent
12 crimes against women on campus, as authorized by
13 section 304 of the 2005 Act.

14 (10) \$40,000,000 for legal assistance for vic-
15 tims, as authorized by section 1201 of the 2000 Act,
16 as amended by section 103 of the 2005 Act.

17 (11) \$5,000,000 for enhancing protection for
18 older and disabled women from domestic violence
19 and sexual assault, as authorized by section 40802
20 of the 1994 Act, as amended by section 205 of the
21 2005 Act.

22 (12) \$15,000,000 for the safe havens for chil-
23 dren program, as authorized by section 1301 of the
24 2000 Act, as amended by section 306 of the 2005
25 Act.

1 (13) \$8,000,000 for education and training to
 2 end violence against and abuse of women with dis-
 3 abilities, as authorized by section 1402 of the 2000
 4 Act, as amended by section 204 of the 2005 Act.

5 (14) \$10,000,000 for an engaging men and
 6 youth in prevention program, as authorized by the
 7 2005 Act.

8 OFFICE OF JUSTICE PROGRAMS

9 JUSTICE ASSISTANCE

10 For grants, contracts, cooperative agreements, and
 11 other assistance authorized by title I of the Omnibus
 12 Crime Control and Safe Streets Act of 1968, the Missing
 13 Children's Assistance Act, including salaries and expenses
 14 in connection therewith, the Prosecutorial Remedies and
 15 Other Tools to end the Exploitation of Children Today Act
 16 of 2003 (Public Law 108–21), the Justice for All Act of
 17 2004 (Public Law 108–405), the Violence Against Women
 18 and Department of Justice Reauthorization Act of 2005
 19 (Public Law 109–162), and the Victims of Crime Act of
 20 1984, \$250,000,000, to remain available until expended:
 21 *Provided*, That not to exceed \$127,915,000 (increased by
 22 \$1,747,111) shall be expended in total for Office of Jus-
 23 tice Programs management and administration.

24 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

25 For grants, contracts, cooperative agreements, and
 26 other assistance authorized by the Violent Crime Control

1 and Law Enforcement Act of 1994 (Public Law 103–322)
2 (“the 1994 Act”); the Omnibus Crime Control and Safe
3 Streets Act of 1968 (“the 1968 Act”); the Trafficking Vic-
4 tims Protection Reauthorization Act of 2005 (Public Law
5 109–164); the Violence Against Women and Department
6 of Justice Reauthorization Act of 2005 (Public Law 109–
7 162); and the Victims of Trafficking and Violence Protec-
8 tion Act of 2000 (Public Law 106–386); and other pro-
9 grams; \$1,315,000,000 (increased by \$10,000,000) (in-
10 creased by \$55,000,000) (including amounts for adminis-
11 trative costs, which shall be transferred to and merged
12 with the “Justice Assistance” account): *Provided*, That
13 funding provided under this heading shall remain available
14 until expended as follows:

15 (1) \$600,000,000 for the Edward Byrne Memo-
16 rial Justice Assistance Grant program as authorized
17 by subpart 1 of part E of title I of the 1968 Act,
18 as amended by section 1111 of Public Law 109–162
19 (except that the special rules for Puerto Rico under
20 section 505(g) of the 1968 Act, as amended by sec-
21 tion 1111 of Public Law 109–162, shall not apply
22 for purposes of this Act), of which \$25,000,000 is
23 for State and local law enforcement for security as-
24 sociated with the 2008 Presidential Candidate Nomi-
25 nating Conventions, to be divided equally between

1 the conventions; and \$10,000,000 is for the National
2 Institute of Justice in assisting units of local govern-
3 ment to identify, select, develop, modernize, and pur-
4 chase new technologies for use by law enforcement.

5 (2) \$405,000,000 (increased by \$55,000,000)
6 for the State Criminal Alien Assistance Program, as
7 authorized by section 241(i)(5) of the Immigration
8 and Nationality Act (8 U.S.C. 1231(i)(5)), as
9 amended by section 1196 of Public Law 109–162.

10 (3) \$30,000,000 (increased by \$10,000,000) for
11 the Southwest Border Prosecutor Initiative to reim-
12 burse State, county, parish, tribal, municipal govern-
13 ments only for costs associated with the prosecution
14 of criminal cases declined by local offices of the
15 United States Attorneys.

16 (4) \$124,500,000 for discretionary grants, not-
17 withstanding the provisions of section 505 of the
18 1968 Act.

19 (5) \$1,000,000 for the Missing Alzheimer’s Dis-
20 ease Patient Alert Program, as authorized by section
21 240001(c) of the 1994 Act.

22 (6) \$15,000,000 for activities authorized under
23 Public Law 109–164.

1 (7) \$40,000,000 for Drug Courts, as authorized
2 by section 1001(25)(A) of title I of the 1968 Act,
3 as amended by section 1142 of Public Law 109–162.

4 (8) \$7,500,000 for a prescription drug moni-
5 toring program.

6 (9) \$25,000,000 for prison rape prevention and
7 prosecution programs, as authorized by the Prison
8 Rape Elimination Act of 2003 (Public Law 108–79),
9 of which \$1,800,000 shall be transferred to the Na-
10 tional Prison Rape Elimination Commission for au-
11 thorized activities.

12 (10) \$10,000,000 for grants for residential sub-
13 stance abuse treatment for State prisoners, as au-
14 thorized by part S of the 1968 Act.

15 (11) \$5,000,000 for a program to improve
16 State and local law enforcement intelligence capabili-
17 ties including antiterrorism training and training to
18 ensure that constitutional rights, civil liberties, civil
19 rights, and privacy interests are protected.

20 (12) \$31,000,000 for assistance to Indian
21 tribes, of which—

22 (A) \$12,000,000 shall be available for
23 grants under section 20109(a)(2) of subtitle A
24 of title II of the 1994 Act;

1 (B) \$12,000,000 shall be available for the
2 Tribal Courts Initiative; and

3 (C) \$7,000,000 shall be available for tribal
4 alcohol and substance abuse reduction assist-
5 ance grants.

6 (13) \$1,000,000 for a capital litigation im-
7 provement grant program.

8 (14) \$10,000,000 for mental health courts and
9 adult and juvenile collaboration program grants, as
10 authorized by parts V and HH of title I of the 1968
11 Act.

12 (15) \$10,000,000 for sex offender management
13 assistance as authorized by the Adam Walsh Child
14 Protection and Safety Act of 2006 (Public Law
15 109–248), the Violence Against Women and Depart-
16 ment of Justice Reauthorization Act of 2005 (Public
17 Law 109–162), and the Violent Crime Control and
18 Law Enforcement Act of 1994 (Public Law 103–
19 322):

20 *Provided further*, That, if a unit of local government uses
21 any of the funds made available under this title to increase
22 the number of law enforcement officers, the unit of local
23 government will achieve a net gain in the number of law
24 enforcement officers who perform nonadministrative pub-
25 lic safety service.

1 COMMUNITY ORIENTED POLICING SERVICES

2 For activities authorized by the Violent Crime Con-
3 trol and Law Enforcement Act of 1994 (Public Law 103–
4 322), the Omnibus Crime Control and Safe Streets Act
5 of 1968 (“the 1968 Act”), the Violence Against Women
6 and Department of Justice Reauthorization Act of 2005
7 (Public Law 109–162), and the USA PATRIOT Improve-
8 ment and Reauthorization Act of 2005 (Public Law 109–
9 177) (including administrative costs), \$725,000,000, to
10 remain available until expended: *Provided*, That of the
11 funds under this heading, not to exceed \$2,575,000 shall
12 be available for the Office of Justice Programs for reim-
13 bursable services associated with programs administered
14 by the Community Oriented Policing Services Office: *Pro-*
15 *vided further*, That any balances made available through
16 prior year deobligations shall only be available in accord-
17 ance with section 505 of this Act. Of the amount pro-
18 vided—

19 (1) \$30,000,000 is for the matching grant pro-
20 gram for armor vests for law enforcement officers,
21 as authorized by section 2501 of part Y of the 1968
22 Act;

23 (2) \$85,000,000 is for grants to address public
24 safety and methamphetamine manufacturing, sale,

1 and use in hot spots as authorized by section 754
2 of Public Law 109–177;

3 (3) \$128,000,000 is for law enforcement tech-
4 nologies and interoperable communications;

5 (4) \$15,000,000 is for an offender re-entry pro-
6 gram;

7 (5) \$12,000,000 is for grants to upgrade crimi-
8 nal records, as authorized under the Crime Identi-
9 fication Technology Act of 1998 (42 U.S.C. 14601);

10 (6) \$175,000,000 is for a DNA analysis and
11 capacity enhancement program, and for other local,
12 State, and Federal forensic activities, of which not
13 less than \$151,000,000 shall be for reducing and
14 eliminating the backlog of DNA samples and for in-
15 creasing State and local DNA laboratory capacity;

16 (7) \$18,000,000 is for improving tribal law en-
17 forcement, including equipment and training;

18 (8) \$80,000,000 is for programs to reduce gun
19 crime and gang violence;

20 (9) \$4,000,000 is for training and technical as-
21 sistance;

22 (10) \$49,692,000 is for the Office of Weed and
23 Seed Strategies, as authorized by section 103 of the
24 1968 Act, as amended by section 1121 of Public
25 Law 109–162;

1 (11) not to exceed \$28,308,000 is for program
2 management and administration; and

3 (12) \$100,000,000 for grants under section
4 1701 of title I of the 1968 Act (42 U.S.C. 3796dd)
5 for the hiring and rehiring of additional career law
6 enforcement officers under part Q of such title not-
7 withstanding subsection (i) of such section.

8 **JUVENILE JUSTICE PROGRAMS**

9 For grants, contracts, cooperative agreements, and
10 other assistance authorized by the Juvenile Justice and
11 Delinquency Prevention Act of 1974 (“the 1974 Act”), the
12 Omnibus Crime Control and Safe Streets Act of 1968
13 (“the 1968 Act”), the Violence Against Women and De-
14 partment of Justice Reauthorization Act of 2005 (Public
15 Law 109–162), and other juvenile justice programs, in-
16 cluding salaries and expenses in connection therewith to
17 be transferred to and merged with the appropriations for
18 Justice Assistance, \$399,900,000, to remain available
19 until expended as follows:

20 (1) \$725,000 for concentration of Federal ef-
21 forts, as authorized by section 204 of the 1974 Act.

22 (2) \$81,175,000 for State and local programs
23 authorized by section 221 of the 1974 Act, including
24 training and technical assistance to assist small,
25 non-profit organizations with the Federal grants
26 process.

1 (3) \$53,000,000 for demonstration projects, as
2 authorized by sections 261 and 262 of the 1974 Act.

3 (4) \$100,000,000 for youth mentoring grants.

4 (5) \$70,000,000 for delinquency prevention, as
5 authorized by section 505 of the 1974 Act, of
6 which—

7 (A) \$17,500,000 shall be for the Tribal
8 Youth Program;

9 (B) \$25,000,000 shall be for a gang resist-
10 ance education and training program; and

11 (C) \$25,000,000 shall be for grants of
12 \$360,000 to each State and \$6,640,000 shall be
13 available for discretionary grants to States, for
14 programs and activities to enforce State laws
15 prohibiting the sale of alcoholic beverages to
16 minors or the purchase or consumption of alco-
17 holic beverages by minors, prevention and re-
18 duction of consumption of alcoholic beverages
19 by minors, and for technical assistance and
20 training.

21 (6) \$20,000,000 for the Secure Our Schools
22 Act, as authorized by part AA of the 1968 Act, as
23 amended by section 1169 of Public Law 109–162.

24 (7) \$15,000,000 for programs authorized by
25 the Victims of Child Abuse Act of 1990.

1 (8) \$60,000,000 for the Juvenile Accountability
2 Block Grants program as authorized by part R of
3 the 1968 Act, as amended by section 1166 of Public
4 Law 109–162 and Guam shall be considered a
5 State:

6 *Provided*, That not more than 10 percent of each amount
7 may be used for research, evaluation, and statistics activi-
8 ties designed to benefit the programs or activities author-
9 ized: *Provided further*, That not more than 2 percent of
10 each amount may be used for training and technical as-
11 sistance: *Provided further*, That the previous two provisos
12 shall not apply to demonstration projects, as authorized
13 by sections 261 and 262 of the 1974 Act.

14 **PUBLIC SAFETY OFFICERS BENEFITS**

15 For payments and expenses authorized by part L of
16 title I of the Omnibus Crime Control and Safe Streets Act
17 of 1968 (42 U.S.C. 3796), such sums as are necessary,
18 as authorized by section 6093 of Public Law 100–690
19 (102 Stat. 4339–4340) (including amounts for adminis-
20 trative costs, which amounts shall be paid to the “Justice
21 Assistance” account), to remain available until expended;
22 and \$5,000,000 for payments authorized by section
23 1201(b) of such Act; and \$4,100,000 for educational as-
24 sistance, as authorized by section 1212 of such Act.

1 GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

2 SEC. 201. In addition to amounts otherwise made
3 available in this title for official reception and representa-
4 tion expenses, a total of not to exceed \$60,000 from funds
5 appropriated to the Department of Justice in this title
6 shall be available to the Attorney General for official re-
7 ception and representation expenses.

8 SEC. 202. None of the funds appropriated by this
9 title shall be available to pay for an abortion, except where
10 the life of the mother would be endangered if the fetus
11 were carried to term, or in the case of rape: *Provided*,
12 That should this prohibition be declared unconstitutional
13 by a court of competent jurisdiction, this section shall be
14 null and void.

15 SEC. 203. None of the funds appropriated under this
16 title shall be used to require any person to perform, or
17 facilitate in any way the performance of, any abortion.

18 SEC. 204. Nothing in the preceding section shall re-
19 move the obligation of the Director of the Bureau of Pris-
20 ons to provide escort services necessary for a female in-
21 mate to receive such service outside the Federal facility:
22 *Provided*, That nothing in this section in any way dimin-
23 ishes the effect of section 203 intended to address the phil-
24 osophical beliefs of individual employees of the Bureau of
25 Prisons.

1 SEC. 205. Not to exceed 5 percent of any appropria-
2 tion made available for the current fiscal year for the De-
3 partment of Justice in this Act may be transferred be-
4 tween such appropriations, but no such appropriation, ex-
5 cept as otherwise specifically provided, shall be increased
6 by more than 10 percent by any such transfers: *Provided*,
7 That any transfer pursuant to this section shall be treated
8 as a reprogramming of funds under section 505 of this
9 Act and shall not be available for obligation except in com-
10 pliance with the procedures set forth in that section: *Pro-*
11 *vided further*, That none of the funds appropriated to
12 “Buildings and Facilities, Federal Prison System” in this
13 or any other Act may be transferred to “Salaries and Ex-
14 penses, Federal Prison System”, or any other Department
15 of Justice account, unless the President certifies that such
16 a transfer is necessary to the national security interests
17 of the United States, and such authority shall not be dele-
18 gated, and shall be subject to section 505 of this Act.

19 SEC. 206. The Attorney General is authorized to ex-
20 tend through September 30, 2009, the Personnel Manage-
21 ment Demonstration Project transferred to the Attorney
22 General pursuant to section 1115 of the Homeland Secu-
23 rity Act of 2002, Public Law 107–296 (6 U.S.C. 533)
24 without limitation on the number of employees or the posi-
25 tions covered.

1 **SEC. 207.** Notwithstanding any other provision of
2 law, Public Law 102–395 section 102(b) shall extend to
3 the Bureau of Alcohol, Tobacco, Firearms and Explosives
4 in the conduct of undercover investigative operations and
5 shall apply without fiscal year limitation with respect to
6 any undercover investigative operation initiated by the Bu-
7 reau of Alcohol, Tobacco, Firearms and Explosives that
8 is necessary for the detection and prosecution of crimes
9 against the United States.

10 **SEC. 208.** None of the funds made available to the
11 Department of Justice in this Act may be used for the
12 purpose of transporting an individual who is a prisoner
13 pursuant to conviction for crime under State or Federal
14 law and is classified as a maximum or high security pris-
15 oner, other than to a prison or other facility certified by
16 the Federal Bureau of Prisons as appropriately secure for
17 housing such a prisoner.

18 **SEC. 209.** (a) None of the funds appropriated by this
19 Act may be used by Federal prisons to purchase cable tele-
20 vision services, to rent or purchase videocassettes, video-
21 cassette recorders, or other audiovisual or electronic equip-
22 ment used primarily for recreational purposes.

23 (b) The preceding sentence does not preclude the
24 renting, maintenance, or purchase of audiovisual or elec-

1 tronic equipment for inmate training, religious, or edu-
2 cational programs.

3 SEC. 210. None of the funds made available under
4 this title shall be obligated or expended for SENTINEL,
5 or for any other major new or enhanced information tech-
6 nology program having total estimated development costs
7 in excess of \$100,000,000, unless the Deputy Attorney
8 General and the investment review board certify to the
9 Committee on Appropriations that the information tech-
10 nology program has appropriate program management
11 and contractor oversight mechanisms in place, and that
12 the program is compatible with the enterprise architecture
13 of the Department of Justice.

14 SEC. 211. (a) Section 589a of title 28, United States
15 Code, is amended in subsection (b) by—

16 (1) striking “and” in paragraph (8);

17 (2) striking the period in paragraph (9) and in-
18 serting “; and”; and

19 (3) adding the following new paragraph:

20 “(10) fines imposed under section 110(l) of title
21 11, United States Code.”.

22 (b) Section 110(l)(4)(A) of title 11, United States
23 Code, is amended to read as follows:

24 “(A) Fines imposed under this subsection in judicial
25 districts served by United States trustees shall be paid to

1 the United States trustees, who shall deposit an amount
2 equal to such fines in the United States Trustee Fund.”.

3 **SEC. 212.** (a) Section 1930(a) of title 28, United
4 States Code, is amended in paragraph (6) by striking all
5 that follows “whichever occurs first.” and inserting the
6 following: “The fee shall be \$325 for each quarter in which
7 disbursements total less than \$15,000; \$650 for each
8 quarter in which disbursements total \$15,000 or more but
9 less than \$75,000; \$975 for each quarter in which dis-
10 bursements total \$75,000 or more but less than \$150,000;
11 \$1,625 for each quarter in which disbursements total
12 \$150,000 or more but less than \$225,000; \$1,950 for each
13 quarter in which disbursements total \$225,000 or more
14 but less than \$300,000; \$4,875 for each quarter in which
15 disbursements total \$300,000 or more but less than
16 \$1,000,000; \$6,500 for each quarter in which disburse-
17 ments total \$1,000,000 or more but less than \$2,000,000;
18 \$9,750 for each quarter in which disbursements total
19 \$2,000,000 or more but less than \$3,000,000; \$10,400
20 for each quarter in which disbursements total \$3,000,000
21 or more but less than \$5,000,000; \$13,000 for each quar-
22 ter in which disbursements total \$5,000,000 or more but
23 less than \$15,000,000; \$20,000 for each quarter in which
24 disbursements total \$15,000,000 or more but less than
25 \$30,000,000; and \$30,000 for each quarter in which dis-

1 bursements total more than \$30,000,000. The fee shall
2 be payable on the last day of the calendar month following
3 the calendar quarter for which the fee is owed”.

4 (b) This section and the amendment made by this
5 section shall take effect January 1, 2008, or the date of
6 the enactment of this Act, whichever is later.

7 SEC. 213. None of the funds appropriated by this Act
8 may be used to plan for, begin, continue, finish, process,
9 or approve a public-private competition under the Office
10 of Management and Budget Circular A–76 or any suc-
11 cessor administrative regulation, directive, or policy for
12 work performed by employees of the Bureau of Prisons
13 or of Federal Prison Industries, Incorporated.

14 SEC. 214. The amounts otherwise provided by this
15 title are revised by reducing the amount made available
16 for “GENERAL ADMINISTRATION—SALARIES AND EX-
17 PENSES”, and increasing the amount made available for
18 “OFFICE ON VIOLENCE AGAINST WOMEN—VIOLENCE
19 AGAINST WOMEN PREVENTION AND PROSECUTION PRO-
20 GRAMS” (consisting of an additional \$6,000,000 for grants
21 to assist children and youth exposed to violence,
22 \$6,000,000 for services to advocate for and respond to
23 youth, \$1,000,000 for the national tribal sex offender reg-
24 istry, and \$1,000,000 for research relating to violence
25 against Indian women, as authorized by sections 41303,

1 41201, 905(b), and 904, respectively, of the Violence
 2 Against Women and Department of Justice Reauthoriza-
 3 tion Act of 2005), by \$14,000,000.

4 TITLE III—SCIENCE

5 OFFICE OF SCIENCE AND TECHNOLOGY POLICY

6 For necessary expenses of the Office of Science and
 7 Technology Policy, in carrying out the purposes of the Na-
 8 tional Science and Technology Policy, Organization, and
 9 Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of
 10 passenger motor vehicles, and services as authorized by
 11 5 U.S.C. 3109, not to exceed \$2,500 for official reception
 12 and representation expenses, and rental of conference
 13 rooms in the District of Columbia, \$5,515,000.

14 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

15 SCIENCE

16 For necessary expenses, not otherwise provided for,
 17 in the conduct and support of science research and devel-
 18 opment activities, including research, development, oper-
 19 ations, support, and services; maintenance; construction of
 20 facilities including repair, rehabilitation, revitalization,
 21 and modification of facilities, construction of new facilities
 22 and additions to existing facilities, facility planning and
 23 design, and restoration, and acquisition or condemnation
 24 of real property, as authorized by law; environmental com-
 25 pliance and restoration; space flight, spacecraft control,

1 and communications activities; program management; per-
2 sonnel and related costs, including uniforms or allowances
3 therefor, as authorized by sections 5901 and 5902 of title
4 5, United States Code; travel expenses; purchase and hire
5 of passenger motor vehicles; not to exceed \$14,000 for of-
6 ficial reception and representation expenses; and purchase,
7 lease, charter, maintenance, and operation of mission and
8 administrative aircraft, \$5,696,100,000, of which not less
9 than \$278,000,000 shall be for the Hubble Space Tele-
10 scope, not less than \$545,000,000 shall be for the James
11 Webb Space Telescope, not less than \$90,000,000 shall
12 be for the Global Precipitation Measurement mission, not
13 less than \$625,700,000 shall be for the Mars Exploration
14 Program, and not less than \$71,600,000 shall be for the
15 Space Interferometry Mission, to remain available until
16 September 30, 2009.

17 **AERONAUTICS**

18 For necessary expenses, not otherwise provided for,
19 in the conduct and support of aeronautics research and
20 development activities, including research, development,
21 operations, support, and services; maintenance; construc-
22 tion of facilities including repair, rehabilitation, revitaliza-
23 tion, and modification of facilities, construction of new fa-
24 cilities and additions to existing facilities, facility planning
25 and design, and restoration, and acquisition or condemna-
26 tion of real property, as authorized by law; environmental

1 compliance and restoration; space flight, spacecraft con-
2 trol, and communications activities; program manage-
3 ment; personnel and related costs, including uniforms or
4 allowances therefor, as authorized by sections 5901 and
5 5902 of title 5, United States Code; travel expenses; pur-
6 chase and hire of passenger motor vehicles; not to exceed
7 \$14,000 for official reception and representation expenses;
8 and purchase, lease, charter, maintenance, and operation
9 of mission and administrative aircraft, \$700,000,000 to
10 remain available until September 30, 2009.

11 **EXPLORATION**

12 For necessary expenses, not otherwise provided for,
13 in the conduct and support of exploration research and
14 development activities, including research, development,
15 operations, support, and services; maintenance; construc-
16 tion of facilities including repair, rehabilitation, revitaliza-
17 tion, and modification of facilities, construction of new fa-
18 cilities and additions to existing facilities, facility planning
19 and design, and restoration, and acquisition or condemna-
20 tion of real property, as authorized by law; environmental
21 compliance and restoration; space flight, spacecraft con-
22 trol, and communications activities; program manage-
23 ment, personnel and related costs, including uniforms or
24 allowances therefor, as authorized by sections 5901 and
25 5902 of title 5, United States Code; travel expenses; pur-
26 chase and hire of passenger motor vehicles; not to exceed

1 \$14,000 for official reception and representation expenses;
2 and purchase, lease, charter, maintenance, and operation
3 of mission and administrative aircraft, \$3,923,800,000, to
4 remain available until September 30, 2009: *Provided*,
5 That none of the funds under this heading shall be used
6 for any research, development, or demonstration activities
7 related exclusively to the human exploration of Mars.

8 **EDUCATION**

9 For necessary expenses, not otherwise provided for,
10 in carrying out aerospace and aeronautical education, in-
11 cluding personnel and related costs, uniforms or allow-
12 ances therefor, as authorized by sections 5901 and 5902
13 of title 5, United States Code; travel expenses; purchase
14 and hire of passenger motor vehicles; not to exceed \$4,000
15 for official reception and representation expenses; and
16 purchase, lease, charter, maintenance, and operation of
17 mission and administrative aircraft, \$220,300,000 to re-
18 main available until September 30, 2009.

19 **CROSS-AGENCY SUPPORT PROGRAMS**

20 For necessary expenses, not otherwise provided for,
21 in the conduct and support of science, aeronautics and ex-
22 ploration research and development activities, including
23 research, development, operations, support, and services;
24 maintenance; construction of facilities including repair, re-
25 habilitation, revitalization, and modification of facilities,
26 construction of new facilities and additions to existing fa-

1 cilities, facility planning and design, and restoration, and
2 acquisition or condemnation of real property, as author-
3 ized by law; environmental compliance and restoration;
4 space flight, spacecraft control, and communications ac-
5 tivities; program management; personnel and related
6 costs, including uniforms or allowances therefor, as au-
7 thorized by sections 5901 and 5902 of title 5, United
8 States Code; travel expenses; purchase and hire of pas-
9 senger motor vehicles; not to exceed \$10,000 for official
10 reception and representation expenses; and purchase,
11 lease, charter, maintenance, and operation of mission and
12 administrative aircraft, \$356,000,000, to remain available
13 until September 30, 2009.

14 **SPACE OPERATIONS**

15 For necessary expenses, not otherwise provided for,
16 in the conduct and support of space operations research
17 and development activities, including research, develop-
18 ment, operations, support, and services; maintenance; con-
19 struction of facilities including repair, rehabilitation, revi-
20 talization, and modification of facilities, construction of
21 new facilities and additions to existing facilities, facility
22 planning and design, and restoration, and acquisition or
23 condemnation of real property, as authorized by law; envi-
24 ronmental compliance and restoration; space flight, space-
25 craft control, and communications activities including op-
26 erations, production, and services; program management;

1 personnel and related costs, including uniforms or allow-
2 ances therefor, as authorized by sections 5901 and 5902
3 of title 5, United States Code; travel expenses; purchase
4 and hire of passenger motor vehicles; not to exceed
5 \$14,000 for official reception and representation expenses;
6 and purchase, lease, charter, maintenance, and operation
7 of mission and administrative aircraft, \$6,691,700,000 to
8 remain available until September 30, 2009.

9 **OFFICE OF INSPECTOR GENERAL**

10 For necessary expenses of the Office of Inspector
11 General in carrying out the Inspector General Act of 1978,
12 \$34,600,000, to remain available until September 30,
13 2009.

14 **ADMINISTRATIVE PROVISIONS**
15 **(INCLUDING TRANSFER OF FUNDS)**

16 Notwithstanding the limitation on the duration of
17 availability of funds appropriated for “Science”, “Aero-
18 nautics”, “Exploration”, “Cross-Agency Support Pro-
19 grams”, or “Space Operations” under this title, when any
20 activity has been initiated by the incurrence of obligations
21 for construction of facilities or environmental compliance
22 and restoration activities as authorized by law, such
23 amount available for such activity shall remain available
24 until expended. This provision does not apply to the
25 amounts appropriated for institutional minor revitaliza-

1 tion and minor construction of facilities, and institutional
2 facility planning and design.

3 Funds for announced prizes otherwise authorized
4 shall remain available, without fiscal year limitation, until
5 the prize is claimed or the offer is withdrawn. Funding
6 shall not be made available for Centennial Challenges un-
7 less authorized.

8 Funding made available under the headings
9 “Science”, “Aeronautics”, “Exploration”, “Education”,
10 “Cross-Agency Support Programs”, and “Space Oper-
11 ations” for the National Aeronautics and Space Adminis-
12 tration shall be governed by the terms and conditions spec-
13 ified in the report accompanying this Act.

14 The unexpired balances of prior appropriations to the
15 National Aeronautics and Space Administration for activi-
16 ties for which funds are provided under this Act may be
17 transferred to the new accounts established for the appro-
18 priation that provides such activity under this Act. Bal-
19 ances so transferred may be merged with funds in the
20 newly established accounts and thereafter may be ac-
21 counted for as one fund under the same terms and condi-
22 tions.

23 Not to exceed 5 percent of any appropriation made
24 available for the current fiscal year for the National Aero-
25 nautics and Space Administration in this Act may be

1 transferred between such appropriations, but no such ap-
2 propriation, except as otherwise specifically provided, shall
3 be increased by more than 10 percent by any such trans-
4 fers. Any transfer pursuant to this provision shall be treat-
5 ed as a reprogramming of funds under section 505 of this
6 Act and shall not be available for obligation except in com-
7 pliance with the procedures set forth in that section.

8 Notwithstanding any other provision of law, no funds
9 shall be used to implement any Reduction in Force or
10 other involuntary separations (except for cause) by the
11 National Aeronautics and Space Administration prior to
12 September 30, 2008.

13 The Administrator of the National Aeronautics and
14 Space Administration shall prepare a strategy for mini-
15 mizing job losses when the National Aeronautics and
16 Space Administration transitions from the Space Shuttle
17 to a successor human-rated space transport vehicle. This
18 strategy shall include: (1) specific initiatives that the Na-
19 tional Aeronautics and Space Administration has under-
20 taken, or plans to undertake, to maximize the utilization
21 of existing civil service and contractor workforces at each
22 of the affected Centers; (2) efforts to equitably distribute
23 tasks and workload between the Centers to mitigate the
24 brunt of job losses being borne by only certain Centers;
25 (3) new workload, tasks, initiatives, and missions being

1 secured for the affected Centers; and (4) overall projec-
2 tions of future civil service and contractor workforce levels
3 at the affected Centers. The Administrator shall transmit
4 this strategy to Congress not later than 90 days after the
5 date of enactment of this Act. The Administrator shall up-
6 date and transmit to Congress this strategy not less than
7 every six months thereafter until the successor human-
8 rated space transport vehicle is fully operational.

9 **NATIONAL SCIENCE FOUNDATION**

10 **RESEARCH AND RELATED ACTIVITIES**

11 For necessary expenses in carrying out the National
12 Science Foundation Act of 1950 (42 U.S.C. 1861–1875),
13 and Public Law 86–209, relating to the National Medal
14 of Science (42 U.S.C. 1880–1881); services as authorized
15 by 5 U.S.C. 3109; maintenance and operation of aircraft
16 and purchase of flight services for research support; acqui-
17 sition of aircraft; and authorized travel; \$5,139,690,000,
18 to remain available until September 30, 2009, of which
19 not to exceed \$510,000,000 shall remain available until
20 expended for polar research and operations support, and
21 for reimbursement to other Federal agencies for oper-
22 ational and science support and logistical and other re-
23 lated activities for the United States Antarctic program:
24 *Provided*, That receipts for scientific support services and
25 materials furnished by the National Research Centers and

1 other National Science Foundation supported research fa-
2 cilities may be credited to this appropriation.

3 **MAJOR RESEARCH EQUIPMENT AND FACILITIES**

4 **CONSTRUCTION**

5 For necessary expenses for the acquisition, construc-
6 tion, commissioning, and upgrading of major research
7 equipment, facilities, and other such capital assets pursu-
8 ant to the National Science Foundation Act of 1950 (42
9 U.S.C. 1861–1875), including authorized travel,
10 \$244,740,000, to remain available until expended.

11 **EDUCATION AND HUMAN RESOURCES**

12 For necessary expenses in carrying out science and
13 engineering education and human resources programs and
14 activities pursuant to the National Science Foundation
15 Act of 1950 (42 U.S.C. 1861–1875), including services
16 as authorized by 5 U.S.C. 3109, authorized travel, and
17 rental of conference rooms in the District of Columbia,
18 \$822,600,000, to remain available until September 30,
19 2009.

20 **AGENCY OPERATIONS AND AWARD MANAGEMENT**

21 For agency operations and award management nec-
22 essary in carrying out the National Science Foundation
23 Act of 1950 (42 U.S.C. 1861–1875); services authorized
24 by 5 U.S.C. 3109; hire of passenger motor vehicles; not
25 to exceed \$9,000 for official reception and representation
26 expenses; uniforms or allowances therefor, as authorized

1 by 5 U.S.C. 5901–5902; rental of conference rooms in the
2 District of Columbia; and reimbursement of the General
3 Services Administration for security guard services;
4 \$285,590,000 (reduced by \$10,000,000): *Provided*, That
5 contracts may be entered into under this heading in fiscal
6 year 2008 for maintenance and operation of facilities, and
7 for other services, to be provided during the next fiscal
8 year.

9 **OFFICE OF THE NATIONAL SCIENCE BOARD**

10 For necessary expenses (including payment of sala-
11 ries, authorized travel, hire of passenger motor vehicles,
12 the rental of conference rooms in the District of Columbia,
13 and the employment of experts and consultants under sec-
14 tion 3109 of title 5, United States Code) involved in car-
15 rying out section 4 of the National Science Foundation
16 Act of 1950 (42 U.S.C. 1863) and Public Law 86–209
17 (42 U.S.C. 1880–1881), \$4,030,000, to remain available
18 until September 30, 2009: *Provided*, That not more than
19 \$9,000 shall be available for official reception and rep-
20 resentation expenses.

21 **OFFICE OF INSPECTOR GENERAL**

22 For necessary expenses of the Office of Inspector
23 General as authorized by the Inspector General Act of
24 1978, \$12,350,000, to remain available until September
25 30, 2009.

1 TITLE IV—RELATED AGENCIES

2 COMMISSION ON CIVIL RIGHTS

3 SALARIES AND EXPENSES

4 For necessary expenses of the Commission on Civil
5 Rights, including hire of passenger motor vehicles,
6 \$9,000,000: *Provided*, That none of the funds appro-
7 priated in this paragraph shall be used to employ in excess
8 of four full-time individuals under Schedule C of the Ex-
9 cepted Service exclusive of one special assistant for each
10 Commissioner: *Provided further*, That none of the funds
11 appropriated in this paragraph shall be used to reimburse
12 Commissioners for more than 75 billable days, with the
13 exception of the chairperson, who is permitted 125 billable
14 days.

15 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

16 SALARIES AND EXPENSES

17 For necessary expenses of the Equal Employment
18 Opportunity Commission as authorized by title VII of the
19 Civil Rights Act of 1964, the Age Discrimination in Em-
20 ployment Act of 1967, the Equal Pay Act of 1963, the
21 Americans with Disabilities Act of 1990, and the Civil
22 Rights Act of 1991, including services as authorized by
23 5 U.S.C. 3109; hire of passenger motor vehicles as author-
24 ized by 31 U.S.C. 1343(b); nonmonetary awards to private
25 citizens; and not to exceed \$28,000,000 for payments to

1 State and local enforcement agencies for authorized serv-
 2 ices to the Commission, \$332,748,000: *Provided*, That the
 3 Commission is authorized to make available for official re-
 4 ception and representation expenses not to exceed \$2,500
 5 from available funds: *Provided further*, That no funds
 6 made available under this heading may be used to
 7 outsource operations of the National Contact Center.

8 INTERNATIONAL TRADE COMMISSION

9 SALARIES AND EXPENSES

10 For necessary expenses of the International Trade
 11 Commission, including hire of passenger motor vehicles,
 12 and services as authorized by 5 U.S.C. 3109, and not to
 13 exceed \$2,500 for official reception and representation ex-
 14 penses, \$68,400,000, to remain available until expended.

15 LEGAL SERVICES CORPORATION

16 PAYMENT TO THE LEGAL SERVICES CORPORATION

17 For payment to the Legal Services Corporation to
 18 carry out the purposes of the Legal Services Corporation
 19 Act of 1974, \$377,000,000, of which \$355,134,000 is for
 20 basic field programs and required independent audits;
 21 \$3,041,000 is for the Office of Inspector General, of which
 22 such amounts as may be necessary may be used to conduct
 23 additional audits of recipients; \$13,825,000 is for manage-
 24 ment and administration; \$4,000,000 is for client self-help

1 and information technology; and \$1,000,000 is for loan
2 repayment assistance.

3 **ADMINISTRATIVE PROVISION—LEGAL SERVICES**

4 **CORPORATION**

5 None of the funds appropriated in this Act to the
6 Legal Services Corporation shall be expended for any pur-
7 pose prohibited or limited by, or contrary to any of the
8 provisions of, sections 501 through 506 of Public Law
9 105–119, and all funds appropriated in this Act to the
10 Legal Services Corporation shall be subject to the same
11 terms and conditions set forth in such sections, except that
12 all references in sections 502 and 503 to 1997 and 1998
13 shall be deemed to refer instead to 2007 and 2008, respec-
14 tively.

15 **MARINE MAMMAL COMMISSION**

16 **SALARIES AND EXPENSES**

17 For necessary expenses of the Marine Mammal Com-
18 mission as authorized by title II of Public Law 92–522,
19 \$3,000,000.

20 **NATIONAL VETERANS BUSINESS DEVELOPMENT**

21 **CORPORATION**

22 **SALARIES AND EXPENSES**

23 For necessary expenses of the National Veterans
24 Business Development Corporation established under sec-
25 tion 33 of the Small Business Act (15 U.S.C. 657c),
26 \$2,500,000, to remain available until expended.

1 OFFICE OF THE UNITED STATES TRADE
2 REPRESENTATIVE
3 SALARIES AND EXPENSES

4 For necessary expenses of the Office of the United
5 States Trade Representative, including the hire of pas-
6 senger motor vehicles and the employment of experts and
7 consultants as authorized by 5 U.S.C. 3109, \$48,407,000,
8 of which \$1,000,000 shall remain available until expended:
9 *Provided*, That not to exceed \$124,000 shall be available
10 for official reception and representation expenses: *Pro-*
11 *vided further*, That negotiations of the United States at
12 the World Trade Organization shall be conducted con-
13 sistent with the trade negotiating objectives of the United
14 States contained in section 2102 of the Bipartisan Trade
15 Promotion Authority Act of 2002 (19 U.S.C. 3802).

16 STATE JUSTICE INSTITUTE
17 SALARIES AND EXPENSES

18 For necessary expenses of the State Justice Institute,
19 as authorized by the State Justice Institute Authorization
20 Act of 1984 (42 U.S.C. 10701 et seq.), \$4,640,000: *Pro-*
21 *vided*, That not to exceed \$2,500 shall be available for offi-
22 cial reception and representation expenses.

1 TITLE V—GENERAL PROVISIONS
2 (INCLUDING TRANSFER OF FUNDS)

3 SEC. 501. No part of any appropriation contained in
4 this Act shall be used for publicity or propaganda purposes
5 not authorized by the Congress.

6 SEC. 502. No part of any appropriation contained in
7 this Act shall remain available for obligation beyond the
8 current fiscal year unless expressly so provided herein.

9 SEC. 503. The expenditure of any appropriation
10 under this Act for any consulting service through procure-
11 ment contract, pursuant to 5 U.S.C. 3109, shall be limited
12 to those contracts where such expenditures are a matter
13 of public record and available for public inspection, except
14 where otherwise provided under existing law, or under ex-
15 isting Executive order issued pursuant to existing law.

16 SEC. 504. If any provision of this Act or the applica-
17 tion of such provision to any person or circumstances shall
18 be held invalid, the remainder of the Act and the applica-
19 tion of each provision to persons or circumstances other
20 than those as to which it is held invalid shall not be af-
21 fected thereby.

22 SEC. 505. (a) None of the funds provided under this
23 Act, or provided under previous appropriations Acts to the
24 agencies funded by this Act that remain available for obli-
25 gation or expenditure in fiscal year 2008, or provided from

1 any accounts in the Treasury of the United States derived
2 by the collection of fees available to the agencies funded
3 by this Act, shall be available for obligation or expenditure
4 through a reprogramming of funds that: (1) creates new
5 programs; (2) eliminates a program, project, or activity;
6 (3) increases funds or personnel by any means for any
7 project or activity for which funds have been denied or
8 restricted; (4) relocates an office or employees; (5) reorga-
9 nizes offices, programs or activities; or (6) contracts out
10 or privatizes any functions or activities presently per-
11 formed by Federal employees; unless the Committee on
12 Appropriations is notified 15 days in advance of such re-
13 programming of funds.

14 (b) None of the funds provided under this Act, or
15 provided under previous appropriations Acts to the agen-
16 cies funded by this Act that remain available for obligation
17 or expenditure in fiscal year 2008, or provided from any
18 accounts in the Treasury of the United States derived by
19 the collection of fees available to the agencies funded by
20 this Act, shall be available for obligation or expenditure
21 for activities, programs, or projects through a reprogram-
22 ming of funds in excess of \$500,000 or 10 percent, which-
23 ever is less, that: (1) augments existing programs,
24 projects, or activities; (2) reduces by 10 percent funding
25 for any existing program, project, or activity, or numbers

1 of personnel by 10 percent as approved by Congress; or
2 (3) results from any general savings, including savings
3 from a reduction in personnel, which would result in a
4 change in existing programs, activities, or projects as ap-
5 proved by Congress; unless the Committee on Appropria-
6 tions is notified 15 days in advance of such reprogram-
7 ming of funds.

8 **SEC. 506.** Hereafter, none of the funds made avail-
9 able in this Act may be used to implement, administer,
10 or enforce any guidelines of the Equal Employment Op-
11 portunity Commission covering harassment based on reli-
12 gion, when it is made known to the Federal entity or offi-
13 cial to which such funds are made available that such
14 guidelines do not differ in any respect from the proposed
15 guidelines published by the Commission on October 1,
16 1993 (58 Fed. Reg. 51266).

17 **SEC. 507.** If it has been finally determined by a court
18 or Federal agency that any person intentionally affixed a
19 label bearing a “Made in America” inscription, or any in-
20 scription with the same meaning, to any product sold in
21 or shipped to the United States that is not made in the
22 United States, the person shall be ineligible to receive any
23 contract or subcontract made with funds made available
24 in this Act, pursuant to the debarment, suspension, and

1 ineligibility procedures described in sections 9.400 through
2 9.409 of title 48, Code of Federal Regulations.

3 **SEC. 508.** The Departments of Commerce and Jus-
4 tice, the National Science Foundation, and the National
5 Aeronautics and Space Administration, shall provide to
6 the Committee on Appropriations a quarterly accounting
7 of the cumulative balances of any unobligated funds that
8 were received by such agency during any previous fiscal
9 year.

10 **SEC. 509.** Any costs incurred by a department or
11 agency funded under this Act resulting from personnel ac-
12 tions taken in response to funding reductions included in
13 this Act shall be absorbed within the total budgetary re-
14 sources available to such department or agency: *Provided*,
15 That the authority to transfer funds between appropria-
16 tions accounts as may be necessary to carry out this sec-
17 tion is provided in addition to authorities included else-
18 where in this Act: *Provided further*, That use of funds to
19 carry out this section shall be treated as a reprogramming
20 of funds under section 505 of this Act and shall not be
21 available for obligation or expenditure except in compli-
22 ance with the procedures set forth in that section.

23 **SEC. 510.** None of the funds provided by this Act
24 shall be available to promote the sale or export of tobacco
25 or tobacco products, or to seek the reduction or removal

1 by any foreign country of restrictions on the marketing
2 of tobacco or tobacco products, except for restrictions
3 which are not applied equally to all tobacco or tobacco
4 products of the same type.

5 **SEC. 511.** None of the funds appropriated pursuant
6 to this Act or any other provision of law may be used for—

7 (1) the implementation of any tax or fee in con-
8 nection with the implementation of section 922(t) of
9 title 18, United States Code; and

10 (2) any system to implement section 922(t) of
11 title 18, United States Code, that does not require
12 and result in the destruction of any identifying in-
13 formation submitted by or on behalf of any person
14 who has been determined not to be prohibited from
15 possessing or receiving a firearm no more than 24
16 hours after the system advises a Federal firearms li-
17 censee that possession or receipt of a firearm by the
18 prospective transferee would not violate subsection
19 (g) or (n) of section 922 of title 18, United States
20 Code, or State law.

21 **SEC. 512.** None of the funds made available in this
22 Act may be used to pay the salaries and expenses of per-
23 sonnel of the Department of Justice to obligate more than
24 \$635,000,000 during fiscal year 2008 from the fund es-
25 tablished by section 1402 of chapter XIV of title II of

1 Public Law 98–473 (42 U.S.C. 10601), and the amount
2 otherwise provided under this Act for Department of Com-
3 merce, Departmental Management, Salaries and Expenses
4 is reduced by \$10,000,000.

5 SEC. 513. None of the funds made available to the
6 Department of Justice in this Act may be used to discrimi-
7 nate against or denigrate the religious or moral beliefs of
8 students who participate in programs for which financial
9 assistance is provided from those funds, or of the parents
10 or legal guardians of such students.

11 SEC. 514. None of the funds made available in this
12 Act may be transferred to any department, agency, or in-
13 strumentality of the United States Government, except
14 pursuant to a transfer made by, or transfer authority pro-
15 vided in, this Act or any other appropriations Act.

16 SEC. 515. Any funds provided in this Act used to im-
17 plement E-Government Initiatives shall be subject to the
18 procedures set forth in section 505 of this Act.

19 SEC. 516. (a) Tracing studies conducted by the Bu-
20 reau of Alcohol, Tobacco, Firearms and Explosives are re-
21 leased without adequate disclaimers regarding the limita-
22 tions of the data.

23 (b) The Bureau of Alcohol, Tobacco, Firearms and
24 Explosives shall include in all such data releases, language
25 similar to the following that would make clear that trace

1 data cannot be used to draw broad conclusions about fire-
2 arms-related crime:

3 (1) Firearm traces are designed to assist law
4 enforcement authorities in conducting investigations
5 by tracking the sale and possession of specific fire-
6 arms. Law enforcement agencies may request fire-
7 arms traces for any reason, and those reasons are
8 not necessarily reported to the Federal Government.
9 Not all firearms used in crime are traced and not all
10 firearms traced are used in crime.

11 (2) Firearms selected for tracing are not chosen
12 for purposes of determining which types, makes, or
13 models of firearms are used for illicit purposes. The
14 firearms selected do not constitute a random sample
15 and should not be considered representative of the
16 larger universe of all firearms used by criminals, or
17 any subset of that universe. Firearms are normally
18 traced to the first retail seller, and sources reported
19 for firearms traced do not necessarily represent the
20 sources or methods by which firearms in general are
21 acquired for use in crime.

22 SEC. 517. None of the funds appropriated or other-
23 wise made available under this Act may be used to issue
24 patents on claims directed to or encompassing a human
25 organism.

1 SEC. 518. None of the funds made available in this
2 Act shall be used in any way whatsoever to support or
3 justify the use of torture by any official or contract em-
4 ployee of the United States Government.

5 SEC. 519. (a) Notwithstanding any other provision
6 of law or treaty, none of the funds appropriated or other-
7 wise made available under this Act or any other Act may
8 be expended or obligated by a department, agency, or in-
9 strumentality of the United States to pay administrative
10 expenses or to compensate an officer or employee of the
11 United States in connection with requiring an export li-
12 cense for the export to Canada of components, parts, ac-
13 cessories or attachments for firearms listed in Category
14 I, section 121.1 of title 22, Code of Federal Regulations
15 (International Trafficking in Arms Regulations (ITAR),
16 part 121, as it existed on April 1, 2005) with a total value
17 not exceeding \$500 wholesale in any transaction, provided
18 that the conditions of subsection (b) of this section are
19 met by the exporting party for such articles.

20 (b) The foregoing exemption from obtaining an ex-
21 port license—

22 (1) does not exempt an exporter from filing any
23 Shipper's Export Declaration or notification letter
24 required by law, or from being otherwise eligible
25 under the laws of the United States to possess, ship,

1 transport, or export the articles enumerated in sub-
2 section (a); and

3 (2) does not permit the export without a license
4 of—

5 (A) fully automatic firearms and compo-
6 nents and parts for such firearms, other than
7 for end use by the Federal Government, or a
8 Provincial or Municipal Government of Canada;

9 (B) barrels, cylinders, receivers (frames) or
10 complete breech mechanisms for any firearm
11 listed in Category I, other than for end use by
12 the Federal Government, or a Provincial or Mu-
13 nicipal Government of Canada; or

14 (C) articles for export from Canada to an-
15 other foreign destination.

16 (c) In accordance with this section, the District Di-
17 rectors of Customs and postmasters shall permit the per-
18 manent or temporary export without a license of any un-
19 classified articles specified in subsection (a) to Canada for
20 end use in Canada or return to the United States, or tem-
21 porary import of Canadian-origin items from Canada for
22 end use in the United States or return to Canada for a
23 Canadian citizen.

24 (d) The President may require export licenses under
25 this section on a temporary basis if the President deter-

1 mines, upon publication first in the Federal Register, that
2 the Government of Canada has implemented or main-
3 tained inadequate import controls for the articles specified
4 in subsection (a), such that a significant diversion of such
5 articles has and continues to take place for use in inter-
6 national terrorism or in the escalation of a conflict in an-
7 other nation. The President shall terminate the require-
8 ments of a license when reasons for the temporary require-
9 ments have ceased.

10 **SEC. 520.** Notwithstanding any other provision of
11 law, no department, agency, or instrumentality of the
12 United States receiving appropriated funds under this Act
13 or any other Act shall obligate or expend in any way such
14 funds to pay administrative expenses or the compensation
15 of any officer or employee of the United States to deny
16 any application submitted pursuant to section 38(b)(1) of
17 the Arms Control Export Act (22 U.S.C. 2778(b)(1)(B))
18 and qualified pursuant to 27 CFR 478.112 or 478.113,
19 for a permit to import United States origin “curios or rel-
20 ics” firearms, parts, or ammunition.

21 **SEC. 521.** None of the funds made available in this
22 Act may be used to include in any new bilateral or multi-
23 lateral trade agreement the text of—

24 (1) paragraph 2 of article 16.7 of the United
25 States-Singapore Free Trade Agreement;

1 (2) paragraph 4 of article 17.9 of the United
2 States-Australia Free Trade Agreement; or

3 (3) paragraph 4 of article 15.9 of the United
4 States-Morocco Free Trade Agreement.

5 SEC. 522. Section 313(a) of the National Aeronautics
6 and Space Act of 1958 (42 U.S.C. 2459f(a)) is amended
7 by striking paragraph (2) and redesignating paragraph
8 (3) as paragraph (2).

9 SEC. 523. None of the funds made available in this
10 Act may be used to authorize or issue a national security
11 letter in contravention of any of the following laws author-
12 izing the Federal Bureau of Investigation to issue national
13 security letters: The Right to Financial Privacy Act; The
14 Electronic Communications Privacy Act; The Fair Credit
15 Reporting Act; The National Security Act of 1947; and
16 the laws amended by these Acts.

17 SEC. 524. None of the funds made available by this
18 Act may be used to implement the revision to Office of
19 Management and Budget Circular A-76 made on May 29,
20 2003.

21 SEC. 525. Section 101(k) of the Emergency Steel
22 Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is
23 amended by striking “2007” and inserting “2009”.

1 **SEC. 526.** Section 605 of the Harmful Algal Bloom
 2 and Hypoxia Research and Control Act of 1998 (16
 3 U.S.C. 1451 note) is amended—

4 (1) in the matter preceding paragraph (1) by
 5 striking “\$25,500,000 for fiscal year 2008” and in-
 6 serting “\$30,000,000 for each of fiscal years 2008
 7 through 2010”;

8 (2) in each of paragraphs (1), (2), (3), (4), and
 9 (6) by striking “2008” and inserting “2010”; and

10 (3) in paragraph (5) by striking “fiscal year
 11 2008” and inserting “each of fiscal years 2008
 12 through 2010”.

13 **SEC. 527.** Effective January 13, 2007, section 303A
 14 of the Magnuson-Stevens Fishery Conservation and Man-
 15 agement Act (16 U.S.C. 1853a) is amended—

16 (1) by striking “association” in subsection
 17 (c)(4)(A)(iii) and inserting “association, among will-
 18 ing parties”;

19 (2) by striking paragraph (2) of subsection (i);

20 (3) by striking “(1) **IN GENERAL.**—” in sub-
 21 section (i) and resetting paragraph (1) as a full
 22 measure paragraph following “(i) **TRANSITION**
 23 **RULES.**—”; and

24 (4) by redesignating subparagraphs (A), (B),
 25 and (C) of subsection (i)(1) (before its amendment

1 by paragraph (3)) as paragraphs (1), (2), and (3),
 2 respectively and resetting them as indented para-
 3 graphs 2 ems from the left margin.

4 **SEC. 528.** None of the funds made available in this
 5 Act may be used to enter into a contract with an entity
 6 that does not participate in the basic pilot program de-
 7 scribed in section 403(a) of the Illegal Immigration Re-
 8 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
 9 1324a note).

10 **SEC. 529.** The amounts otherwise provided by this
 11 Act are revised by reducing the amount made available
 12 for “**DEPARTMENTAL MANAGEMENT—SALARIES AND EX-**
 13 **PENSES**”, and by increasing the amount made available
 14 for “**OFFICE ON VIOLENCE AGAINST WOMEN—VIOLENCE**
 15 **AGAINST WOMEN PREVENTION AND PROSECUTION PRO-**
 16 **GRAMS**” for the court training and improvements program
 17 authorized by section 105 of the Violence Against Women
 18 and Department of Justice Reauthorization Act of 2005
 19 (Public Law 109–162), by \$5,000,000.

20 **TITLE VI—RESCISSIONS**

21 **DEPARTMENT OF COMMERCE**

22 **(RESCISSION)**

23 Of the unobligated balances available to the Depart-
 24 ment of Commerce from prior year appropriations,
 25 \$41,848,000 are rescinded: *Provided*, That within 30 days

1 after the date of the enactment of this section the Sec-
 2 retary of Commerce shall submit to the Committee on Ap-
 3 propriations of the House of Representatives a report
 4 specifying the amount of each rescission made pursuant
 5 to this section.

6 DEPARTMENT OF JUSTICE

7 (RESCISSION)

8 Of the unobligated balances available to the Depart-
 9 ment of Justice from prior year appropriations,
 10 \$86,000,000 are rescinded: *Provided*, That within 30 days
 11 after the date of the enactment of this section the Attor-
 12 ney General shall submit to the Committee on Appropria-
 13 tions of the House of Representatives and the Senate a
 14 report specifying the amount of each rescission made pur-
 15 suant to this section.

16 GENERAL ADMINISTRATION

17 WORKING CAPITAL FUND

18 (RESCISSION)

19 Of the unobligated balances available under this
 20 heading, \$41,000,000 are rescinded.

21 DETENTION TRUSTEE

22 (RESCISSION)

23 Of the unobligated balances available from prior year
 24 appropriations under this heading, \$135,000,000 are re-
 25 scinded.

1 **LEGAL ACTIVITIES**

2 **ASSETS FORFEITURE FUND**

3 **(RESCISSION)**

4 Of the unobligated balances available under this
5 heading, \$240,000,000 are rescinded.

6 **OFFICE OF JUSTICE PROGRAMS**

7 **(RESCISSION)**

8 Of the unobligated recoveries from prior year appro-
9 priations available under this heading, \$87,500,000 are
10 rescinded.

11 **COMMUNITY ORIENTED POLICING SERVICES**

12 **(RESCISSIONS)**

13 Of the unobligated recoveries from prior year appro-
14 priations available under this heading for purposes other
15 than program management and administration,
16 \$87,500,000 are rescinded.

17 Of the unobligated funds previously appropriated
18 from the Violent Crime Reduction Trust Fund under this
19 heading, \$10,278,000 are rescinded.

20 **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

21 **(RESCISSION)**

22 Of the unobligated balances available to the National
23 Aeronautics and Space Administration from prior year ap-
24 propriations, \$69,832,000 are rescinded: *Provided*, That
25 within 30 days after the date of the enactment of this sec-
26 tion the Administrator shall submit to the Committees on

1 Appropriations of the House of Representatives a report
 2 specifying the amount of each rescission made pursuant
 3 to this section.

4 NATIONAL SCIENCE FOUNDATION

5 (RESCISSION)

6 Of the unobligated balances available to the National
 7 Science Foundation from prior year appropriations,
 8 \$24,000,000 are rescinded: *Provided*, That within 30 days
 9 after the date of the enactment of this section the Director
 10 shall submit to the Committee on Appropriations of the
 11 House of Representatives a report specifying the amount
 12 of each rescission made pursuant to this section.

13 TITLE VII—ADDITIONAL GENERAL PROVISIONS

14 SEC. 701. None of the funds made available in this
 15 Act may be used for business-class or first-class airline
 16 travel by employees of the Department of Commerce in
 17 contravention of sections 301–10.122 through 301.10–124
 18 of title 41, Code of Federal Regulations.

19 SEC. 702. None of the funds appropriated in this Act
 20 may be used to enforce—

21 (1) the judgment of the United States District
 22 Court for the Western District of Texas in the case
 23 of United States v. Ignacio Ramos, Et Al. (No.
 24 EP:05–CR–856–KC) decided March 8, 2006; and

1 (2) the sentences imposed by the United States
2 District Court for the Western District of Texas in
3 the case of United States v. Ignacio Ramos, Et Al.
4 (No. EP:05–CR–856–KC) on October 19, 2006.

5 SEC. 703. None of the funds made available in this
6 Act may be used in contravention of section 642(a) of the
7 Illegal Immigration Reform and Immigrant Responsibility
8 Act of 1996 (8 U.S.C. 1373(a)).

9 SEC. 704. None of the funds made available in this
10 Act may be used in contravention of section 402(e)(1) of
11 the Illegal Immigration Reform and Immigrant Responsi-
12 bility Act of 1996 (8 U.S.C. 1324a note).

13 SEC. 705. None of the funds made available in this
14 Act may be used to carry out the decision of the United
15 States Court of Appeals for the Second Circuit in Lin,
16 et al. v. United States Department of Justice rendered
17 on July 16, 2007.

18 SEC. 706. The amounts otherwise provided in this
19 Act are revised by reducing the amount made available
20 for the “DEPARTMENT OF JUSTICE—Office of Jus-
21 tice Programs—state and local law enforcement assist-
22 ance” and by increasing the amount made available for
23 the “DEPARTMENT OF JUSTICE—Office of Justice
24 Programs—state and local law enforcement assistance” by
25 \$10,000,000 and \$10,000,000, respectively.

1 SEC. 707. The amount otherwise provided in this Act
2 for “Department of Justice” is hereby reduced by
3 \$10,000,000 and increased by \$10,000,000.

4 SEC. 708. None of the funds made available in this
5 Act may be used in violation of subtitle A of title VIII
6 (International Space Station Independent Safety
7 Taskforce) of the NASA Authorization Act of 2005 (Pub-
8 lic Law 109–155).

9 SEC. 709. None of the funds in this Act may be used
10 to employ workers described in section 274A(h)(3) of the
11 Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

12 SEC. 710. None of the funds made available in this
13 Act may be used to send or otherwise pay for the attend-
14 ance of more than 50 employees from a Federal depart-
15 ment or agency at any single conference occurring outside
16 the United States.

17 SEC. 711. None of the funds made available by this
18 Act may be used to enforce the amendments made by sub-
19 title A of title II of Public Law 107–155.

20 SEC. 712. None of the funds made available in this
21 Act may be used to purchase light bulbs unless the light
22 bulbs have the “ENERGY STAR” or “Federal Energy
23 Management Program” designation.

- 1 This Act may be cited as the “Commerce, Justice,
- 2 Science, and Related Agencies Appropriations Act, 2008”.

Passed the House of Representatives July 26, 2007.

Attest:

Clerk.

110TH CONGRESS
1ST SESSION

H. R. 3093

AN ACT

Making appropriations for the Departments of
Commerce and Justice, and Science, and Related
Agencies for the fiscal year ending September 30,
2008, and for other purposes.

I

110TH CONGRESS
2D SESSION

H. R. 6789

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Mr. GARY G. MILLER of California (for himself, Mr. ROHRBACHER, Mr. GALLEGLY, Mr. DAVID DAVIS of Tennessee, Mr. CAMPBELL of California, Mr. DREIER, Mr. BOOZMAN, and Mr. DEAL of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Oversight and Government Reform, Education and Labor, House Administration, Financial Services, Homeland Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Loophole Elimination
3 and Verification Enforcement Act” or the “LEAVE Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to prohibit all activities
6 that assist, encourage, direct, or induce an alien to reside
7 in or remain in the United States or to attempt to reside
8 in the United States, knowing or in reckless disregard of
9 the fact that the alien is not authorized to be present in
10 the United States.

11 **SEC. 3. TABLE OF CONTENTS.**

12 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Purpose.

Sec. 3. Table of contents.

TITLE I—ALIEN SMUGGLING AND RELATED OFFENSES

Sec. 101. Alien smuggling and related offenses.

TITLE II—IDENTITY SECURITY

Subtitle A—Photo Identification

Sec. 201. Forms of acceptable identification for Federal Government purposes.

Sec. 202. Forms of acceptable identification for financial institutions.

Subtitle B—No Driver’s Licenses for Illegals

Sec. 211. Prohibition on issuing driver’s licenses to illegal aliens.

Subtitle C—Stopping Social Security Number Abuse

Sec. 221. Effect of final regulation on “no-match” letters.

Subtitle D—Birth/Death Registry

Sec. 231. Establishment of electronic birth and death registration systems.

Subtitle E—Reform of Passport Fraud Offenses

Sec. 241. Trafficking in passports.

Sec. 242. False statement in an application for a passport.

Sec. 243. Forgery and unlawful production of a passport.

3

- Sec. 244. Misuse of a passport.
- Sec. 245. Schemes to defraud aliens.
- Sec. 246. Immigration and visa fraud.
- Sec. 247. Alternative imprisonment maximum for certain offenses.
- Sec. 248. Attempts, conspiracies, jurisdiction, and definitions.
- Sec. 249. Clerical amendment.

TITLE III—BIRTHRIGHT CITIZENSHIP

- Sec. 301. Citizenship at birth for certain persons born in the United States.

TITLE IV—HOUSING AND HOMEOWNERSHIP

- Sec. 401. Mortgages prohibited for principal residences of individuals who lack valid personal identification.
- Sec. 402. Prohibition on public housing and section 8 rental assistance for illegal aliens.
- Sec. 403. Prohibition on renting of dwelling units to illegal aliens.
- Sec. 404. Prohibition on Federal and government-sponsored enterprise support for mortgages for illegal aliens.

TITLE V—TAXES AND SOCIAL SECURITY

- Sec. 501. No totalization agreements that will benefit illegals.
- Sec. 502. No Social Security credit for work performed while unlawfully present.
- Sec. 503. Limited eligibility for credits.
- Sec. 504. Reducing individual taxpayer identification number abuse.

TITLE VI—EMPLOYEE VERIFICATION

Subtitle A—General Provisions

- Sec. 601. Mandatory employment authorization verification.
- Sec. 602. Mandatory notification of SSN mismatches and multiple uses and terminations of ineligibility for employment.
- Sec. 603. Penalty for failure to file correct information returns.
- Sec. 604. Authorization of appropriations.

Subtitle B—Self-Employed Subcontractors Loophole

- Sec. 611. Requiring self-employed subcontractors to participate in employment eligibility verification pilot program.

Subtitle C—No Illegals Working in the Capitol

- Sec. 621. Requiring legislative branch contractors to participate in employment eligibility verification pilot program.
- Sec. 622. Capitol complex defined.
- Sec. 623. Effective date; transition for current contracts.

Subtitle D—Coordination Between SSA and IRS

- Sec. 631. Availability of information.

TITLE VII—PROHIBITING ILLEGALS FROM OBTAINING FINANCIAL SERVICES

4

- Sec. 701. Foreign-issued forms of identification prohibited as proof of identity to open accounts at financial institutions.
- Sec. 702. “Know your customer” regulations applied to certain transmitting businesses.
- Sec. 703. Requirements relating to the United States Postal Service.
- Sec. 704. Applicability of identification rules to certain transactions involving the Federal Reserve Board, including the Directo a México program.

TITLE VIII—BORDER AND LAW ENFORCEMENT

- Sec. 801. Construction of border fencing and security improvements.
- Sec. 802. Increase in full-time Border Patrol agents.
- Sec. 803. Increase in number of ICE agents.

TITLE IX—STATE AND LOCAL GOVERNMENT AUTHORITY

Subtitle A—General Provisions—State and Local Government Authority

- Sec. 901. State defined; severability.
- Sec. 902. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 903. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 904. Listing of immigration violators in the National Crime Information Center database.
- Sec. 905. State and local law enforcement provision of information about apprehended aliens.
- Sec. 906. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 907. Increased Federal detention space.
- Sec. 908. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
- Sec. 909. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 910. Immunity.
- Sec. 911. Institutional removal program (IRP).

Subtitle B—Eliminating Sanctuary Cities

- Sec. 921. Eliminating sanctuary cities.

Subtitle C—Criminal Aliens—Eliminating Sanctuary Cities

- Sec. 931. State criminal alien assistance program (SCAAP).
- Sec. 932. Authorization of appropriations.
- Sec. 933. Assistance for States incarcerating undocumented aliens charged with certain crimes.
- Sec. 934. Preemption.

TITLE X—NO IN-STATE TUITION FOR ILLEGALS

- Sec. 1001. Ensuring enforceability.

1 **TITLE I—ALIEN SMUGGLING**
2 **AND RELATED OFFENSES**

3 **SEC. 101. ALIEN SMUGGLING AND RELATED OFFENSES.**

4 Section 274 of the Immigration and Nationality Act
5 (8 U.S.C. 1324) is amended to read as follows:

6 “**ALIEN SMUGGLING AND RELATED OFFENSES**

7 “**SEC. 274. (a) CRIMINAL OFFENSES AND PEN-**
8 **ALTIES.—**

9 “**(1) PROHIBITED ACTIVITIES.—**Whoever—

10 “(A) assists, encourages, directs, or in-
11 duces a person to come to or enter the United
12 States, or to attempt to come to or enter the
13 United States, knowing or in reckless disregard
14 of the fact that such person is an alien who
15 lacks lawful authority to come to or enter the
16 United States;

17 “(B) assists, encourages, directs, or in-
18 duces a person to come to or enter the United
19 States at a place other than a designated port
20 of entry or place other than as designated by
21 the Secretary of Homeland Security, regardless
22 of whether such person has official permission
23 or lawful authority to be in the United States,
24 knowing or in reckless disregard of the fact
25 that such person is an alien;

1 “(C) assists, encourages, directs, or in-
2 duces a person to reside in or remain in the
3 United States, or to attempt to reside in or re-
4 main in the United States, knowing or in reck-
5 less disregard of the fact that such person is an
6 alien who lacks lawful authority to reside in or
7 remain in the United States;

8 “(D) transports or moves a person in the
9 United States, knowing or in reckless disregard
10 of the fact that such person is an alien who
11 lacks lawful authority to enter or be in the
12 United States, where the transportation or
13 movement will aid or further in any manner the
14 person’s illegal entry into or illegal presence in
15 the United States;

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

21 “(F) transports, moves, harbors, conceals,
22 or shields from detection a person outside of
23 the United States knowing or in reckless dis-
24 regard of the fact that such person is an alien
25 in unlawful transit from one country to another

1 or on the high seas, under circumstances in
2 which the person is in fact seeking to enter the
3 United States without official permission or
4 lawful authority; or

5 “(G) conspires or attempts to commit any
6 of the preceding acts,

7 shall be punished as provided in paragraph (2), re-
8 gardless of any official action which may later be
9 taken with respect to such alien.

10 “(2) **CRIMINAL PENALTIES.**—A person who vio-
11 lates the provisions of paragraph (1) shall—

12 “(A) except as provided in subparagraphs
13 (D) through (H), in the case where the offense
14 was not committed for commercial advantage,
15 profit, or private financial gain, be imprisoned
16 for not more than 5 years, or fined under title
17 18, United States Code, or both;

18 “(B) except as provided in subparagraphs
19 (C) through (H), where the offense was com-
20 mitted for commercial advantage, profit, or pri-
21 vate financial gain—

22 “(i) in the case of a first violation of
23 this subparagraph, be imprisoned for not
24 more than 20 years, or fined under title
25 18, United States Code, or both; and

1 “(ii) for any subsequent violation, be
2 imprisoned for not less than 3 years nor
3 more than 20 years, or fined under title
4 18, United States Code, or both;

5 “(C) in the case where the offense was
6 committed for commercial advantage, profit, or
7 private financial gain and involved 2 or more
8 aliens other than the offender, be imprisoned
9 for not less than 3 nor more than 20 years, or
10 fined under title 18, United States Code, or
11 both;

12 “(D) in the case where the offense furthers
13 or aids the commission of any other offense
14 against the United States or any State, which
15 offense is punishable by imprisonment for more
16 than 1 year, be imprisoned for not less than 5
17 nor more than 20 years, or fined under title 18,
18 United States Code, or both;

19 “(E) in the case where any participant in
20 the offense created a substantial risk of death
21 or serious bodily injury to another person, in-
22 cluding—

23 “(i) transporting a person in an en-
24 gine compartment, storage compartment,
25 or other confined space;

1 “(ii) transporting a person at an ex-
2 cessive speed or in excess of the rated ca-
3 pacity of the means of transportation; or

4 “(iii) transporting or harboring a per-
5 son in a crowded, dangerous, or inhumane
6 manner,

7 be imprisoned not less than 5 nor more than 20
8 years, or fined under title 18, United States
9 Code, or both;

10 “(F) in the case where the offense caused
11 serious bodily injury (as defined in section 1365
12 of title 18, United States Code, including any
13 conduct that would violate sections 2241 or
14 2242 of title 18, United States Code, if the con-
15 duct occurred in the special maritime and terri-
16 torial jurisdiction of the United States) to any
17 person, be imprisoned for not less than 7 nor
18 more than 30 years, or fined under title 18,
19 United States Code, or both;

20 “(G) in the case where the offense involved
21 an alien who the offender knew or had reason
22 to believe was an alien—

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

1 “(ii) intending to engage in such ter-
2 rorist activity,
3 be imprisoned for not less than 10 nor more
4 than 30 years, or fined under title 18, United
5 States Code, or both; and

6 “(H) in the case where the offense caused
7 or resulted in the death of any person, be pun-
8 ished by death or imprisoned for not less than
9 10 years, or any term of years, or for life, or
10 fined under title 18, United States Code, or
11 both.

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

15 “(b) **SEIZURE AND FORFEITURE.**—

16 “(1) **IN GENERAL.**—Any property, real or per-
17 sonal, that has been used to commit or facilitate the
18 commission of a violation of this section, the gross
19 proceeds of such violation, and any property trace-
20 able to such property or proceeds, shall be subject
21 to forfeiture.

22 “(2) **APPLICABLE PROCEDURES.**—Seizures and
23 forfeitures under this subsection shall be governed
24 by the provisions of chapter 46 of title 18, United
25 States Code, relating to civil forfeitures, including

1 section 981(d) of such title, except that such duties
2 as are imposed upon the Secretary of the Treasury
3 under the customs laws described in that section
4 shall be performed by such officers, agents, and
5 other persons as may be designated for that purpose
6 by the Secretary of Homeland Security.

7 “(c) **AUTHORITY TO ARREST.**—No officer or person
8 shall have authority to make any arrests for a violation
9 of any provision of this section except officers and employ-
10 ees designated by the Secretary of Homeland Security, ei-
11 ther individually or as a member of a class, and all other
12 officers whose duty it is to enforce criminal laws.

13 “(d) **ADMISSIBILITY OF EVIDENCE.**—

14 “(1) **PRIMA FACIE EVIDENCE IN DETERMINA-**
15 **TIONS OF VIOLATIONS.**—Notwithstanding any provi-
16 sion of the Federal Rules of Evidence, in deter-
17 mining whether a violation of subsection (a) has oc-
18 curred, any of the following shall be prima facie evi-
19 dence that an alien involved in the violation lacks
20 lawful authority to come to, enter, reside, remain, or
21 be in the United States or that such alien had come
22 to, entered, resided, remained or been present in the
23 United States in violation of law:

24 “(A) Any order, finding, or determination
25 concerning the alien’s status or lack thereof

1 made by a federal judge or administrative adju-
2 dicator (including an immigration judge or an
3 immigration officer) during any judicial or ad-
4 ministrative proceeding authorized under the
5 immigration laws or regulations prescribed
6 thereunder.

7 “(B) An official record of the Department
8 of Homeland Security, Department of Justice,
9 or the Department of State concerning the
10 alien’s status or lack thereof.

11 “(C) Testimony by an immigration officer
12 having personal knowledge of the facts con-
13 cerning the alien’s status or lack thereof.

14 “(2) **VIDEOTAPED TESTIMONY.**—Notwith-
15 standing any provision of the Federal Rules of Evi-
16 dence, the videotaped (or otherwise audiovisually
17 preserved) deposition of a witness to a violation of
18 subsection (a) who has been deported or otherwise
19 expelled from the United States, or is otherwise un-
20 available to testify, may be admitted into evidence in
21 an action brought for that violation if the witness
22 was available for cross examination at the deposition
23 and the deposition otherwise complies with the Fed-
24 eral Rules of Evidence.

25 “(e) **DEFINITIONS.**—For purposes of this section:

1 “(1) The term ‘lawful authority’ means permis-
 2 sion, authorization, or license that is expressly pro-
 3 vided for in the immigration laws of the United
 4 States or the regulations prescribed thereunder.
 5 Such term does not include any such authority se-
 6 cured by fraud or otherwise obtained in violation of
 7 law, nor does it include authority that has been
 8 sought but not approved. No alien shall be deemed
 9 to have lawful authority to come to, enter, reside, re-
 10 main, or be in the United States if such coming to,
 11 entry, residence, remaining, or presence was, is, or
 12 would be in violation of law.

13 “(2) The term ‘unlawful transit’ means travel,
 14 movement, or temporary presence that violates the
 15 laws of any country in which the alien is present, or
 16 any country from which or to which the alien is trav-
 17 eling or moving.”.

18 **TITLE II—IDENTITY SECURITY**

19 **Subtitle A—Photo Identification**

20 **SEC. 201. FORMS OF ACCEPTABLE IDENTIFICATION FOR** 21 **FEDERAL GOVERNMENT PURPOSES.**

22 (a) **FORMS OF ACCEPTABLE IDENTIFICATION.**—A
 23 Federal agency may not accept, for any official purpose,
 24 including for Federal benefits and for individual taxpayer

1 identification numbers, any form of identification of an in-
2 dividual other than the following:

3 (1) **SOCIAL SECURITY CARD WITH PHOTO IDEN-**
4 **TIFICATION CARD OR REAL ID ACT IDENTIFICA-**
5 **TION.**—

6 (A) A Social Security card accompanied by
7 a photo identification card issued by the Fed-
8 eral Government or a State Government; or

9 (B) a driver's license or identification card
10 issued by a State in the case of a State that is
11 in compliance with title II of the REAL ID Act
12 of 2005 (title II of division B of Public Law
13 109–13; 49 U.S.C. 30301 note).

14 (2) **PASSPORT.**—A passport issued by the
15 United States or a foreign government.

16 (3) **USCIS PHOTO IDENTIFICATION CARD.**—A
17 photo identification card issued by the Secretary of
18 Homeland Security (acting through the Director of
19 the United States Citizenship and Immigration Serv-
20 ices).

21 (b) **EFFECTIVE DATE.**—The requirements of sub-
22 section (a) shall take effect six months after the date of
23 the enactment of this Act.

1 **SEC. 202. FORMS OF ACCEPTABLE IDENTIFICATION FOR FI-**
2 **NANCIAL INSTITUTIONS.**

3 (a) **IN GENERAL.**—Section 5318(l) of title 31, United
4 States Code (relating to identification and verification of
5 accountholders) is amended by striking paragraph (6) and
6 inserting the following new paragraph:

7 “(6) **FORMS OF ACCEPTABLE IDENTIFICA-**
8 **TION.**—A financial institution may not accept, for
9 the purpose of verifying the identity of an individual
10 seeking to open an account in accordance with this
11 subsection, any form of identification of the indi-
12 vidual other than the following:

13 “(A) **SOCIAL SECURITY CARD WITH PHOTO**
14 **IDENTIFICATION CARD OR REAL ID ACT IDENTI-**
15 **FICATION.**—

16 “(i) A Social Security card accom-
17 panied by a photo identification card
18 issued by the Federal Government or a
19 State Government; or

20 “(ii) a driver’s license or identification
21 card issued by a State in the case of a
22 State that is in compliance with title II of
23 the REAL ID Act of 2005 (title II of divi-
24 sion B of Public Law 109–13; 49 U.S.C.
25 30301 note).

1 “(B) **PASSPORT**.—A passport issued by the
 2 United States or a foreign government.

3 “(C) **USCIS PHOTO IDENTIFICATION**
 4 **CARD**.—A photo identification card issued by
 5 the Secretary of Homeland Security (acting
 6 through the Director of the U.S. Citizenship
 7 and Immigration Services).”.

8 (b) **EFFECTIVE DATE**.—The amendments made by
 9 subsection (a) shall take effect six months after the date
 10 of the enactment of this Act.

11 **Subtitle B—No Driver’s Licenses** 12 **for Illegals**

13 **SEC. 211. PROHIBITION ON ISSUING DRIVER’S LICENSES TO** 14 **ILLEGAL ALIENS.**

15 Section 202 of the REAL ID Act of 2005 (49 U.S.C.
 16 30301 note) is amended—

17 (1) in subsection (d), by striking paragraph
 18 (11) and redesignating paragraphs (12) and (13) as
 19 paragraphs (11) and (12), respectively; and

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

21 “(e) **PROHIBITION**.—A State is prohibited from
 22 issuing any driver’s license or identification card to any
 23 individual unless the State satisfies the requirements of
 24 subsection (c)(2)(B).”.

1 **Subtitle C—Stopping Social**
2 **Security Number Abuse**

3 **SEC. 221. EFFECT OF FINAL REGULATION ON “NO-MATCH”**
4 **LETTERS.**

5 The Congress approves the final rule promulgated by
6 the Department of Homeland Security entitled “Safe-Har-
7 bor Procedures for Employers Who Receive a No-Match
8 Letter” (August 15, 2007; 72 Fed. Reg. 45611), and such
9 rule shall have the force and effect of enacted law until
10 changed by such law.

11 **Subtitle D—Birth/Death Registry**

12 **SEC. 231. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
13 **DEATH REGISTRATION SYSTEMS.**

14 (a) In consultation with the Secretary of Health and
15 Human Services and the Commissioner of Social Security,
16 the Secretary shall take the following actions:

17 (1) Work with the States to establish a common
18 data set and common data exchange protocol for
19 electronic birth registration systems and death reg-
20 istration systems.

21 (2) Coordinate requirements for such systems
22 to align with a national model.

23 (3) Ensure that fraud prevention is built into
24 the design of electronic vital registration systems in
25 the collection of vital event data, the issuance of

1 birth certificates, and the exchange of data among
2 government agencies.

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

8 (5) Establish uniform field requirements for
9 State birth registries.

10 (6) Not later than 1 year after the date of the
11 enactment of this Act, establish a process with the
12 Department of Defense that will result in the shar-
13 ing of data, with the States and the Social Security
14 Administration, regarding deaths of United States
15 military personnel and the birth and death of their
16 dependents.

17 (7) Not later than 1 year after the date of the
18 enactment of this Act, establish a process with the
19 Department of State to improve registration, notifi-
20 cation, and the sharing of data with the States and
21 the Social Security Administration, regarding births
22 and deaths of United States citizens abroad.

23 (8) Not later than 3 years after the date of es-
24 tablishment of databases provided for under this sec-
25 tion, require States to record and retain electronic

1 records of pertinent identification information col-
2 lected from requestors who are not the registrants.

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

9 **Subtitle E—Reform of Passport** 10 **Fraud Offenses**

11 **SEC. 241. TRAFFICKING IN PASSPORTS.**

12 Section 1541 of title 18, United States Code, is
13 amended to read as follows:

14 **“§ 1541. Trafficking in passports**

15 “(a) **MULTIPLE PASSPORTS.**—Any person who, dur-
16 ing any period of 3 years or less, knowingly—

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

19 “(2) forges, counterfeits, alters, or falsely
20 makes 10 or more passports;

21 “(3) secures, possesses, uses, receives, buys,
22 sells, or distributes 10 or more passports, knowing
23 the passports to be forged, counterfeited, altered,
24 falsely made, stolen, procured by fraud, or produced
25 or issued without lawful authority; or

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

7 “(b) **PASSPORT MATERIALS.**—Any person who know-
8 ingly and without lawful authority produces, buys, sells,
9 possesses, or uses any official material (or counterfeit of
10 any official material) used to make a passport, including
11 any distinctive paper, seal, hologram, image, text, symbol,
12 stamp, engraving, or plate, shall be fined under this title,
13 imprisoned not more than 20 years, or both.”.

14 **SEC. 242. FALSE STATEMENT IN AN APPLICATION FOR A**
15 **PASSPORT.**

16 Section 1542 of title 18, United States Code, is
17 amended to read as follows:

18 **“§ 1542. False statement in an application for a pass-**
19 **port**

20 “(a) **IN GENERAL.**—Whoever knowingly makes any
21 false statement or representation in an application for a
22 United States passport, or mails, prepares, presents, or
23 signs an application for a United States passport knowing
24 the application to contain any false statement or represen-

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

3 “(b) **VENUE.**—

4 “(1) **IN GENERAL.**—An offense under sub-
5 section (a) may be prosecuted in any district—

6 “(A) in which the false statement or rep-
7 resentation was made or the application for a
8 United States passport was prepared or signed;
9 or

10 “(B) in which or to which the application
11 was mailed or presented.

12 “(2) **ACTS OCCURRING OUTSIDE THE UNITED**
13 **STATES.**—An offense under subsection (a) involving
14 an application for a United States passport prepared
15 and adjudicated outside the United States may be
16 prosecuted in the district in which the resultant
17 passport was or would have been produced.

18 “(c) **SAVINGS CLAUSE.**—Nothing in this section may
19 be construed to limit the venue otherwise available under
20 sections 3237 and 3238 of this title.”.

21 **SEC. 243. FORGERY AND UNLAWFUL PRODUCTION OF A**
22 **PASSPORT.**

23 Section 1543 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1543. Forgery and unlawful production of a pass-**
2 **port**

3 “(a) **FORGERY.**—Any person who knowingly—

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

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

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

12 “(b) **UNLAWFUL PRODUCTION.**—Any person who
13 knowingly and without lawful authority—

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

17 “(2) produces, issues, authorizes, or verifies a
18 United States passport for or to any person knowing
19 or in reckless disregard of the fact that such person
20 is not entitled to receive a passport; or

21 “(3) transfers or furnishes a passport to any
22 person for use by any person other than the person
23 for whom the passport was issued or designed,
24 shall be fined under this title, imprisoned not more than
25 15 years, or both.”.

1 **SEC. 244. MISUSE OF A PASSPORT.**

2 Section 1544 of title 18, United States Code, is
3 amended to read as follows:

4 **“§ 1544. Misuse of a passport**

5 “Any person who knowingly—

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

8 “(2) uses any passport in violation of the condi-
9 tions or restrictions therein contained, or in violation
10 of the laws, regulations, or rules governing the
11 issuance and use of the passport;

12 “(3) secures, possesses, uses, receives, buys,
13 sells, or distributes any passport knowing it to be
14 forged, counterfeited, altered, falsely made, procured
15 by fraud, or produced or issued without lawful au-
16 thority; or

17 “(4) violates the terms and conditions of any
18 safe conduct duly obtained and issued under the au-
19 thority of the United States,

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

22 **SEC. 245. SCHEMES TO DEFRAUD ALIENS.**

23 Section 1545 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1545. Schemes to defraud aliens**

2 “(a) IN GENERAL.—Any person who knowingly exe-
 3 cutes a scheme or artifice, in connection with any matter
 4 that is authorized by or arises under Federal immigration
 5 laws or any matter the offender claims or represents is
 6 authorized by or arises under Federal immigration laws,
 7 to—

8 “(1) defraud any person; or

9 “(2) obtain or receive money or anything else of
 10 value from any person by means of false or fraudu-
 11 lent pretenses, representations, promises,
 12 shall be fined under this title, imprisoned not more than
 13 15 years, or both.

14 “(b) MISREPRESENTATION.—Any person who know-
 15 ingly and falsely represents that such person is an attor-
 16 ney or an accredited representative (as that term is de-
 17 fined in section 1292.1 of title 8, Code of Federal Regula-
 18 tions (or any successor regulation to such section)) in any
 19 matter arising under Federal immigration laws shall be
 20 fined under this title, imprisoned not more than 15 years,
 21 or both.”.

22 **SEC. 246. IMMIGRATION AND VISA FRAUD.**

23 Section 1546 of title 18, United States Code, is
 24 amended to read as follows:

25 **“§ 1546. Immigration and visa fraud**

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

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

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

5 “(3) completes, mails, prepares, presents, signs,
6 or submits any immigration document knowing it to
7 contain any materially false statement or representa-
8 tion;

9 “(4) secures, possesses, uses, transfers, re-
10 ceives, buys, sells, or distributes any immigration
11 document knowing it to be forged, counterfeited, al-
12 tered, falsely made, stolen, procured by fraud, or
13 produced or issued without lawful authority;

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

17 “(6) transfers or furnishes, without lawful au-
18 thority, an immigration document to another person
19 for use by a person other than the person for whom
20 the passport was issued or designed,

21 shall be fined under this title, imprisoned not more than
22 15 years, or both.

23 “(b) **TRAFFICKING**.—Any person who, during any pe-
24 riod of 3 years or less, knowingly—

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

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

6 “(3) secures, possesses, uses, buys, sells, or dis-
7 tributes 10 or more immigration documents, know-
8 ing the immigration documents to be forged, coun-
9 terfeited, altered, stolen, falsely made, procured by
10 fraud, or produced or issued without lawful author-
11 ity; or

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

16 shall be fined under this title, imprisoned not more than
17 20 years, or both.

18 “(c) **IMMIGRATION DOCUMENT MATERIALS.**—Any
19 person who knowingly and without lawful authority pro-
20 duces, buys, sells, possesses, or uses any official material
21 (or counterfeit of any official material) used to make im-
22 migration documents, including any distinctive paper, seal,
23 hologram, image, text, symbol, stamp, engraving, or plate,
24 shall be fined under this title, imprisoned not more than
25 20 years, or both.

1 “(d) **EMPLOYMENT DOCUMENTS.**—Whoever uses—
2 “(1) an identification document, knowing (or
3 having reason to know) that the document was not
4 issued lawfully for the use of the possessor;
5 “(2) an identification document knowing (or
6 having reason to know) that the document is false;
7 or
8 “(3) a false attestation,
9 for the purpose of satisfying a requirement of section
10 274A(b) of the Immigration and Nationality Act (8 U.S.C.
11 1324a(b)), shall be fined under this title, imprisoned not
12 more than 5 years, or both.”.

13 **SEC. 247. ALTERNATIVE IMPRISONMENT MAXIMUM FOR**
14 **CERTAIN OFFENSES.**

15 Section 1547 of title 18, United States Code, is
16 amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “(other than an offense under section
19 1545)”;

20 (2) in paragraph (1), by striking “15” and in-
21 serting “20”; and

22 (3) in paragraph (2), by striking “20” and in-
23 serting “25”.

1 **SEC. 248. ATTEMPTS, CONSPIRACIES, JURISDICTION, AND**
 2 **DEFINITIONS.**

3 Chapter 75 of title 18, United States Code, is amend-
 4 ed by adding after section 1547 the following new sections:

5 **“§ 1548. Attempts and conspiracies**

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

9 **“§ 1549. Additional jurisdiction**

10 “(a) **IN GENERAL.**—Any person who commits an of-
 11 fense under this chapter within the special maritime and
 12 territorial jurisdiction of the United States shall be pun-
 13 ished as provided under this chapter.

14 “(b) **EXTRATERRITORIAL JURISDICTION.**—Any per-
 15 son who commits an offense under this chapter outside
 16 the United States shall be punished as provided under this
 17 chapter if—

18 “(1) the offense involves a United States pass-
 19 port or immigration document (or any document
 20 purporting to be such a document) or any matter,
 21 right, or benefit arising under or authorized by Fed-
 22 eral immigration laws;

23 “(2) the offense is in or affects foreign com-
 24 merce;

25 “(3) the offense affects, jeopardizes, or poses a
 26 significant risk to the lawful administration of Fed-

1 eral immigration laws, or the national security of the
2 United States;

3 “(4) the offense is committed to facilitate an
4 act of international terrorism (as defined in section
5 2331) or a drug trafficking crime (as defined in sec-
6 tion 929(a)(2)) that affects or would affect the na-
7 tional security of the United States;

8 “(5) the offender is a national of the United
9 States or an alien lawfully admitted for permanent
10 residence (as those terms are defined in section
11 101(a) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a))); or

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

15 **“§ 1550. Authorized law enforcement activities**

16 “Nothing in this chapter shall prohibit any lawfully
17 authorized investigative, protective, or intelligence activity
18 of a law enforcement agency of the United States, a State,
19 or a political subdivision of a State, or an intelligence
20 agency of the United States, or any activity authorized
21 under title V of the Organized Crime Control Act of 1970
22 (Public Law 91–452; 84 Stat. 933).

23 **“§ 1551. Definitions**

24 “As used in this chapter:

1 “(1) The term ‘application for a United States
2 passport’ includes any document, photograph, or
3 other piece of evidence submitted in support of an
4 application for a United States passport.

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

7 “(3) The term ‘immigration document’—

8 “(A) means any application, petition, affi-
9 davit, declaration, attestation, form, visa, iden-
10 tification card, alien registration document, em-
11 ployment authorization document, border cross-
12 ing card, certificate, permit, order, license,
13 stamp, authorization, grant of authority, or
14 other official document, arising under or au-
15 thorized by the immigration laws of the United
16 States; and

17 “(B) includes any document, photograph,
18 or other piece of evidence attached to or sub-
19 mitted in support of an immigration document
20 described in subparagraph (A).

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

22 “(A) the laws described in section
23 101(a)(17) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(17));

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

3 “(C) the regulations prescribed under the
4 authority of any law described in subparagraph
5 (A) or (B).

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

9 “(6) The term ‘passport’ means—

10 “(A) a travel document attesting to the
11 identity and nationality of the bearer that is
12 issued under the authority of the Secretary of
13 State, a foreign government, or an international
14 organization; or

15 “(B) any instrument purporting to be a
16 document described in subparagraph (A).

17 “(7) The term ‘produce’ means to make, pre-
18 pare, assemble, issue, print, authenticate, or alter.

19 “(8) The term ‘to present’ means to offer or
20 submit for official processing, examination, or adju-
21 dication. Any such presentation continues until the
22 official processing, examination, or adjudication is
23 complete.

24 “(9) The ‘use’ of a passport or an immigration
25 document referred to in section 1541(a), 1543(b),

1 1544, 1546(a), and 1546(b) of this chapter in-
 2 cludes—

3 “(A) any officially authorized use;

4 “(B) use to travel;

5 “(C) use to demonstrate identity, resi-
 6 dence, nationality, citizenship, or immigration
 7 status;

8 “(D) use to seek or maintain employment;

9 or

10 “(E) use in any matter within the jurisdic-
 11 tion of the Federal government or of a State
 12 government.”.

13 **SEC. 249. CLERICAL AMENDMENT.**

14 The table of sections for chapter 75 of title 18,
 15 United States Code, is amended to read as follows:

“Sec.

“1541. Trafficking in passports.

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

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Alternative imprisonment maximum for certain offenses.

“1548. Attempts and conspiracies.

“1549. Additional jurisdiction.

“1550. Authorized law enforcement activities.

“1551. Definitions.”.

TITLE III—BIRTHRIGHT CITIZENSHIP

SEC. 301. CITIZENSHIP AT BIRTH FOR CERTAIN PERSONS BORN IN THE UNITED STATES.

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

(1) by inserting “(a) **IN GENERAL.**—” before “The following”;

(2) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8); and

(3) by adding at the end the following:

“(b) **DEFINITION.**—Acknowledging the right of birthright citizenship established by section 1 of the 14th amendment to the Constitution, a person born in the United States shall be considered ‘subject to the jurisdiction’ of the United States for purposes of subsection (a)(1) if the person is born in the United States of parents, one of whom is—

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

“(2) an alien lawfully admitted for permanent residence in the United States whose residence is in the United States; or

“(3) an alien performing active service in the armed forces (as defined in section 101 of title 10, United States Code).”.

1 (b) **APPLICABILITY.**—The amendment made by sub-
 2 section (a)(3) shall not be construed to affect the citizen-
 3 ship or nationality status of any person born before the
 4 date of the enactment of this Act.

5 **TITLE IV—HOUSING AND**
 6 **HOMEOWNERSHIP**

7 **SEC. 401. MORTGAGES PROHIBITED FOR PRINCIPAL RESI-**
 8 **DENCES OF INDIVIDUALS WHO LACK VALID**
 9 **PERSONAL IDENTIFICATION.**

10 (a) **IN GENERAL.**—Chapter 2 of the Truth in Lend-
 11 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
 12 at the end the following new section:

13 **“§ 140. Mortgages prohibited for principal residences**
 14 **of individuals who lack valid personal**
 15 **identification**

16 “Notwithstanding any provision of State law, no
 17 credit may be extended by any creditor to any consumer
 18 in any consumer credit transaction in which a security in-
 19 terest, including any such interest arising by operation of
 20 law, is or will be retained or acquired in any property lo-
 21 cated within the United States which is or, upon the com-
 22 pletion of the transaction, will be used as the principal
 23 residence of such consumer unless the creditor has verified
 24 that the consumer is a citizen or national of the United
 25 States or is lawfully present in the United States, by re-

1 quiring the consumer to provide to the creditor valid per-
 2 sonal identification in one of the forms specified in the
 3 amendment made by section 202(a) of the Loophole Elimini-
 4 nation and Verification Enforcement Act.”.

5 (b) **CLERICAL AMENDMENT.**—The table of sections
 6 for chapter 2 of the Truth in Lending Act is amended
 7 by inserting after the item relating to section 139 the fol-
 8 lowing new item:

“140. Mortgages prohibited for principal residences of individuals who lack valid
 personal identification.”.

9 **SEC. 402. PROHIBITION ON PUBLIC HOUSING AND SECTION**
 10 **8 RENTAL ASSISTANCE FOR ILLEGAL ALIENS.**

11 Occupancy in public housing assisted under the
 12 United States Housing Act of 1937 (42 U.S.C. 1437 et
 13 seq.) may not be provided to any individual or household,
 14 and rental assistance under section 8 of such Act (42
 15 U.S.C. 1437f) may not be provided to or on behalf of any
 16 individual or household, unless the public housing agency
 17 or owner of housing assisted under section 8, as applica-
 18 ble, verifies that the individual, or in the case of a house-
 19 hold, all adult members of the household, are citizens or
 20 nationals of the United States or are lawfully present in
 21 the United States, by requiring such individual, or in the
 22 case of a household, all adult members of the household,
 23 to provide to the public housing agency or owner of hous-
 24 ing assisted under such section 8, as applicable, valid per-

1 sonal identification in one of the forms specified in section
2 201(a) of this Act.

3 **SEC. 403. PROHIBITION ON RENTING OF DWELLING UNITS**
4 **TO ILLEGAL ALIENS.**

5 It is the sense of the Congress that renting a dwelling
6 unit to an individual who is unlawfully present in the
7 United States, or to any household that includes such an
8 individual, should be considered an act of harboring an
9 illegal alien or assisting an illegal alien to reside in the
10 United States and therefore illegal.

11 **SEC. 404. PROHIBITION ON FEDERAL AND GOVERNMENT-**
12 **SPONSORED ENTERPRISE SUPPORT FOR**
13 **MORTGAGES FOR ILLEGAL ALIENS.**

14 (a) **FEDERAL AGENCIES.**—No Federal agency, de-
15 partment, office, or other instrumentality may make, in-
16 sure, or guarantee any mortgage or loan for the purchase
17 of, or secured by, a residential property unless the mort-
18 gagee under such mortgage, or the lender under such loan,
19 as the case may be, has verified that the mortgagor under
20 the mortgage or borrower under the loan, as the case may
21 be, is a citizen or national of the United States or is law-
22 fully present in the United States, by requiring such mort-
23 gator or borrower to provide to such lender under such
24 mortgage or loan valid personal identification in one of
25 the forms specified in section 201(a) of this Act.

1 (b) FANNIE MAE AND FREDDIE MAC.—The Federal
 2 National Mortgage Association and the Federal Home
 3 Loan Mortgage Corporation may not purchase, securitize,
 4 service, sell, lend on the security of, or otherwise deal in
 5 any mortgage or loan unless the mortgagee under such
 6 mortgage has verified that the mortgagor under the mort-
 7 gage is a citizen or national of the United States or is
 8 lawfully present in the United States, by requiring such
 9 mortgagor to provide to such mortgagee under such mort-
 10 gage valid personal identification in one of the forms speci-
 11 fied in section 201(a) of this Act.

12 **TITLE V—TAXES AND SOCIAL** 13 **SECURITY**

14 **SEC. 501. NO TOTALIZATION AGREEMENTS THAT WILL BEN-** 15 **EFIT ILLEGALS.**

16 It is the sense of the House of Representatives that
 17 the totalization agreement establishing totalization ar-
 18 rangements between the Social Security system estab-
 19 lished by title II of such Act and the Social Security sys-
 20 tem of Mexico, signed by the Commissioner of Social Secu-
 21 rity and the Director General, Mexican Social Security In-
 22 stitute, on June 29, 2004, is inappropriate public policy
 23 and should not take effect.

1 **SEC. 502. NO SOCIAL SECURITY CREDIT FOR WORK PER-**
2 **FORMED WHILE UNLAWFULLY PRESENT.**

3 (a) **DETERMINATIONS OF INSURED STATUS.**—Sec-
4 tion 214(c)(1) of the Social Security Act (42 U.S.C.
5 414(c)(1)) is amended by striking “at the time of assign-
6 ment,” and all that follows through “any later time,” and
7 inserting “at the time any such quarters of coverage are
8 earned,”.

9 (b) **ENTITLEMENT TO DISABILITY INSURANCE BEN-**
10 **EFITS.**—Section 223(a)(1)(C)(i) of such Act (42 U.S.C.
11 423(a)(1)(C)(i)) is amended by striking “at the time of
12 assignment,” and all that follows through “any later
13 time,” and inserting “at the time any such quarters of
14 coverage are earned,”.

15 **SEC. 503. LIMITED ELIGIBILITY FOR CREDITS.**

16 Notwithstanding any other provision of law, an indi-
17 vidual who makes a return with respect to Federal income
18 tax and includes on such return an individual taxpayer
19 identification number in lieu of a Social Security account
20 number shall not be eligible for any refund of or credit
21 against Federal income tax, including the earned income
22 tax credit under section 32 of the Internal Revenue Code
23 of 1986.

1 **SEC. 504. REDUCING INDIVIDUAL TAXPAYER IDENTIFICA-**
2 **TION NUMBER ABUSE.**

3 (a) **MODIFIED ITIN FORMAT AND LAWFUL PRES-**
4 **ENCE REQUIREMENT.—**

5 (1) **IN GENERAL.**—Section 6109(c) of the Inter-
6 nal Revenue Code of 1986 (26 U.S.C. 6109(c)) is
7 amended to read as follows:

8 “(c) **REQUIREMENT OF INFORMATION.**—

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

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

19 “(3) **VERIFICATION OF STATUS FOR ALIENS.**—
20 Prior to issuing any identifying number to an indi-
21 vidual who is physically present in the United
22 States, the Secretary shall verify with the Depart-
23 ment of Homeland Security that the applicant for
24 such number is lawfully present in the United
25 States.”.

1 (2) **EFFECTIVE DATE.**—Section 6109(c)(2) of
2 the Internal Revenue Code of 1986, as added by
3 paragraph (1), shall take effect no later than 30
4 days after the date of enactment of this Act.

5 (b) **INFORMATION SHARING.**—

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

9 “(D) **POSSIBLE VIOLATIONS OF FEDERAL**
10 **IMMIGRATION LAW.**—The Secretary shall dis-
11 close in electronic format to the Secretary of
12 Homeland Security the taxpayer identity (as de-
13 fined in subsection (b)(6)) of each taxpayer who
14 has been assigned an individual taxpayer identi-
15 fication number. The Secretary of Homeland
16 Security may disclose such information to offi-
17 cers and employees of the Department to the
18 extent necessary to enforce Federal immigration
19 laws.”.

20 (2) **EFFECTIVE DATE.**—The Secretary of the
21 Treasury shall disclose information under the
22 amendment made by paragraph (1) not later than
23 60 days after the date of the enactment of this Act.

1 **TITLE VI—EMPLOYEE**
2 **VERIFICATION**
3 **Subtitle A—General Provisions**
4 **SEC. 601. MANDATORY EMPLOYMENT AUTHORIZATION**
5 **VERIFICATION.**
6 (a) **MAKING BASIC PILOT PROGRAM PERMANENT.—**
7 Section 401(b) of the Illegal Immigration Reform and Im-
8 migrant Responsibility Act of 1996 (8 U.S.C. 1324a note)
9 is amended by adding before the period at the end of the
10 last sentence the following “, except that the basic pilot
11 program described in section 403(a) shall be a permanent
12 program”.
13 (b) **MANDATORY USE OF E-VERIFY SYSTEM.—**
14 (1) **IN GENERAL.—**Subject to paragraphs (2)
15 and (3), every person or other entity that hires one
16 or more individuals for employment in the United
17 States shall verify through the E-Verify program, es-
18 tablished as the basic pilot program by section
19 403(a) of the Illegal Immigration Reform and Immig-
20 grant Responsibility Act of 1996 (division C of Pub-
21 lic Law 104–208; 8 U.S.C. 1324a note), that each
22 such individual is authorized to work in the United
23 States. The Secretary of Homeland Security shall
24 ensure that verification by means of a toll-free tele-

1 phone line is an available option in complying with
2 the preceding sentence.

3 (2) **SELECT ENTITIES REQUIRED TO USE E-**
4 **VERIFY PROGRAM IMMEDIATELY.**—The following en-
5 tities must satisfy the requirement in paragraph (1)
6 by not later than one year after the date of the en-
7 actment of this Act:

8 (A) **FEDERAL AGENCIES.**—Each depart-
9 ment and agency of the Federal Government.

10 (B) **FEDERAL CONTRACTORS.**—A con-
11 tractor that—

12 (i) has entered into a contract with
13 the Federal Government to which section
14 2(b)(1) of the Service Contract Act of
15 1965 (41 U.S.C. 351(b)(1)) applies, and
16 any subcontractor under such contract; or

17 (ii) has entered into a contract ex-
18 empted from the application of such Act by
19 section 6 of such Act (41 U.S.C. 356), and
20 any subcontractor under such contract;
21 and

22 (C) **LARGE EMPLOYERS.**—An employer
23 that employs more than 250 individuals in the
24 United States.

25 (3) **PHASING-IN FOR OTHER EMPLOYERS.**—

1 (A) **2 YEARS FOR EMPLOYERS OF 100 OR**
2 **MORE.**—Entities that employ 100 or more indi-
3 viduals in the United States must satisfy the
4 requirement in paragraph (1) by not later than
5 two years after the date of the enactment of
6 this Act.

7 (B) **3 YEARS FOR EMPLOYERS WITH 30 OR**
8 **MORE EMPLOYEES.**—All entities that employ 30
9 or more individuals in the United States must
10 satisfy the requirement in paragraph (1) by not
11 later than three years after the date of the en-
12 actment of this Act.

13 (C) **4 YEARS FOR ALL EMPLOYERS.**—All
14 entities that employ one or more individuals in
15 the United States must satisfy the requirement
16 in paragraph (1) by not later than four years
17 after the date of the enactment of this Act.

18 (4) **VERIFYING EMPLOYMENT AUTHORIZATION**
19 **OF CURRENT EMPLOYEES.**—Every person or other
20 entity that employs one or more persons in the
21 United States shall verify through the E-Verify pro-
22 gram by not later than four years after the date of
23 the enactment of this Act that each employee is au-
24 thorized to work in the United States.

1 (5) **DEFENSE.**—An employer who has complied
2 with the requirements in paragraphs (1) and (4)
3 shall not be liable for hiring an unauthorized alien,
4 if—

5 (A) such hiring occurred due to an error in
6 the E-Verify program that was unknown to the
7 employer at the time of such hiring; and

8 (B) the employer terminates the employ-
9 ment of the alien upon being informed of the
10 error.

11 (6) **SANCTIONS FOR NONCOMPLIANCE.**—The
12 failure of an employer to comply with the require-
13 ments in paragraphs (1) or (4) shall—

14 (A) be treated as a violation of section
15 274A(a)(1)(B) with respect to each offense; and

16 (B) create a rebuttable presumption that
17 the employer has violated section
18 274A(a)(1)(A).

19 (7) **VOLUNTARY PARTICIPATION OF EMPLOYERS**
20 **NOT IMMEDIATELY SUBJECT TO REQUIREMENT.**—

21 Nothing in this subsection shall be construed as pre-
22 venting a person or other entity that is not imme-
23 diately subject to the requirement of paragraph (1)
24 pursuant to paragraph (2) or (3) from voluntarily
25 using the E-Verify program to verify the employ-

1 ment authorization of new hires or current employ-
2 ees.

3 (8) **STATE INTERFERENCE.**—No State may
4 prohibit a person or other entity from using the E-
5 verify program to verify the employment authoriza-
6 tion of new hires or current employees.

7 **SEC. 602. MANDATORY NOTIFICATION OF SSN MISMATCHES**
8 **AND MULTIPLE USES AND DETERMINATIONS**
9 **OF INELIGIBILITY FOR EMPLOYMENT.**

10 (a) **NOTIFICATION OF MULTIPLE USES OF INDI-**
11 **VIDUAL SOCIAL SECURITY ACCOUNT NUMBERS.**—

12 (1) **PERIODIC REVIEW OF RECORDS REGARDING**
13 **INDIVIDUALS FOR MATERIAL EMPLOYMENT-BASED**
14 **INFORMATION.**—The Commissioner of Social Secu-
15 rity shall review, on at least an annual basis, the
16 records of the Commissioner to determine whether
17 there is included in such records any material em-
18 ployment-based information in connection with any
19 individual with respect to whom such records are
20 maintained.

21 (2) **NOTIFICATION OF INDIVIDUALS REGARDING**
22 **MATERIAL EMPLOYMENT-BASED INFORMATION.**—

23 (A) **IN GENERAL.**—In any case in which
24 the Commissioner determines, on the basis of
25 any review pursuant to paragraph (1), that

1 there is any material employment-based infor-
2 mation included in such records relating to any
3 individual, the Commissioner shall notify such
4 individual of the existence of such information
5 and that such information may be evidence of
6 the occurrence of identity theft.

7 (B) **REQUIREMENTS.**—The notification
8 shall be sent by letter to the individual’s ad-
9 dress maintained in the Commissioner’s records
10 and shall include—

11 (i) the name and location of each per-
12 son listed in such records as such individ-
13 ual’s employer involved,

14 (ii) a statement that, if the listing re-
15 garding each such employer so identified in
16 the notification is in fact an accurate rep-
17 resentation of persons who have been em-
18 ployers of such individual, there is no prob-
19 lem and no response to the notification is
20 required, and

21 (iii) a statement that, if the listing is
22 in any respect not in fact an accurate rep-
23 resentation of persons who have been em-
24 ployers of such individual, such individual
25 is requested to notify the Department of

1 Homeland Security or the Social Security
2 Administration of the inaccuracy by tele-
3 phone or by Internet communication at a
4 telephone number or website which shall be
5 specified in the notification.

6 (b) **MATERIAL EMPLOYMENT-BASED INFORMA-**
7 **TION.**—For purposes of this section, the term “material
8 employment-based information” means, in relation to any
9 individual, evidence determined, on the basis of any review
10 conducted pursuant to subsection (a)(1), that—

11 (1) such individual has had concurrent earnings
12 from more than one employer over an extended pe-
13 riod,

14 (2) such individual has received benefits under
15 title II of the Social Security Act while engaged in
16 employment, or

17 (3) such individual has been engaged in employ-
18 ment while under the age of 16.

19 (c) **IDENTIFICATION AND TREATMENT OF UNAU-**
20 **THORIZED ALIENS.**—

21 (1) **IDENTIFICATION OF SUSPECT EMPLOYERS**
22 **AND EMPLOYEES AND ISSUANCE OF TENTATIVE DE-**
23 **TERMINATION OF UNAUTHORIZED ALIEN STATUS.**—

24 In any case in which the Social Security Administra-
25 tion receives a notification from an individual pursu-

1 ant to subsection (a)(2)(B)(iii), the Commissioner of
2 Social Security shall identify each employer involved
3 and the employee of such employer actually em-
4 ployed in lieu of such individual, share with the Sec-
5 retary of Homeland Security the identity of each
6 such employer and such employee, and issue a ten-
7 tative determination that such employee is an unau-
8 thorized alien (as defined in section 274A(h) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1324a(h))) with respect to the employment. Upon
11 the issuance of such tentative determination, the
12 Commissioner shall notify each such employer and
13 such employee that a potential identity fraud has oc-
14 curred in connection with the employment of such
15 employee by such employer, and that such employee
16 has been tentatively determined to be such an unau-
17 thorized alien.

18 (2) **ISSUANCE OF CONCLUSIVE DETERMINA-**
19 **TION.**—If, during the period of 30 business days fol-
20 lowing the date on which such employee receives
21 such notification, such employee fails to offer to the
22 Commissioner evidence of the employee's correct
23 identity and that such employee is not an unauthor-
24 ized alien (as defined in section 274A(h) of the Im-
25 migration and Nationality Act (8 U.S.C. 1324a(h)))

1 with respect to the employment, the Commissioner
2 shall issue to such employer and such employee a
3 conclusive determination that such employee is such
4 an unauthorized alien.

5 (3) **MANDATORY TERMINATION OF EMPLOY-**
6 **MENT.**—The failure of such employer to immediately
7 terminate such employment of such employee upon
8 receipt of such conclusive determination shall be
9 treated as a violation of section 274a(a)(2) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1324a(a)(2)).

12 (d) **NOTIFICATION OF MISMATCHED NAME AND SO-**
13 **CIAL SECURITY NUMBER.**—The Commissioner of Social
14 Security shall notify on an annual basis each United
15 States employer with one or more employees whose Social
16 Security account number does not match the employees
17 name or date of birth in the records of the Commissioner.
18 Such notification shall instruct employers to notify listed
19 employees that they have 30 business days to correct the
20 mismatch with the Social Security Administration or the
21 employer will be required to terminate their employment.
22 The notification also shall inform employers that they may
23 not terminate listed employees prior to the close of the
24 30-day period.

1 (e) INFORMATION SHARING WITH THE DEPARTMENT
2 OF HOMELAND SECURITY.—

3 (1) Not later than 180 days following the date
4 of enactment of this Act, the Commissioner of Social
5 Security shall promulgate regulations in accordance
6 with section 1106 of the Social Security Act (42
7 U.S.C. 1306) to require that information regarding
8 all unresolved mismatch notifications and regarding
9 all multiple use notifications that lead to the identi-
10 fication of an unauthorized user of a Social Security
11 account number be shared with the Secretary of
12 Homeland Security on a timely basis.

13 (2) Information to be shared with the Secretary
14 shall include, at a minimum, the name and mailing
15 address of all employees who are the subject of an
16 unresolved mismatch notification or who are unau-
17 thorized users of another individual's Social Security
18 account number.

19 **SEC. 603. PENALTY FOR FAILURE TO FILE CORRECT INFOR-**
20 **MATION RETURNS.**

21 Section 6721 of the Internal Revenue Code of 1986
22 (26 U.S.C. 6721) is amended by adding at the end the
23 following:

24 “(f) The Secretary shall assess the maximum allow-
25 able penalties on 100 percent of the employers designated

1 in any tax year by the Social Security Administration as
 2 the most egregious noncompliant employers.

3 “(g) Notwithstanding any other provision in this sec-
 4 tion, in the case of a failure described in subsection (a)(2)
 5 with respect to any person employing an alien not author-
 6 ized to be so employed, the penalty under this section shall
 7 be determined in accordance with the following table:

“In the case of—	Not less than—	Not more than—
The first offense	\$2,500	\$5,000
The second offense	\$7,500	\$10,000
The third offense	\$25,000	\$40,000.”.

8 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums
 10 as may be required to carry out this subtitle.

11 **Subtitle B—Self-Employed**
 12 **Subcontractors Loophole**

13 **SEC. 611. REQUIRING SELF-EMPLOYED SUBCONTRACTORS**
 14 **TO PARTICIPATE IN EMPLOYMENT ELIGI-**
 15 **BILITY VERIFICATION PILOT PROGRAM.**

16 Beginning with fiscal year 2009, none of the funds
 17 authorized to be appropriated for the Department of
 18 Homeland Security or the Department of Justice may be
 19 made available to those departments unless each State and
 20 local government in the United States requires, as condi-
 21 tion on acquisition of a business license, that the applicant
 22 demonstrate that the applicant has verified through the

1 E-Verify program, established as the basic pilot program
 2 by section 403(a) of the Illegal Immigration Reform and
 3 Immigrant Responsibility Act of 1996 (division C of Pub-
 4 lic Law 104–208; 8 U.S.C. 1324a note), that the appli-
 5 cant, and each individual employed by the applicant, is
 6 authorized to work in the United States.

7 **Subtitle C—No Illegals Working in** 8 **the Capitol**

9 **SEC. 621. REQUIRING LEGISLATIVE BRANCH CONTRAC-** 10 **TORS TO PARTICIPATE IN EMPLOYMENT ELI-** 11 **GIBILITY VERIFICATION PILOT PROGRAM.**

12 An office of the legislative branch may not enter into
 13 a contract for the provision of goods or services within
 14 the Capitol Complex with any contractor who employs in-
 15 dividuals unless the contractor—

16 (1) elects to participate in the basic pilot pro-
 17 gram described in section 403(a) of the Illegal Im-
 18 migration Reform and Immigrant Responsibility Act
 19 of 1996 (8 U.S.C. 1324a note), and is in compliance
 20 with the terms and conditions of such election, with
 21 respect to all of its employees as well as those pro-
 22 viding goods or services under the contract; and

23 (2) certifies that each of its subcontractors pro-
 24 viding goods or services under the contract has elect-
 25 ed to participate in such program, and is in compli-

1 ance with the terms and conditions of such election,
2 with respect to all of its employees as well as those
3 providing goods or services under the subcontract.

4 **SEC. 622. CAPITOL COMPLEX DEFINED.**

5 For purposes of this subtitle, the “Capitol Complex”
6 consists of the following facilities together with their
7 grounds:

8 (1) The United States Capitol (including the
9 Capitol Visitor Center) and the Capitol Grounds.

10 (2) The Cannon, Longworth, Rayburn, and
11 Ford House Office Buildings.

12 (3) The Russell, Dirksen, and Hart Senate Of-
13 fice Buildings.

14 (4) The House of Representatives Child Care
15 Center and the Senate Employee Child Care Center.

16 (5) Any facility serving as a dormitory resi-
17 dence for Congressional pages.

18 (6) The United States Botanic Garden.

19 (7) The Jefferson, Madison, and Adams Build-
20 ings of the Library of Congress.

21 (8) The Capitol Power Plant.

22 (9) The United States Capitol Police Head-
23 quarters Building.

1 **SEC. 623. EFFECTIVE DATE; TRANSITION FOR CURRENT**
2 **CONTRACTS.**

3 (a) **IN GENERAL.**—This subtitle shall apply with re-
4 spect to contracts entered into after the expiration of the
5 30-day period which begins on the date of the enactment
6 of this Act.

7 (b) **TRANSITION FOR CURRENT CONTRACTS.**—Upon
8 the enactment of this Act, each office of the legislative
9 branch with a contract in effect on the date of the enact-
10 ment of this Act which is described in section 621 shall
11 obtain assurances from the contractor involved that the
12 contractor will meet the requirements of such section prior
13 to the expiration of the period described in subsection (a).

14 **Subtitle D—Coordination Between**
15 **SSA and IRS**

16 **SEC. 631. AVAILABILITY OF INFORMATION.**

17 The Commissioner of Social Security shall make
18 available to the Commissioner of Internal Revenue any in-
19 formation related to the investigation and enforcement of
20 section 162(c)(4) of the Internal Revenue Code of 1986,
21 including any no-match letter and any information in the
22 earnings suspense file.

1 **TITLE** **VII—PROHIBITING**
2 **ILLEGALS FROM OBTAINING**
3 **FINANCIAL SERVICES**

4 **SEC. 701. FOREIGN-ISSUED FORMS OF IDENTIFICATION**
5 **PROHIBITED AS PROOF OF IDENTITY TO**
6 **OPEN ACCOUNTS AT FINANCIAL INSTITU-**
7 **TIONS.**

8 Section 5318(l) of title 31, United States Code (relat-
9 ing to identification and verification of accountholders) is
10 inserting after paragraph (6) (as added by section 202)
11 the following new paragraph:

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

1 **SEC. 702. “KNOW YOUR CUSTOMER” REGULATIONS AP-**
2 **PLIED TO CERTAIN TRANSMITTING BUSI-**
3 **NESSES.**

4 Section 5318(m) of title 31, United States Code, is
5 amended by striking “promulgated pursuant to the au-
6 thority contained in” and inserting “prescribed under
7 paragraph (1) of subsection (l) (notwithstanding para-
8 graph (5) of such subsection) or”.

9 **SEC. 703. REQUIREMENTS RELATING TO THE UNITED**
10 **STATES POSTAL SERVICE.**

11 (a) **IN GENERAL.**—The United States Postal Service
12 shall take such measures as may be necessary to ensure
13 that in the administration of any international wire trans-
14 fer service, no transfer may be made unless the sender
15 presents an acceptable form of identification, as deter-
16 mined in accordance with section 201.

17 (b) **DEFINITION.**—For purposes of this section, the
18 term “international wire transfer service” means any pro-
19 gram or service, administered by the United States Postal
20 Service, which provides for the international electronic
21 transfer of money.

22 (c) **EFFECTIVE DATE.**—The requirements of this sec-
23 tion shall take effect six months after the date of the en-
24 actment of this Act.

1 **SEC. 704. APPLICABILITY OF IDENTIFICATION RULES TO**
2 **CERTAIN TRANSACTIONS INVOLVING THE**
3 **FEDERAL RESERVE BOARD, INCLUDING THE**
4 **DIRECTO A MÉXICO PROGRAM.**

5 (a) **IN GENERAL.**—The Board of Governors of the
6 Federal Reserve System shall take such measures as may
7 be necessary to ensure that in the administration of any
8 international wire transfer service or settlement services,
9 including any automated clearing house transaction such
10 as the Directo a MéxicoTM program, no transfer may be
11 made unless the financial institution involved has certified
12 that the sender has presented an acceptable form of identi-
13 fication, as determined in accordance with section 202(a).

14 (b) **DEFINITION.**—For purposes of this section, the
15 term “international wire transfer service or settlement”
16 means any program or service, administered by the Board
17 of Governors of the Federal Reserve System directly or
18 through any Federal reserve bank, including the Fedwire
19 Funds Service, which provides for the international elec-
20 tronic transfer of funds.

21 (c) **EFFECTIVE DATE.**—The requirements of this sec-
22 tion shall take effect six months after the date of the en-
23 actment of this Act.

1 **TITLE VIII—BORDER AND LAW**
2 **ENFORCEMENT**

3 **SEC. 801. CONSTRUCTION OF BORDER FENCING AND SECU-**
4 **RITY IMPROVEMENTS.**

5 (a) **IN GENERAL.**—Section 102(b)(1) of the Illegal
6 Immigration Reform and Immigrant Responsibility Act of
7 1996 (8 U.S.C. 1103 note) is amended to read as follows:

8 “(1) **SECURITY FEATURES.**—

9 “(A) **REINFORCED FENCING.**—In carrying
10 out subsection (a), the Secretary of Homeland
11 Security shall provide for at least 2 layers of re-
12 inforced fencing, the installation of additional
13 physical barriers, roads, lighting, cameras, and
14 sensors—

15 “(i) extending from 10 miles west of
16 the Tecate, California, port of entry to 10
17 miles east of the Tecate, California, port of
18 entry;

19 “(ii) extending from 10 miles west of
20 the Calexico, California, port of entry to 5
21 miles east of the Douglas, Arizona, port of
22 entry;

23 “(iii) extending from 5 miles west of
24 the Columbus, New Mexico, port of entry
25 to 10 miles east of El Paso, Texas;

1 “(iv) extending from 5 miles north-
2 west of the Del Rio, Texas, port of entry
3 to 5 miles southeast of the Eagle Pass,
4 Texas, port of entry; and

5 “(v) extending 15 miles northwest of
6 the Laredo, Texas, port of entry to the
7 Brownsville, Texas, port of entry.

8 “(B) **COMPLETION DATES.**—With respect
9 to the border area described in subparagraph
10 (A), the Secretary shall ensure that the duties
11 required under such subparagraph are com-
12 pleted by not later than July 31, 2009.

13 “(C) **EXCEPTION.**—If the topography of a
14 specific area has an elevation grade that ex-
15 ceeds 10 percent, the Secretary may use other
16 means to secure such area, including the use of
17 surveillance and barrier tools.”.

18 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There is
19 authorized to be appropriated to the Secretary of Home-
20 land Security such sums as may be necessary to carry out
21 the amendment made by subsection (a).

22 (c) **REPEALS.**—Subsection (b) of section 564 of divi-
23 sion E of the Consolidated Appropriations Act, 2008
24 (Public Law 110–161) is repealed. The amendment made
25 by subsection (a)(2)(A) of such section is repealed.

1 **SEC. 802. INCREASE IN FULL-TIME BORDER PATROL**
 2 **AGENTS.**

3 Section 5202 of the Intelligence Reform and Ter-
 4 rorism Prevention Act of 2004 (Public Law 108–458; 118
 5 Stat. 3734) is amended to read as follows:

6 **“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
 7 **AGENTS.**

8 “(a) **ANNUAL INCREASES.**—The Secretary of Home-
 9 land Security shall, subject to the availability of appropria-
 10 tions for such purpose, increase the number of positions
 11 for full-time active-duty Border Patrol agents within the
 12 Department of Homeland Security (above the number of
 13 positions for which funds were appropriated for the pre-
 14 ceding fiscal year), by—

15 “(1) 2,500 in fiscal year 2008;

16 “(2) 2,000 in fiscal year 2009;

17 “(3) 1,500 in fiscal year 2010;

18 “(4) 1,000 in fiscal year 2011; and

19 “(5) 1,000 in fiscal year 2012.

20 “(b) **ALLOCATIONS.**—Of the Border Patrol agents
 21 hired under subsection (a), 80 percent shall be deployed
 22 along the southern border of the United States and 20
 23 percent shall be deployed along the northern border of the
 24 United States.

25 “(c) **AUTHORIZATION OF APPROPRIATIONS.**—The
 26 necessary funds are authorized to be appropriated for each

1 of fiscal years 2008 through 2012 to carry out this sec-
2 tion.”.

3 **SEC. 803. INCREASE IN NUMBER OF ICE AGENTS.**

4 Section 5203 of the Intelligence Reform and Ter-
5 rorism Prevention Act of 2004 (Public Law 108–458; 118
6 Stat. 3734) is amended to read as follows:

7 **“SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND**
8 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

9 “(a) **IN GENERAL.**—By not later than September 30,
10 2012, the Secretary of Homeland Security shall, subject
11 to the availability of appropriations for such purpose, in-
12 crease by 3,000 the number of positions for full-time ac-
13 tive-duty investigators within the Department of Home-
14 land Security investigating violations of immigration laws
15 (as defined in section 101(a)(17) of the Immigration and
16 Nationality Act (8 U.S.C. 1101(a)(17))) above the number
17 of such positions for which funds were made available dur-
18 ing the preceding fiscal year.

19 “(b) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated to the Secretary to carry
21 out this section such sums as may be necessary for each
22 fo fiscal years 2009 through 2012.”.

1 **TITLE IX—STATE AND LOCAL**
 2 **GOVERNMENT AUTHORITY**
 3 **Subtitle A—General Provisions**

4 **SEC. 901. STATE DEFINED; SEVERABILITY.**

5 (a) **STATE DEFINED.**—For purposes of this title the
 6 term “State” has the meaning given such term in section
 7 101(a)(36) of the Immigration and Nationality Act (8
 8 U.S.C. 1101(a)(36)).

9 (b) **SEVERABILITY.**—If any provision of this title, or
 10 the application of such provision to any person or cir-
 11 cumstance, is held invalid, the remainder of this title and
 12 the application of such provision to other persons not simi-
 13 larly situated or to other circumstances, shall not be af-
 14 fected by such invalidation.

15 **SEC. 902. FEDERAL AFFIRMATION OF ASSISTANCE IN THE**
 16 **IMMIGRATION LAW ENFORCEMENT BY**
 17 **STATES AND POLITICAL SUBDIVISIONS OF**
 18 **STATES.**

19 Notwithstanding any other provision of law and re-
 20 affirming the existing inherent authority of States, law en-
 21 forcement personnel of a State, or of a political subdivision
 22 of a State, have the inherent authority of a sovereign enti-
 23 ty to investigate, identify, apprehend, arrest, detain, or
 24 transfer to Federal custody aliens in the United States
 25 (including the transportation of such aliens across State

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

6 **SEC. 903. STATE AUTHORIZATION FOR ASSISTANCE IN THE**
 7 **ENFORCEMENT OF IMMIGRATION LAWS EN-**
 8 **COURAGED.**

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

20 (b) **CONSTRUCTION.**—Nothing in this section shall
 21 require law enforcement officials from States, or from po-
 22 litical subdivisions of States, to report or arrest victims
 23 or witnesses of a criminal offense.

24 (c) **REALLOCATION OF FUNDS.**—Any funds that are
 25 not allocated to a State, or to a political subdivision of

1 a State, due to the failure of the State, or of the political
2 subdivision of the State, to comply with subsection (a)
3 shall be reallocated to States, or to political subdivisions
4 of States, that comply with such subsection.

5 **SEC. 904. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
6 **TIONAL CRIME INFORMATION CENTER DATA-**
7 **BASE.**

8 (a) **PROVISION OF INFORMATION TO THE NCIC.**—
9 Not later than 180 days after the date of the enactment
10 of this Act and periodically thereafter as updates may re-
11 quire, the Under Secretary for Border and Transportation
12 Security of the Department of Homeland Security shall
13 provide the National Crime Information Center of the De-
14 partment of Justice with such information as the Under
15 Secretary may possess regarding any aliens against whom
16 a final order of removal has been issued, any aliens who
17 have signed a voluntary departure agreement, any aliens
18 who have overstayed their authorized period of stay, and
19 any aliens whose visas have been revoked. The National
20 Crime Information Center shall enter such information
21 into the Immigration Violators File of the National Crime
22 Information Center database, regardless of whether—
23 (1) the alien concerned received notice of a final
24 order of removal;

1 (2) the alien concerned has already been re-
2 moved; or

3 (3) sufficient identifying information is avail-
4 able with respect to the alien concerned.

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

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

10 (2) by redesignating paragraph (4) as para-
11 graph (5); and

12 (3) by inserting after paragraph (3) the fol-
13 lowing new paragraph:

14 “(4) acquire, collect, classify, and preserve
15 records of violations by aliens of the immigration
16 laws of the United States, regardless of whether any
17 such alien has received notice of the violation or
18 whether sufficient identifying information is avail-
19 able with respect to any such alien and even if any
20 such alien has already been removed from the
21 United States; and”.

1 **SEC. 905. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
2 **SION OF INFORMATION ABOUT APPRE-**
3 **HENDED ALIENS.**

4 (a) **PROVISION OF INFORMATION.**—In compliance
5 with section 642(a) of the Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
7 and section 434 of the Personal Responsibility and Work
8 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
9 each State, and each political subdivision of a State, shall
10 provide the Secretary of Homeland Security in a timely
11 manner with the information specified in subsection (b)
12 with respect to each alien apprehended in the jurisdiction
13 of the State, or in the political subdivision of the State,
14 who is believed to be in violation of the immigration laws
15 of the United States.

16 (b) **INFORMATION REQUIRED.**—The information re-
17 ferred to in subsection (a) is as follows:

- 18 (1) The alien's name.
- 19 (2) The alien's address or place of residence.
- 20 (3) A physical description of the alien.
- 21 (4) The date, time, and location of the encoun-
22 ter with the alien and reason for stopping, detaining,
23 apprehending, or arresting the alien.
- 24 (5) If applicable, the alien's driver's license
25 number and the State of issuance of such license.

1 (6) If applicable, the type of any other identi-
2 fication document issued to the alien, any designa-
3 tion number contained on the identification docu-
4 ment, and the issuing entity for the identification
5 document.

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

9 (8) A photo of the alien, if available or readily
10 obtainable.

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

13 (c) **ANNUAL REPORT ON REPORTING.**—The Sec-
14 retary shall maintain and annually submit to Congress a
15 detailed report listing the States, or the political subdivi-
16 sions of States, that have provided information under sub-
17 section (a) in the preceding year.

18 (d) **REIMBURSEMENT.**—The Secretary of Homeland
19 Security shall reimburse States, and political subdivisions
20 of a State, for all reasonable costs, as determined by the
21 Secretary, incurred by the State, or the political subdivi-
22 sion of a State, as a result of providing information under
23 subsection (a).

1 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is
2 authorized to be appropriated to the Secretary such sums
3 as are necessary to carry out this section.

4 (f) **CONSTRUCTION.**—Nothing in this section shall re-
5 quire law enforcement officials of a State, or of a political
6 subdivision of a State, to provide the Secretary of Home-
7 land Security with information related to a victim of a
8 crime or witness to a criminal offense.

9 **SEC. 906. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
10 **POLICE AGENCIES THAT ASSIST IN THE EN-**
11 **FORCEMENT OF IMMIGRATION LAWS.**

12 (a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING**
13 **AND PROCESSING CERTAIN ALIENS.**—From amounts
14 made available to make grants under this section, the Sec-
15 retary of Homeland Security shall make grants to States,
16 and to political subdivisions of States, for procurement of
17 equipment, technology, facilities, and other products that
18 facilitate and are directly related to investigating, appre-
19 hending, arresting, detaining, or transporting aliens who
20 have violated the immigration law of the United States,
21 including additional administrative costs incurred under
22 this title.

23 (b) **ELIGIBILITY.**—To be eligible to receive a grant
24 under this section, a State, or a political subdivision of
25 a State, must have the authority to, and shall have a writ-

1 ten policy and a practice to, assist in the enforcement of
2 the immigration laws of the United States in the course
3 of carrying out the routine law enforcement duties of such
4 State or political subdivision of a State. Entities covered
5 under this section may not have any policy or practice that
6 prevents local law enforcement from inquiring about a sus-
7 pect's immigration status.

8 (c) **FUNDING.**—There is authorized to be appro-
9 priated to the Secretary for grants under this section such
10 sums as may be necessary for fiscal year 2008 and each
11 subsequent fiscal year.

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

17 **SEC. 907. INCREASED FEDERAL DETENTION SPACE.**

18 (a) **CONSTRUCTION OR ACQUISITION OF DETENTION**
19 **FACILITIES.**—

20 (1) **IN GENERAL.**—The Secretary of Homeland
21 Security shall construct or acquire, in addition to ex-
22 isting facilities for the detention of aliens, 20 deten-
23 tion facilities in the United States, with at least 500
24 beds per facility, for aliens detained pending removal

1 from the United States or a decision regarding such
2 removal.

3 (2) **DETERMINATIONS.**—The location of any de-
4 tention facility built or acquired in accordance with
5 this subsection shall be determined by the Deputy
6 Assistant Director of the Detention Management Di-
7 vision of the Immigration and Customs Enforcement
8 Office of Detention and Removal within United
9 States Immigration and Customs Enforcement.

10 (3) **USE OF INSTALLATIONS UNDER BASE CLO-**
11 **SURE LAWS.**—In acquiring detention facilities under
12 this subsection, the Secretary of Homeland Security
13 shall consider the transfer of appropriate portions of
14 military installations approved for closure or realign-
15 ment under the Defense Base Closure and Realign-
16 ment Act of 1990 (part A of title XXIX of Public
17 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
18 cordance with paragraph (1).

19 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated to the Secretary such
21 sums as are necessary to carry out this section.

22 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
23 Section 241(g)(1) of the Immigration and Nationality Act
24 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
25 pend” and inserting “shall expend”.

1 **SEC. 908. FEDERAL CUSTODY OF ALIENS UNLAWFULLY**
 2 **PRESENT IN THE UNITED STATES APPRE-**
 3 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
 4 **MENT.**

5 (a) **STATE APPREHENSION.—**

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

10 “**CUSTODY OF ALIENS UNLAWFULLY PRESENT IN THE**
 11 **UNITED STATES**

12 “**SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 13 **AND LOCAL OFFICIALS.**—If a State, or a political subdivi-
 14 sion of the State, exercising authority with respect to the
 15 apprehension or arrest of an alien who is unlawfully
 16 present in the United States submits to the Secretary of
 17 Homeland Security a request that the alien be taken into
 18 Federal custody, the Secretary—

19 “(1) shall—

20 “(A) not later than 48 hours after the con-
 21 clusion of the State, or the political subdivision
 22 of a State, charging process or dismissal proc-
 23 ess, or if no State or political subdivision charg-
 24 ing or dismissal process is required, not later
 25 than 48 hours after the alien is apprehended,

1 take the alien into the custody of the Federal
2 Government and incarcerate the alien; or

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

7 “(2) shall designate at least one Federal, State,
8 or local prison or jail or a private contracted prison
9 or detention facility within each State as the central
10 facility for that State to transfer custody of aliens
11 to the Department of Homeland Security.

12 “(b) **POLICY ON DETENTION IN STATE AND LOCAL**
13 **DETENTION FACILITIES.**—In carrying out section
14 241(g)(1), the Attorney General or Secretary of Homeland
15 Security shall ensure that an alien arrested under this Act
16 shall be detained, pending the alien’s being taken for the
17 examination under this section, in a State or local prison,
18 jail, detention center, or other comparable facility. Not-
19 withstanding any other provision of law or regulation,
20 such facility is adequate for detention, if—

21 “(1) such a facility is the most suitably located
22 Federal, State, or local facility available for such
23 purpose under the circumstances;

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

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

4 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
5 Security shall reimburse States, and political subdivisions
6 of a State, for all reasonable expenses, as determined by
7 the Secretary, incurred by the State, or political subdivi-
8 sion, as a result of the incarceration and transportation
9 of an alien who is unlawfully present in the United States
10 as described in subparagraphs (A) and (B) of subsection
11 (a)(1). Compensation provided for costs incurred under
12 such subparagraphs shall be the average cost of incarcer-
13 ation of a prisoner in the relevant State, as determined
14 by the chief executive officer of a State, or of a political
15 subdivision of a State, plus the cost of transporting the
16 alien from the point of apprehension to the place of deten-
17 tion, and to the custody transfer point if the place of de-
18 tention and place of custody are different.

19 “(d) **SECURE FACILITIES.**—The Secretary of Home-
20 land Security shall ensure that aliens incarcerated in Fed-
21 eral facilities pursuant to this Act are held in facilities
22 that provide an appropriate level of security.

23 “(e) **TRANSFER.**—

24 “(1) **IN GENERAL.**—In carrying out this sec-
25 tion, the Secretary of Homeland Security shall es-

1 tablish a regular circuit and schedule for the prompt
2 transfer of apprehended aliens from the custody of
3 States, and political subdivisions of a State, to Fed-
4 eral custody.

5 “(2) **CONTRACTS.**—The Secretary may enter
6 into contracts, including appropriate private con-
7 tracts, to implement this subsection.

8 “(f) **DEFINITION.**—For purposes of this section, the
9 term ‘alien who is unlawfully present in the United States’
10 means an alien who—

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

14 “(2) was admitted as a nonimmigrant and who,
15 at the time the alien was taken into custody by the
16 State, or a political subdivision of the State, had
17 failed to—

18 “(A) maintain the nonimmigrant status in
19 which the alien was admitted or to which it was
20 changed under section 248; or

21 “(B) comply with the conditions of any
22 such status;

23 “(3) was admitted as an immigrant and has
24 subsequently failed to comply with the requirements
25 of that status; or

1 “(4) failed to depart the United States under a
2 voluntary departure agreement or under a final
3 order of removal.”.

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

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

7 (b) **GAO AUDIT.**—Not later than three years after
8 the date of the enactment of this Act, the Comptroller
9 General of the United States shall conduct an audit of
10 compensation to States, and to political subdivisions of a
11 State, for the incarceration of aliens unlawfully present
12 in the United States under section 240D(a) of the Immi-
13 gration and Nationality Act (as added by subsection
14 (a)(1)).

15 **SEC. 909. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
16 **MENT PERSONNEL RELATING TO THE EN-**
17 **FORCEMENT OF IMMIGRATION LAWS.**

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

22 (1) a training manual for law enforcement per-
23 sonnel of a State, or of a political subdivision of a
24 State, to train such personnel in the investigation,
25 identification, apprehension, arrest, detention, and

1 transfer to Federal custody of aliens unlawfully
2 present in the United States (including the transpor-
3 tation of such aliens across State lines to detention
4 centers and the identification of fraudulent docu-
5 ments); and

6 (2) an immigration enforcement pocket guide
7 for law enforcement personnel of a State, or of a po-
8 litical subdivision of a State, to provide a quick ref-
9 erence for such personnel in the course of duty.

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

14 (c) **APPLICABILITY.**—Nothing in this section shall be
15 construed to require State or local law enforcement per-
16 sonnel to carry the training manual or pocket guide with
17 them while on duty.

18 (d) **COSTS.**—The Secretary of Homeland Security
19 shall be responsible for any costs incurred in establishing
20 the training manual and pocket guide.

21 (e) **TRAINING FLEXIBILITY.**—

22 (1) **IN GENERAL.**—The Secretary of Homeland
23 Security shall make training of State and local law
24 enforcement officers available through as many
25 means as possible, including through residential

1 training at the Center for Domestic Preparedness,
2 onsite training held at State or local police agencies
3 or facilities, online training courses by computer,
4 teleconferencing, and videotape, or the digital video
5 display (DVD) of a training course or courses. E-
6 learning through a secure, encrypted distributed
7 learning system that has all its servers based in the
8 United States, is scalable, survivable, and can have
9 a portal in place not later than 30 days after the
10 date of the enactment of this Act, shall be made
11 available by the Federal Law Enforcement Training
12 Center Distributed Learning Program for State and
13 local law enforcement personnel.

14 (2) **FEDERAL PERSONNEL TRAINING.**—The
15 training of State and local law enforcement per-
16 sonnel under this section shall not displace the train-
17 ing of Federal personnel.

18 (3) **CLARIFICATION.**—Nothing in this title or
19 any other provision of law shall be construed as
20 making any immigration-related training a require-
21 ment for, or prerequisite to, any State or local law
22 enforcement officer to assist in the enforcement of
23 Federal immigration laws in the normal course of
24 carrying out the normal law enforcement duties of
25 such officers.

1 In carrying out this section, priority funding shall be given
2 for existing web-based immigration enforcement training
3 systems.

4 **SEC. 910. IMMUNITY.**

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

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

21 **SEC. 911. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

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

23 (1) **IN GENERAL.**—The Secretary of Homeland
24 Security shall continue to operate and implement the

1 program known as the Institutional Removal Pro-
2 gram (IRP) which—

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

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

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

9 (2) **EXPANSION.**—The Institutional Removal
10 Program shall be extended to all States. Any State
11 that receives Federal funds for the incarceration of
12 criminal aliens shall—

13 (A) cooperate with officials of the Institu-
14 tional Removal Program;

15 (B) expeditiously and systematically iden-
16 tify criminal aliens in its prison and jail popu-
17 lations; and

18 (C) promptly convey such information to
19 officials of such Program as a condition of re-
20 ceiving such funds.

21 (b) **AUTHORIZATION FOR DETENTION AFTER COM-**
22 **PLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law
23 enforcement officers of a State, or of a political subdivision
24 of a State, are authorized to—

(1) hold a criminal 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 practicable in order to make the Institutional Removal Program 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.

20 **Subtitle B—Eliminating Sanctuary**
21 **Cities**

22 SEC. 921. ELIMINATING SANCTUARY CITIES.

23 None of the funds made available for the Department
24 of Homeland Security or the Department of Justice may
25 be provided to any State or unit of local government that

1 has in effect any law, policy, or procedure in contravention
 2 of subsection (a) or (b) of section 642 of the Illegal Immi-
 3 gration Reform and Immigrant Responsibility Act of 1996
 4 (8 U.S.C. 1373).

5 **Subtitle C—Criminal Aliens**

6 **SEC. 931. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM** 7 **(SCAAP).**

8 Section 241(i)(5) of the Immigration and Nationality
 9 Act (8 U.S.C.1231(i)) is amended to read as follows:

10 “(5) There are authorized to be appropriated to
 11 carry out this subsection such sums as may be nec-
 12 essary for fiscal year 2008 and each subsequent fis-
 13 cal year.”.

14 **SEC. 932. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to the Sec-
 16 retary for fiscal year 2009 and each subsequent fiscal year
 17 such sums as may be necessary to carry out this title.

18 **SEC. 933. ASSISTANCE FOR STATES INCARCERATING UN-** 19 **DOCUMENTED ALIENS CHARGED WITH CER-** 20 **TAIN CRIMES.**

21 Section 241(i)(3)(A) of the Immigration and Nation-
 22 ality Act (8 U.S.C. 1231(a)(3)(A)) is amended by insert-
 23 ing “charged with or” before “convicted”.

1 **SEC. 934. PREEMPTION.**

2 It is the sense of the Congress that States and local
3 political subdivisions are not preempted from the enact-
4 ment and enforcement of immigration-related laws and or-
5 dinances that do not directly conflict with Federal immi-
6 gration laws.

7 **TITLE X—NO IN-STATE TUITION**
8 **FOR ILLEGALS**

9 **SEC. 1001. ENSURING ENFORCEABILITY.**

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

13 (1) in subsection (a)—

14 (A) by striking “on the basis of residence
15 within a State (or a political subdivision)”; and

16 (B) by striking “unless a citizen” and all
17 that follows through the period at the end and
18 inserting “unless every citizen or national of the
19 United States is entitled to such a benefit (in
20 no less an amount, duration, and scope) with-
21 out regard to whether the citizen or national is
22 a resident of the State or has attended or grad-
23 uated from a school in the State.”;

24 (2) by redesignating subsection (b) as sub-
25 section (c); and

1 (3) by inserting the following after subsection

2 (a):

3 “(b) **ENFORCEMENT THROUGH CIVIL ACTION.**—

4 “(1) **IN GENERAL.**—Any citizen or national of the
5 United States who is attending or is enrolled to attend
6 a postsecondary educational institution alleged to be in
7 violation of subsection (a) may commence a civil action
8 on his own behalf against any official of the State entity
9 that governs such postsecondary educational institutions
10 or of the educational institution itself to enforce the terms
11 of subsection (a).

12 “(2) **RELIEF.**—The court shall provide all ap-
13 propriate relief, including damages equal to the
14 monetary value of any benefit provided to an illegal
15 alien but denied to the citizen or national of the
16 United States, and shall award attorneys’ fees and
17 costs to a citizen or national of the United States
18 who establishes a violation of subsection (a) to the
19 satisfaction of the court.

20 “(3) **AUTHORITY.**—This subsection is enacted
21 pursuant to section 5 of the 14th amendment to the
22 Constitution of the United States.”.

○

I

111TH CONGRESS
1ST SESSION

H. R. 994

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. GARY G. MILLER of California (for himself, Mr. ROHRBACHER, Mr. BURTON of Indiana, Mr. BOOZMAN, Mr. CAMPBELL, Mr. DREIER, Mr. BILBRAY, Mr. FLEMING, Mr. GALLEGLY, and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Oversight and Government Reform, Education and Labor, House Administration, Financial Services, Homeland Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Loophole Elimination
3 and Verification Enforcement Act” or the “LEAVE Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to prohibit all activities
6 that assist, encourage, direct, or induce an alien to reside
7 in or remain in the United States or to attempt to reside
8 in the United States, knowing or in reckless disregard of
9 the fact that the alien is not authorized to be present in
10 the United States.

11 **SEC. 3. TABLE OF CONTENTS.**

12 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Purpose.

Sec. 3. Table of contents.

TITLE I—ALIEN SMUGGLING AND RELATED OFFENSES

Sec. 101. Alien smuggling and related offenses.

TITLE II—IDENTITY SECURITY

Subtitle A—Photo Identification

Sec. 201. Forms of acceptable identification for Federal Government purposes.

Sec. 202. Forms of acceptable identification for financial institutions.

Subtitle B—Prohibition on Driver’s Licenses for Unlawfully Present Aliens

Sec. 211. Prohibition on issuing driver’s licenses to illegal aliens.

Subtitle C—Stopping Social Security Number Abuse

Sec. 221. Effect of final regulation on “no-match” letters.

Subtitle D—Birth/Death Registry

Sec. 231. Establishment of electronic birth and death registration systems.

Subtitle E—Reform of Passport Fraud Offenses

Sec. 241. Trafficking in passports.

Sec. 242. False statement in an application for a passport.

Sec. 243. Forgery and unlawful production of a passport.

3

- Sec. 244. Misuse of a passport.
- Sec. 245. Schemes to defraud aliens.
- Sec. 246. Immigration and visa fraud.
- Sec. 247. Alternative imprisonment maximum for certain offenses.
- Sec. 248. Attempts, conspiracies, jurisdiction, and definitions.
- Sec. 249. Clerical amendment.

TITLE III—BIRTHRIGHT CITIZENSHIP

- Sec. 301. Citizenship at birth for certain persons born in the United States.

TITLE IV—HOUSING AND HOMEOWNERSHIP

- Sec. 401. Mortgages prohibited for principal residences of individuals who lack valid personal identification.
- Sec. 402. Prohibition on public housing and section 8 rental assistance for illegal aliens.
- Sec. 403. Prohibition on renting of dwelling units to illegal aliens.
- Sec. 404. Prohibition on Federal and government-sponsored enterprise support for mortgages for illegal aliens.

TITLE V—TAXES AND SOCIAL SECURITY

- Sec. 501. Prohibiting totalization agreements that benefit unlawfully present aliens.
- Sec. 502. No Social Security credit for work performed while unlawfully present.
- Sec. 503. Limited eligibility for credits.
- Sec. 504. Reducing individual taxpayer identification number abuse.

TITLE VI—EMPLOYEE VERIFICATION

Subtitle A—General Provisions

- Sec. 601. Mandatory employment authorization verification.
- Sec. 602. Mandatory notification of SSN mismatches and multiple uses and terminations of ineligibility for employment.
- Sec. 603. Penalty for failure to file correct information returns.
- Sec. 604. Authorization of appropriations.

Subtitle B—Self-Employed Subcontractors Loophole

- Sec. 611. Requiring self-employed subcontractors to participate in employment eligibility verification pilot program.

Subtitle C—Prohibition on Unlawful Employment of Aliens in Capitol

- Sec. 621. Requiring legislative branch contractors to participate in employment eligibility verification pilot program.
- Sec. 622. Capitol complex defined.
- Sec. 623. Effective date; transition for current contracts.

Subtitle D—Coordination Between SSA and IRS

- Sec. 631. Availability of information.

TITLE VII—PROHIBITING UNLAWFULLY PRESENT ALIENS FROM
OBTAINING FINANCIAL SERVICES

4

- Sec. 701. Foreign-issued forms of identification prohibited as proof of identity to open accounts at financial institutions.
- Sec. 702. “Know your customer” regulations applied to certain transmitting businesses.
- Sec. 703. Requirements relating to the United States Postal Service.
- Sec. 704. Applicability of identification rules to certain transactions involving the Federal Reserve Board, including the Directo a México program.

TITLE VIII—BORDER AND LAW ENFORCEMENT

- Sec. 801. Construction of border fencing and security improvements.
- Sec. 802. Increase in full-time Border Patrol agents.
- Sec. 803. Increase in number of ICE agents.

TITLE IX—STATE AND LOCAL GOVERNMENT AUTHORITY

Subtitle A—General Provisions

- Sec. 901. State defined; severability.
- Sec. 902. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 903. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 904. Listing of immigration violators in the National Crime Information Center database.
- Sec. 905. State and local law enforcement provision of information about apprehended aliens.
- Sec. 906. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 907. Increased Federal detention space.
- Sec. 908. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
- Sec. 909. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 910. Immunity.
- Sec. 911. Institutional removal program (IRP).

Subtitle B—Eliminating Sanctuary Cities

- Sec. 921. Eliminating sanctuary cities.

Subtitle C—Criminal Aliens

- Sec. 931. State criminal alien assistance program (SCAAP).
- Sec. 932. Authorization of appropriations.
- Sec. 933. Assistance for States incarcerating undocumented aliens charged with certain crimes.
- Sec. 934. Preemption.

TITLE X—PROHIBITING IN-STATE TUITION FOR UNLAWFULLY PRESENT ALIENS

- Sec. 1001. Ensuring enforceability.

1 **TITLE I—ALIEN SMUGGLING**
2 **AND RELATED OFFENSES**

3 **SEC. 101. ALIEN SMUGGLING AND RELATED OFFENSES.**

4 Section 274 of the Immigration and Nationality Act
5 (8 U.S.C. 1324) is amended to read as follows:

6 “**ALIEN SMUGGLING AND RELATED OFFENSES**

7 “**SEC. 274. (a) CRIMINAL OFFENSES AND PEN-**
8 **ALTIES.—**

9 “**(1) PROHIBITED ACTIVITIES.—**Whoever—

10 “(A) assists, encourages, directs, or in-
11 duces a person to come to or enter the United
12 States, or to attempt to come to or enter the
13 United States, knowing or in reckless disregard
14 of the fact that such person is an alien who
15 lacks lawful authority to come to or enter the
16 United States;

17 “(B) assists, encourages, directs, or in-
18 duces a person to come to or enter the United
19 States at a place other than a designated port
20 of entry or place other than as designated by
21 the Secretary of Homeland Security, regardless
22 of whether such person has official permission
23 or lawful authority to be in the United States,
24 knowing or in reckless disregard of the fact
25 that such person is an alien;

1 “(C) assists, encourages, directs, or in-
2 duces a person to reside in or remain in the
3 United States, or to attempt to reside in or re-
4 main in the United States, knowing or in reck-
5 less disregard of the fact that such person is an
6 alien who lacks lawful authority to reside in or
7 remain in the United States;

8 “(D) transports or moves a person in the
9 United States, knowing or in reckless disregard
10 of the fact that such person is an alien who
11 lacks lawful authority to enter or be in the
12 United States, where the transportation or
13 movement will aid or further in any manner the
14 person’s illegal entry into or illegal presence in
15 the United States;

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

21 “(F) transports, moves, harbors, conceals,
22 or shields from detection a person outside of
23 the United States knowing or in reckless dis-
24 regard of the fact that such person is an alien
25 in unlawful transit from one country to another

1 or on the high seas, under circumstances in
2 which the person is in fact seeking to enter the
3 United States without official permission or
4 lawful authority; or

5 “(G) conspires or attempts to commit any
6 of the preceding acts,

7 shall be punished as provided in paragraph (2), re-
8 gardless of any official action which may later be
9 taken with respect to such alien.

10 “(2) **CRIMINAL PENALTIES.**—A person who vio-
11 lates the provisions of paragraph (1) shall—

12 “(A) except as provided in subparagraphs
13 (D) through (H), in the case where the offense
14 was not committed for commercial advantage,
15 profit, or private financial gain, be imprisoned
16 for not more than 5 years, or fined under title
17 18, United States Code, or both;

18 “(B) except as provided in subparagraphs
19 (C) through (H), where the offense was com-
20 mitted for commercial advantage, profit, or pri-
21 vate financial gain—

22 “(i) in the case of a first violation of
23 this subparagraph, be imprisoned for not
24 more than 20 years, or fined under title
25 18, United States Code, or both; and

1 “(ii) for any subsequent violation, be
2 imprisoned for not less than 3 years nor
3 more than 20 years, or fined under title
4 18, United States Code, or both;

5 “(C) in the case where the offense was
6 committed for commercial advantage, profit, or
7 private financial gain and involved 2 or more
8 aliens other than the offender, be imprisoned
9 for not less than 3 nor more than 20 years, or
10 fined under title 18, United States Code, or
11 both;

12 “(D) in the case where the offense furthers
13 or aids the commission of any other offense
14 against the United States or any State, which
15 offense is punishable by imprisonment for more
16 than 1 year, be imprisoned for not less than 5
17 nor more than 20 years, or fined under title 18,
18 United States Code, or both;

19 “(E) in the case where any participant in
20 the offense created a substantial risk of death
21 or serious bodily injury to another person, in-
22 cluding—

23 “(i) transporting a person in an en-
24 gine compartment, storage compartment,
25 or other confined space;

1 “(ii) transporting a person at an ex-
2 cessive speed or in excess of the rated ca-
3 pacity of the means of transportation; or

4 “(iii) transporting or harboring a per-
5 son in a crowded, dangerous, or inhumane
6 manner,

7 be imprisoned not less than 5 nor more than 20
8 years, or fined under title 18, United States
9 Code, or both;

10 “(F) in the case where the offense caused
11 serious bodily injury (as defined in section 1365
12 of title 18, United States Code, including any
13 conduct that would violate sections 2241 or
14 2242 of title 18, United States Code, if the con-
15 duct occurred in the special maritime and terri-
16 torial jurisdiction of the United States) to any
17 person, be imprisoned for not less than 7 nor
18 more than 30 years, or fined under title 18,
19 United States Code, or both;

20 “(G) in the case where the offense involved
21 an alien who the offender knew or had reason
22 to believe was an alien—

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

1 “(ii) intending to engage in such ter-
2 rorist activity,
3 be imprisoned for not less than 10 nor more
4 than 30 years, or fined under title 18, United
5 States Code, or both; and

6 “(H) in the case where the offense caused
7 or resulted in the death of any person, be pun-
8 ished by death or imprisoned for not less than
9 10 years, or any term of years, or for life, or
10 fined under title 18, United States Code, or
11 both.

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

15 “(b) **SEIZURE AND FORFEITURE.**—

16 “(1) **IN GENERAL.**—Any property, real or per-
17 sonal, that has been used to commit or facilitate the
18 commission of a violation of this section, the gross
19 proceeds of such violation, and any property trace-
20 able to such property or proceeds, shall be subject
21 to forfeiture.

22 “(2) **APPLICABLE PROCEDURES.**—Seizures and
23 forfeitures under this subsection shall be governed
24 by the provisions of chapter 46 of title 18, United
25 States Code, relating to civil forfeitures, including

1 section 981(d) of such title, except that such duties
2 as are imposed upon the Secretary of the Treasury
3 under the customs laws described in that section
4 shall be performed by such officers, agents, and
5 other persons as may be designated for that purpose
6 by the Secretary of Homeland Security.

7 “(c) **AUTHORITY TO ARREST.**—No officer or person
8 shall have authority to make any arrests for a violation
9 of any provision of this section except officers and employ-
10 ees designated by the Secretary of Homeland Security, ei-
11 ther individually or as a member of a class, and all other
12 officers whose duty it is to enforce criminal laws.

13 “(d) **ADMISSIBILITY OF EVIDENCE.**—

14 “(1) **PRIMA FACIE EVIDENCE IN DETERMINA-**
15 **TIONS OF VIOLATIONS.**—Notwithstanding any provi-
16 sion of the Federal Rules of Evidence, in deter-
17 mining whether a violation of subsection (a) has oc-
18 curred, any of the following shall be prima facie evi-
19 dence that an alien involved in the violation lacks
20 lawful authority to come to, enter, reside, remain, or
21 be in the United States or that such alien had come
22 to, entered, resided, remained or been present in the
23 United States in violation of law:

24 “(A) Any order, finding, or determination
25 concerning the alien’s status or lack thereof

1 made by a federal judge or administrative adju-
2 dicator (including an immigration judge or an
3 immigration officer) during any judicial or ad-
4 ministrative proceeding authorized under the
5 immigration laws or regulations prescribed
6 thereunder.

7 “(B) An official record of the Department
8 of Homeland Security, Department of Justice,
9 or the Department of State concerning the
10 alien’s status or lack thereof.

11 “(C) Testimony by an immigration officer
12 having personal knowledge of the facts con-
13 cerning the alien’s status or lack thereof.

14 “(2) **VIDEOTAPED TESTIMONY.**—Notwith-
15 standing any provision of the Federal Rules of Evi-
16 dence, the videotaped (or otherwise audiovisually
17 preserved) deposition of a witness to a violation of
18 subsection (a) who has been deported or otherwise
19 expelled from the United States, or is otherwise un-
20 available to testify, may be admitted into evidence in
21 an action brought for that violation if the witness
22 was available for cross examination at the deposition
23 and the deposition otherwise complies with the Fed-
24 eral Rules of Evidence.

25 “(e) **DEFINITIONS.**—For purposes of this section:

1 “(1) The term ‘lawful authority’ means permis-
2 sion, authorization, or license that is expressly pro-
3 vided for in the immigration laws of the United
4 States or the regulations prescribed thereunder.
5 Such term does not include any such authority se-
6 cured by fraud or otherwise obtained in violation of
7 law, nor does it include authority that has been
8 sought but not approved. No alien shall be deemed
9 to have lawful authority to come to, enter, reside, re-
10 main, or be in the United States if such coming to,
11 entry, residence, remaining, or presence was, is, or
12 would be in violation of law.

13 “(2) The term ‘unlawful transit’ means travel,
14 movement, or temporary presence that violates the
15 laws of any country in which the alien is present, or
16 any country from which or to which the alien is trav-
17 eling or moving.”.

18 **TITLE II—IDENTITY SECURITY**

19 **Subtitle A—Photo Identification**

20 **SEC. 201. FORMS OF ACCEPTABLE IDENTIFICATION FOR** 21 **FEDERAL GOVERNMENT PURPOSES.**

22 (a) **FORMS OF ACCEPTABLE IDENTIFICATION.**—A
23 Federal agency may not accept, for any official purpose,
24 including for Federal benefits and for individual taxpayer

1 identification numbers, any form of identification of an in-
2 dividual other than the following:

3 (1) **SOCIAL SECURITY CARD WITH PHOTO IDEN-**
4 **TIFICATION CARD OR REAL ID ACT IDENTIFICA-**
5 **TION.**—

6 (A) A Social Security card accompanied by
7 a photo identification card issued by the Fed-
8 eral Government or a State Government; or

9 (B) a driver's license or identification card
10 issued by a State in the case of a State that is
11 in compliance with title II of the REAL ID Act
12 of 2005 (title II of division B of Public Law
13 109–13; 49 U.S.C. 30301 note).

14 (2) **PASSPORT.**—A passport issued by the
15 United States or a foreign government.

16 (3) **USCIS PHOTO IDENTIFICATION CARD.**—A
17 photo identification card issued by the Secretary of
18 Homeland Security (acting through the Director of
19 the United States Citizenship and Immigration Serv-
20 ices).

21 (b) **EFFECTIVE DATE.**—The requirements of sub-
22 section (a) shall take effect six months after the date of
23 the enactment of this Act.

1 **SEC. 202. FORMS OF ACCEPTABLE IDENTIFICATION FOR FI-**
 2 **NANCIAL INSTITUTIONS.**

3 (a) **IN GENERAL.**—Section 5318(l) of title 31, United
 4 States Code (relating to identification and verification of
 5 accountholders) is amended by striking paragraph (6) and
 6 inserting the following new paragraph:

7 “(6) **FORMS OF ACCEPTABLE IDENTIFICA-**
 8 **TION.**—A financial institution may not accept, for
 9 the purpose of verifying the identity of an individual
 10 seeking to open an account in accordance with this
 11 subsection, any form of identification of the indi-
 12 vidual other than the following:

13 “(A) **SOCIAL SECURITY CARD WITH PHOTO**
 14 **IDENTIFICATION CARD OR REAL ID ACT IDENTI-**
 15 **FICATION.**—

16 “(i) A Social Security card accom-
 17 panied by a photo identification card
 18 issued by the Federal Government or a
 19 State Government; or

20 “(ii) a driver’s license or identification
 21 card issued by a State in the case of a
 22 State that is in compliance with title II of
 23 the REAL ID Act of 2005 (title II of divi-
 24 sion B of Public Law 109–13; 49 U.S.C.
 25 30301 note).

1 “(B) **PASSPORT**.—A passport issued by the
 2 United States or a foreign government.

3 “(C) **USCIS PHOTO IDENTIFICATION**
 4 **CARD**.—A photo identification card issued by
 5 the Secretary of Homeland Security (acting
 6 through the Director of the U.S. Citizenship
 7 and Immigration Services).”.

8 (b) **EFFECTIVE DATE**.—The amendments made by
 9 subsection (a) shall take effect six months after the date
 10 of the enactment of this Act.

11 **Subtitle B—Prohibition on Driver’s**
 12 **Licenses for Unlawfully Present**
 13 **Aliens**

14 **SEC. 211. PROHIBITION ON ISSUING DRIVER’S LICENSES TO**
 15 **ILLEGAL ALIENS.**

16 Section 202 of the REAL ID Act of 2005 (49 U.S.C.
 17 30301 note) is amended—

18 (1) in subsection (d), by striking paragraph
 19 (11) and redesignating paragraphs (12) and (13) as
 20 paragraphs (11) and (12), respectively; and

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

22 “(e) **PROHIBITION**.—A State is prohibited from
 23 issuing any driver’s license or identification card to any
 24 individual unless the State satisfies the requirements of
 25 subsection (c)(2)(B).”.

1 **Subtitle C—Stopping Social**
2 **Security Number Abuse**

3 **SEC. 221. EFFECT OF FINAL REGULATION ON “NO-MATCH”**
4 **LETTERS.**

5 The Congress approves the final rule promulgated by
6 the Department of Homeland Security entitled “Safe-Har-
7 bor Procedures for Employers Who Receive a No-Match
8 Letter” (August 15, 2007; 72 Fed. Reg. 45611), and such
9 rule shall have the force and effect of enacted law until
10 changed by such law.

11 **Subtitle D—Birth/Death Registry**

12 **SEC. 231. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
13 **DEATH REGISTRATION SYSTEMS.**

14 (a) In consultation with the Secretary of Health and
15 Human Services and the Commissioner of Social Security,
16 the Secretary shall take the following actions:

17 (1) Work with the States to establish a common
18 data set and common data exchange protocol for
19 electronic birth registration systems and death reg-
20 istration systems.

21 (2) Coordinate requirements for such systems
22 to align with a national model.

23 (3) Ensure that fraud prevention is built into
24 the design of electronic vital registration systems in
25 the collection of vital event data, the issuance of

1 birth certificates, and the exchange of data among
2 government agencies.

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

8 (5) Establish uniform field requirements for
9 State birth registries.

10 (6) Not later than 1 year after the date of the
11 enactment of this Act, establish a process with the
12 Department of Defense that will result in the shar-
13 ing of data, with the States and the Social Security
14 Administration, regarding deaths of United States
15 military personnel and the birth and death of their
16 dependents.

17 (7) Not later than 1 year after the date of the
18 enactment of this Act, establish a process with the
19 Department of State to improve registration, notifi-
20 cation, and the sharing of data with the States and
21 the Social Security Administration, regarding births
22 and deaths of United States citizens abroad.

23 (8) Not later than 3 years after the date of es-
24 tablishment of databases provided for under this sec-
25 tion, require States to record and retain electronic

1 records of pertinent identification information col-
2 lected from requestors who are not the registrants.

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

9 **Subtitle E—Reform of Passport** 10 **Fraud Offenses**

11 **SEC. 241. TRAFFICKING IN PASSPORTS.**

12 Section 1541 of title 18, United States Code, is
13 amended to read as follows:

14 **“§ 1541. Trafficking in passports**

15 “(a) **MULTIPLE PASSPORTS.**—Any person who, dur-
16 ing any period of 3 years or less, knowingly—

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

19 “(2) forges, counterfeits, alters, or falsely
20 makes 10 or more passports;

21 “(3) secures, possesses, uses, receives, buys,
22 sells, or distributes 10 or more passports, knowing
23 the passports to be forged, counterfeited, altered,
24 falsely made, stolen, procured by fraud, or produced
25 or issued without lawful authority; or

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

7 “(b) **PASSPORT MATERIALS.**—Any person who know-
8 ingly and without lawful authority produces, buys, sells,
9 possesses, or uses any official material (or counterfeit of
10 any official material) used to make a passport, including
11 any distinctive paper, seal, hologram, image, text, symbol,
12 stamp, engraving, or plate, shall be fined under this title,
13 imprisoned not more than 20 years, or both.”.

14 **SEC. 242. FALSE STATEMENT IN AN APPLICATION FOR A**
15 **PASSPORT.**

16 Section 1542 of title 18, United States Code, is
17 amended to read as follows:

18 **“§ 1542. False statement in an application for a pass-**
19 **port**

20 “(a) **IN GENERAL.**—Whoever knowingly makes any
21 false statement or representation in an application for a
22 United States passport, or mails, prepares, presents, or
23 signs an application for a United States passport knowing
24 the application to contain any false statement or represen-

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

3 “(b) **VENUE.**—

4 “(1) **IN GENERAL.**—An offense under sub-
5 section (a) may be prosecuted in any district—

6 “(A) in which the false statement or rep-
7 resentation was made or the application for a
8 United States passport was prepared or signed;
9 or

10 “(B) in which or to which the application
11 was mailed or presented.

12 “(2) **ACTS OCCURRING OUTSIDE THE UNITED**
13 **STATES.**—An offense under subsection (a) involving
14 an application for a United States passport prepared
15 and adjudicated outside the United States may be
16 prosecuted in the district in which the resultant
17 passport was or would have been produced.

18 “(c) **SAVINGS CLAUSE.**—Nothing in this section may
19 be construed to limit the venue otherwise available under
20 sections 3237 and 3238 of this title.”.

21 **SEC. 243. FORGERY AND UNLAWFUL PRODUCTION OF A**
22 **PASSPORT.**

23 Section 1543 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1543. Forgery and unlawful production of a pass-**
2 **port**

3 “(a) **FORGERY.**—Any person who knowingly—

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

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

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

12 “(b) **UNLAWFUL PRODUCTION.**—Any person who
13 knowingly and without lawful authority—

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

17 “(2) produces, issues, authorizes, or verifies a
18 United States passport for or to any person knowing
19 or in reckless disregard of the fact that such person
20 is not entitled to receive a passport; or

21 “(3) transfers or furnishes a passport to any
22 person for use by any person other than the person
23 for whom the passport was issued or designed,
24 shall be fined under this title, imprisoned not more than
25 15 years, or both.”.

1 **SEC. 244. MISUSE OF A PASSPORT.**

2 Section 1544 of title 18, United States Code, is
3 amended to read as follows:

4 **“§ 1544. Misuse of a passport**

5 “Any person who knowingly—

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

8 “(2) uses any passport in violation of the condi-
9 tions or restrictions therein contained, or in violation
10 of the laws, regulations, or rules governing the
11 issuance and use of the passport;

12 “(3) secures, possesses, uses, receives, buys,
13 sells, or distributes any passport knowing it to be
14 forged, counterfeited, altered, falsely made, procured
15 by fraud, or produced or issued without lawful au-
16 thority; or

17 “(4) violates the terms and conditions of any
18 safe conduct duly obtained and issued under the au-
19 thority of the United States,

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

22 **SEC. 245. SCHEMES TO DEFRAUD ALIENS.**

23 Section 1545 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1545. Schemes to defraud aliens**

2 “(a) IN GENERAL.—Any person who knowingly exe-
3 cutes a scheme or artifice, in connection with any matter
4 that is authorized by or arises under Federal immigration
5 laws or any matter the offender claims or represents is
6 authorized by or arises under Federal immigration laws,
7 to—

8 “(1) defraud any person; or

9 “(2) obtain or receive money or anything else of
10 value from any person by means of false or fraudu-
11 lent pretenses, representations, promises,
12 shall be fined under this title, imprisoned not more than
13 15 years, or both.

14 “(b) MISREPRESENTATION.—Any person who know-
15 ingly and falsely represents that such person is an attor-
16 ney or an accredited representative (as that term is de-
17 fined in section 1292.1 of title 8, Code of Federal Regula-
18 tions (or any successor regulation to such section)) in any
19 matter arising under Federal immigration laws shall be
20 fined under this title, imprisoned not more than 15 years,
21 or both.”.

22 **SEC. 246. IMMIGRATION AND VISA FRAUD.**

23 Section 1546 of title 18, United States Code, is
24 amended to read as follows:

25 **“§ 1546. Immigration and visa fraud**

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

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

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

5 “(3) completes, mails, prepares, presents, signs,
6 or submits any immigration document knowing it to
7 contain any materially false statement or representa-
8 tion;

9 “(4) secures, possesses, uses, transfers, re-
10 ceives, buys, sells, or distributes any immigration
11 document knowing it to be forged, counterfeited, al-
12 tered, falsely made, stolen, procured by fraud, or
13 produced or issued without lawful authority;

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

17 “(6) transfers or furnishes, without lawful au-
18 thority, an immigration document to another person
19 for use by a person other than the person for whom
20 the passport was issued or designed,

21 shall be fined under this title, imprisoned not more than
22 15 years, or both.

23 “(b) **TRAFFICKING**.—Any person who, during any pe-
24 riod of 3 years or less, knowingly—

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

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

6 “(3) secures, possesses, uses, buys, sells, or dis-
7 tributes 10 or more immigration documents, know-
8 ing the immigration documents to be forged, coun-
9 terfeited, altered, stolen, falsely made, procured by
10 fraud, or produced or issued without lawful author-
11 ity; or

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

16 shall be fined under this title, imprisoned not more than
17 20 years, or both.

18 “(c) **IMMIGRATION DOCUMENT MATERIALS.**—Any
19 person who knowingly and without lawful authority pro-
20 duces, buys, sells, possesses, or uses any official material
21 (or counterfeit of any official material) used to make im-
22 migration documents, including any distinctive paper, seal,
23 hologram, image, text, symbol, stamp, engraving, or plate,
24 shall be fined under this title, imprisoned not more than
25 20 years, or both.

1 “(d) **EMPLOYMENT DOCUMENTS.**—Whoever uses—

2 “(1) an identification document, knowing (or
3 having reason to know) that the document was not
4 issued lawfully for the use of the possessor;

5 “(2) an identification document knowing (or
6 having reason to know) that the document is false;
7 or

8 “(3) a false attestation,
9 for the purpose of satisfying a requirement of section
10 274A(b) of the Immigration and Nationality Act (8 U.S.C.
11 1324a(b)), shall be fined under this title, imprisoned not
12 more than 5 years, or both.”.

13 **SEC. 247. ALTERNATIVE IMPRISONMENT MAXIMUM FOR**
14 **CERTAIN OFFENSES.**

15 Section 1547 of title 18, United States Code, is
16 amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “(other than an offense under section
19 1545)”;

20 (2) in paragraph (1), by striking “15” and in-
21 serting “20”; and

22 (3) in paragraph (2), by striking “20” and in-
23 serting “25”.

1 **SEC. 248. ATTEMPTS, CONSPIRACIES, JURISDICTION, AND**
2 **DEFINITIONS.**

3 Chapter 75 of title 18, United States Code, is amend-
4 ed by adding after section 1547 the following new sections:

5 **“§ 1548. Attempts and conspiracies**

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

9 **“§ 1549. Additional jurisdiction**

10 “(a) **IN GENERAL.**—Any person who commits an of-
11 fense under this chapter within the special maritime and
12 territorial jurisdiction of the United States shall be pun-
13 ished as provided under this chapter.

14 “(b) **EXTRATERRITORIAL JURISDICTION.**—Any per-
15 son who commits an offense under this chapter outside
16 the United States shall be punished as provided under this
17 chapter if—

18 “(1) the offense involves a United States pass-
19 port or immigration document (or any document
20 purporting to be such a document) or any matter,
21 right, or benefit arising under or authorized by Fed-
22 eral immigration laws;

23 “(2) the offense is in or affects foreign com-
24 merce;

25 “(3) the offense affects, jeopardizes, or poses a
26 significant risk to the lawful administration of Fed-

1 eral immigration laws, or the national security of the
2 United States;

3 “(4) the offense is committed to facilitate an
4 act of international terrorism (as defined in section
5 2331) or a drug trafficking crime (as defined in sec-
6 tion 929(a)(2)) that affects or would affect the na-
7 tional security of the United States;

8 “(5) the offender is a national of the United
9 States or an alien lawfully admitted for permanent
10 residence (as those terms are defined in section
11 101(a) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a))); or

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

15 **“§ 1550. Authorized law enforcement activities**

16 “Nothing in this chapter shall prohibit any lawfully
17 authorized investigative, protective, or intelligence activity
18 of a law enforcement agency of the United States, a State,
19 or a political subdivision of a State, or an intelligence
20 agency of the United States, or any activity authorized
21 under title V of the Organized Crime Control Act of 1970
22 (Public Law 91–452; 84 Stat. 933).

23 **“§ 1551. Definitions**

24 “As used in this chapter:

1 “(1) The term ‘application for a United States
2 passport’ includes any document, photograph, or
3 other piece of evidence submitted in support of an
4 application for a United States passport.

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

7 “(3) The term ‘immigration document’—

8 “(A) means any application, petition, affi-
9 davit, declaration, attestation, form, visa, iden-
10 tification card, alien registration document, em-
11 ployment authorization document, border cross-
12 ing card, certificate, permit, order, license,
13 stamp, authorization, grant of authority, or
14 other official document, arising under or au-
15 thorized by the immigration laws of the United
16 States; and

17 “(B) includes any document, photograph,
18 or other piece of evidence attached to or sub-
19 mitted in support of an immigration document
20 described in subparagraph (A).

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

22 “(A) the laws described in section
23 101(a)(17) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(17));

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

3 “(C) the regulations prescribed under the
4 authority of any law described in subparagraph
5 (A) or (B).

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

9 “(6) The term ‘passport’ means—

10 “(A) a travel document attesting to the
11 identity and nationality of the bearer that is
12 issued under the authority of the Secretary of
13 State, a foreign government, or an international
14 organization; or

15 “(B) any instrument purporting to be a
16 document described in subparagraph (A).

17 “(7) The term ‘produce’ means to make, pre-
18 pare, assemble, issue, print, authenticate, or alter.

19 “(8) The term ‘to present’ means to offer or
20 submit for official processing, examination, or adju-
21 dication. Any such presentation continues until the
22 official processing, examination, or adjudication is
23 complete.

24 “(9) The ‘use’ of a passport or an immigration
25 document referred to in section 1541(a), 1543(b),

1 1544, 1546(a), and 1546(b) of this chapter in-
 2 cludes—

3 “(A) any officially authorized use;

4 “(B) use to travel;

5 “(C) use to demonstrate identity, resi-
 6 dence, nationality, citizenship, or immigration
 7 status;

8 “(D) use to seek or maintain employment;

9 or

10 “(E) use in any matter within the jurisdic-
 11 tion of the Federal government or of a State
 12 government.”.

13 **SEC. 249. CLERICAL AMENDMENT.**

14 The table of sections for chapter 75 of title 18,
 15 United States Code, is amended to read as follows:

“Sec.

“1541. Trafficking in passports.

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

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Alternative imprisonment maximum for certain offenses.

“1548. Attempts and conspiracies.

“1549. Additional jurisdiction.

“1550. Authorized law enforcement activities.

“1551. Definitions.”.

TITLE III—BIRTHRIGHT CITIZENSHIP

SEC. 301. CITIZENSHIP AT BIRTH FOR CERTAIN PERSONS BORN IN THE UNITED STATES.

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

(1) by inserting “(a) **IN GENERAL.**—” before “The following”;

(2) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8); and

(3) by adding at the end the following:

“(b) **DEFINITION.**—Acknowledging the right of birthright citizenship established by section 1 of the 14th amendment to the Constitution, a person born in the United States shall be considered ‘subject to the jurisdiction’ of the United States for purposes of subsection (a)(1) if the person is born in the United States of parents, one of whom is—

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

“(2) an alien lawfully admitted for permanent residence in the United States whose residence is in the United States; or

“(3) an alien performing active service in the Armed Forces (as defined in section 101 of title 10, United States Code).”.

1 (b) **APPLICABILITY.**—The amendment made by sub-
 2 section (a)(3) shall not be construed to affect the citizen-
 3 ship or nationality status of any person born before the
 4 date of the enactment of this Act.

5 **TITLE IV—HOUSING AND**
 6 **HOMEOWNERSHIP**

7 **SEC. 401. MORTGAGES PROHIBITED FOR PRINCIPAL RESI-**
 8 **DENCES OF INDIVIDUALS WHO LACK VALID**
 9 **PERSONAL IDENTIFICATION.**

10 (a) **IN GENERAL.**—Chapter 2 of the Truth in Lend-
 11 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
 12 at the end the following new section:

13 **“§ 140. Mortgages prohibited for principal residences**
 14 **of individuals who lack valid personal**
 15 **identification**

16 “Notwithstanding any provision of State law, no
 17 credit may be extended by any creditor to any consumer
 18 in any consumer credit transaction in which a security in-
 19 terest, including any such interest arising by operation of
 20 law, is or will be retained or acquired in any property lo-
 21 cated within the United States which is or, upon the com-
 22 pletion of the transaction, will be used as the principal
 23 residence of such consumer unless the creditor has verified
 24 that the consumer is a citizen or national of the United
 25 States or is lawfully present in the United States, by re-

1 quiring the consumer to provide to the creditor valid per-
 2 sonal identification in one of the forms specified in the
 3 amendment made by section 202(a) of the Loophole Elimini-
 4 nation and Verification Enforcement Act.”.

5 (b) **CLERICAL AMENDMENT.**—The table of sections
 6 for chapter 2 of the Truth in Lending Act is amended
 7 by inserting after the item relating to section 139 the fol-
 8 lowing new item:

“140. Mortgages prohibited for principal residences of individuals who lack valid
 personal identification.”.

9 **SEC. 402. PROHIBITION ON PUBLIC HOUSING AND SECTION**
 10 **8 RENTAL ASSISTANCE FOR ILLEGAL ALIENS.**

11 Occupancy in public housing assisted under the
 12 United States Housing Act of 1937 (42 U.S.C. 1437 et
 13 seq.) may not be provided to any individual or household,
 14 and rental assistance under section 8 of such Act (42
 15 U.S.C. 1437f) may not be provided to or on behalf of any
 16 individual or household, unless the public housing agency
 17 or owner of housing assisted under section 8, as applica-
 18 ble, verifies that the individual, or in the case of a house-
 19 hold, all adult members of the household, are citizens or
 20 nationals of the United States or are lawfully present in
 21 the United States, by requiring such individual, or in the
 22 case of a household, all adult members of the household,
 23 to provide to the public housing agency or owner of hous-
 24 ing assisted under such section 8, as applicable, valid per-

1 sonal identification in one of the forms specified in section
2 201(a) of this Act.

3 **SEC. 403. PROHIBITION ON RENTING OF DWELLING UNITS**
4 **TO ILLEGAL ALIENS.**

5 It is the sense of the Congress that renting a dwelling
6 unit to an individual who is unlawfully present in the
7 United States, or to any household that includes such an
8 individual, should be considered an act of harboring an
9 illegal alien or assisting an illegal alien to reside in the
10 United States and therefore illegal.

11 **SEC. 404. PROHIBITION ON FEDERAL AND GOVERNMENT-**
12 **SPONSORED ENTERPRISE SUPPORT FOR**
13 **MORTGAGES FOR ILLEGAL ALIENS.**

14 (a) **FEDERAL AGENCIES.**—No Federal agency, de-
15 partment, office, or other instrumentality may make, in-
16 sure, or guarantee any mortgage or loan for the purchase
17 of, or secured by, a residential property unless the mort-
18 gagee under such mortgage, or the lender under such loan,
19 as the case may be, has verified that the mortgagor under
20 the mortgage or borrower under the loan, as the case may
21 be, is a citizen or national of the United States or is law-
22 fully present in the United States, by requiring such mort-
23 gator or borrower to provide to such lender under such
24 mortgage or loan valid personal identification in one of
25 the forms specified in section 201(a) of this Act.

1 (b) FANNIE MAE AND FREDDIE MAC.—The Federal
 2 National Mortgage Association and the Federal Home
 3 Loan Mortgage Corporation may not purchase, securitize,
 4 service, sell, lend on the security of, or otherwise deal in
 5 any mortgage or loan unless the mortgagee under such
 6 mortgage has verified that the mortgagor under the mort-
 7 gage is a citizen or national of the United States or is
 8 lawfully present in the United States, by requiring such
 9 mortgagor to provide to such mortgagee under such mort-
 10 gage valid personal identification in one of the forms speci-
 11 fied in section 201(a) of this Act.

12 **TITLE V—TAXES AND SOCIAL** 13 **SECURITY**

14 **SEC. 501. PROHIBITING TOTALIZATION AGREEMENTS THAT** 15 **BENEFIT UNLAWFULLY PRESENT ALIENS.**

16 It is the sense of the House of Representatives that
 17 the totalization agreement establishing totalization ar-
 18 rangements between the Social Security system estab-
 19 lished by title II of such Act and the Social Security sys-
 20 tem of Mexico, signed by the Commissioner of Social Secu-
 21 rity and the Director General, Mexican Social Security In-
 22 stitute, on June 29, 2004, is inappropriate public policy
 23 and should not take effect.

1 **SEC. 502. NO SOCIAL SECURITY CREDIT FOR WORK PER-**
2 **FORMED WHILE UNLAWFULLY PRESENT.**

3 (a) **DETERMINATIONS OF INSURED STATUS.**—Sec-
4 tion 214(c)(1) of the Social Security Act (42 U.S.C.
5 414(c)(1)) is amended by striking “at the time of assign-
6 ment,” and all that follows through “any later time,” and
7 inserting “at the time any such quarters of coverage are
8 earned,”.

9 (b) **ENTITLEMENT TO DISABILITY INSURANCE BEN-**
10 **EFITS.**—Section 223(a)(1)(C)(i) of such Act (42 U.S.C.
11 423(a)(1)(C)(i)) is amended by striking “at the time of
12 assignment,” and all that follows through “any later
13 time,” and inserting “at the time any such quarters of
14 coverage are earned,”.

15 **SEC. 503. LIMITED ELIGIBILITY FOR CREDITS.**

16 Notwithstanding any other provision of law, an indi-
17 vidual who makes a return with respect to Federal income
18 tax and includes on such return an individual taxpayer
19 identification number in lieu of a Social Security account
20 number shall not be eligible for any refund of or credit
21 against Federal income tax, including the earned income
22 tax credit under section 32 of the Internal Revenue Code
23 of 1986.

1 **SEC. 504. REDUCING INDIVIDUAL TAXPAYER IDENTIFICA-**
2 **TION NUMBER ABUSE.**

3 (a) **MODIFIED ITIN FORMAT AND LAWFUL PRES-**
4 **ENCE REQUIREMENT.—**

5 (1) **IN GENERAL.**—Section 6109(c) of the Inter-
6 nal Revenue Code of 1986 (26 U.S.C. 6109(c)) is
7 amended to read as follows:

8 “(c) **REQUIREMENT OF INFORMATION.**—

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

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

19 “(3) **VERIFICATION OF STATUS FOR ALIENS.**—
20 Prior to issuing any identifying number to an indi-
21 vidual who is physically present in the United
22 States, the Secretary shall verify with the Depart-
23 ment of Homeland Security that the applicant for
24 such number is lawfully present in the United
25 States.”.

1 (2) **EFFECTIVE DATE.**—Section 6109(c)(2) of
2 the Internal Revenue Code of 1986, as added by
3 paragraph (1), shall take effect no later than 30
4 days after the date of enactment of this Act.

5 (b) **INFORMATION SHARING.**—

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

9 “(D) **POSSIBLE VIOLATIONS OF FEDERAL**
10 **IMMIGRATION LAW.**—The Secretary shall dis-
11 close in electronic format to the Secretary of
12 Homeland Security the taxpayer identity (as de-
13 fined in subsection (b)(6)) of each taxpayer who
14 has been assigned an individual taxpayer identi-
15 fication number. The Secretary of Homeland
16 Security may disclose such information to offi-
17 cers and employees of the Department to the
18 extent necessary to enforce Federal immigration
19 laws.”.

20 (2) **EFFECTIVE DATE.**—The Secretary of the
21 Treasury shall disclose information under the
22 amendment made by paragraph (1) not later than
23 60 days after the date of the enactment of this Act.

1 **TITLE VI—EMPLOYEE**
2 **VERIFICATION**
3 **Subtitle A—General Provisions**
4 **SEC. 601. MANDATORY EMPLOYMENT AUTHORIZATION**
5 **VERIFICATION.**
6 (a) **MAKING BASIC PILOT PROGRAM PERMANENT.—**
7 Section 401(b) of the Illegal Immigration Reform and Im-
8 migrant Responsibility Act of 1996 (8 U.S.C. 1324a note)
9 is amended by adding before the period at the end of the
10 last sentence the following “, except that the basic pilot
11 program described in section 403(a) shall be a permanent
12 program”.
13 (b) **MANDATORY USE OF E-VERIFY SYSTEM.—**
14 (1) **IN GENERAL.—**Subject to paragraphs (2)
15 and (3), every person or other entity that hires one
16 or more individuals for employment in the United
17 States shall verify through the E-Verify program, es-
18 tablished as the basic pilot program by section
19 403(a) of the Illegal Immigration Reform and Immi-
20 grant Responsibility Act of 1996 (division C of Pub-
21 lic Law 104–208; 8 U.S.C. 1324a note), that each
22 such individual is authorized to work in the United
23 States. The Secretary of Homeland Security shall
24 ensure that verification by means of a toll-free tele-

1 phone line is an available option in complying with
2 the preceding sentence.

3 (2) **SELECT ENTITIES REQUIRED TO USE E-**
4 **VERIFY PROGRAM IMMEDIATELY.**—The following en-
5 tities must satisfy the requirement in paragraph (1)
6 by not later than one year after the date of the en-
7 actment of this Act:

8 (A) **FEDERAL AGENCIES.**—Each depart-
9 ment and agency of the Federal Government.

10 (B) **FEDERAL CONTRACTORS.**—A con-
11 tractor that—

12 (i) has entered into a contract with
13 the Federal Government to which section
14 2(b)(1) of the Service Contract Act of
15 1965 (41 U.S.C. 351(b)(1)) applies, and
16 any subcontractor under such contract; or

17 (ii) has entered into a contract ex-
18 empted from the application of such Act by
19 section 6 of such Act (41 U.S.C. 356), and
20 any subcontractor under such contract;
21 and

22 (C) **LARGE EMPLOYERS.**—An employer
23 that employs more than 250 individuals in the
24 United States.

25 (3) **PHASING-IN FOR OTHER EMPLOYERS.**—

1 (A) **2 YEARS FOR EMPLOYERS OF 100 OR**
2 **MORE.**—Entities that employ 100 or more indi-
3 viduals in the United States must satisfy the
4 requirement in paragraph (1) by not later than
5 two years after the date of the enactment of
6 this Act.

7 (B) **3 YEARS FOR EMPLOYERS WITH 30 OR**
8 **MORE EMPLOYEES.**—All entities that employ 30
9 or more individuals in the United States must
10 satisfy the requirement in paragraph (1) by not
11 later than three years after the date of the en-
12 actment of this Act.

13 (C) **4 YEARS FOR ALL EMPLOYERS.**—All
14 entities that employ one or more individuals in
15 the United States must satisfy the requirement
16 in paragraph (1) by not later than four years
17 after the date of the enactment of this Act.

18 (4) **VERIFYING EMPLOYMENT AUTHORIZATION**
19 **OF CURRENT EMPLOYEES.**—Every person or other
20 entity that employs one or more persons in the
21 United States shall verify through the E-Verify pro-
22 gram by not later than four years after the date of
23 the enactment of this Act that each employee is au-
24 thorized to work in the United States.

1 (5) **DEFENSE.**—An employer who has complied
2 with the requirements in paragraphs (1) and (4)
3 shall not be liable for hiring an unauthorized alien,
4 if—

5 (A) such hiring occurred due to an error in
6 the E-Verify program that was unknown to the
7 employer at the time of such hiring; and

8 (B) the employer terminates the employ-
9 ment of the alien upon being informed of the
10 error.

11 (6) **SANCTIONS FOR NONCOMPLIANCE.**—The
12 failure of an employer to comply with the require-
13 ments in paragraphs (1) or (4) shall—

14 (A) be treated as a violation of section
15 274A(a)(1)(B) with respect to each offense; and

16 (B) create a rebuttable presumption that
17 the employer has violated section
18 274A(a)(1)(A).

19 (7) **VOLUNTARY PARTICIPATION OF EMPLOYERS**
20 **NOT IMMEDIATELY SUBJECT TO REQUIREMENT.**—

21 Nothing in this subsection shall be construed as pre-
22 venting a person or other entity that is not imme-
23 diately subject to the requirement of paragraph (1)
24 pursuant to paragraph (2) or (3) from voluntarily
25 using the E-Verify program to verify the employ-

1 ment authorization of new hires or current employ-
2 ees.

3 (8) **STATE INTERFERENCE.**—No State may
4 prohibit a person or other entity from using the E-
5 verify program to verify the employment authoriza-
6 tion of new hires or current employees.

7 **SEC. 602. MANDATORY NOTIFICATION OF SSN MISMATCHES**
8 **AND MULTIPLE USES AND DETERMINATIONS**
9 **OF INELIGIBILITY FOR EMPLOYMENT.**

10 (a) **NOTIFICATION OF MULTIPLE USES OF INDIVIDUAL**
11 **SOCIAL SECURITY ACCOUNT NUMBERS.**—

12 (1) **PERIODIC REVIEW OF RECORDS REGARDING**
13 **INDIVIDUALS FOR MATERIAL EMPLOYMENT-BASED**
14 **INFORMATION.**—The Commissioner of Social Secu-
15 rity shall review, on at least an annual basis, the
16 records of the Commissioner to determine whether
17 there is included in such records any material em-
18 ployment-based information in connection with any
19 individual with respect to whom such records are
20 maintained.

21 (2) **NOTIFICATION OF INDIVIDUALS REGARDING**
22 **MATERIAL EMPLOYMENT-BASED INFORMATION.**—

23 (A) **IN GENERAL.**—In any case in which
24 the Commissioner determines, on the basis of
25 any review pursuant to paragraph (1), that

1 there is any material employment-based infor-
2 mation included in such records relating to any
3 individual, the Commissioner shall notify such
4 individual of the existence of such information
5 and that such information may be evidence of
6 the occurrence of identity theft.

7 (B) **REQUIREMENTS.**—The notification
8 shall be sent by letter to the individual’s ad-
9 dress maintained in the Commissioner’s records
10 and shall include—

11 (i) the name and location of each per-
12 son listed in such records as such individ-
13 ual’s employer involved,

14 (ii) a statement that, if the listing re-
15 garding each such employer so identified in
16 the notification is in fact an accurate rep-
17 resentation of persons who have been em-
18 ployers of such individual, there is no prob-
19 lem and no response to the notification is
20 required, and

21 (iii) a statement that, if the listing is
22 in any respect not in fact an accurate rep-
23 resentation of persons who have been em-
24 ployers of such individual, such individual
25 is requested to notify the Department of

1 Homeland Security or the Social Security
2 Administration of the inaccuracy by tele-
3 phone or by Internet communication at a
4 telephone number or website which shall be
5 specified in the notification.

6 (b) **MATERIAL EMPLOYMENT-BASED INFORMA-**
7 **TION.**—For purposes of this section, the term “material
8 employment-based information” means, in relation to any
9 individual, evidence determined, on the basis of any review
10 conducted pursuant to subsection (a)(1), that—

11 (1) such individual has had concurrent earnings
12 from more than one employer over an extended pe-
13 riod,

14 (2) such individual has received benefits under
15 title II of the Social Security Act while engaged in
16 employment, or

17 (3) such individual has been engaged in employ-
18 ment while under the age of 16.

19 (c) **IDENTIFICATION AND TREATMENT OF UNAU-**
20 **THORIZED ALIENS.**—

21 (1) **IDENTIFICATION OF SUSPECT EMPLOYERS**
22 **AND EMPLOYEES AND ISSUANCE OF TENTATIVE DE-**
23 **TERMINATION OF UNAUTHORIZED ALIEN STATUS.**—

24 In any case in which the Social Security Administra-
25 tion receives a notification from an individual pursu-

1 ant to subsection (a)(2)(B)(iii), the Commissioner of
2 Social Security shall identify each employer involved
3 and the employee of such employer actually em-
4 ployed in lieu of such individual, share with the Sec-
5 retary of Homeland Security the identity of each
6 such employer and such employee, and issue a ten-
7 tative determination that such employee is an unau-
8 thorized alien (as defined in section 274A(h) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1324a(h))) with respect to the employment. Upon
11 the issuance of such tentative determination, the
12 Commissioner shall notify each such employer and
13 such employee that a potential identity fraud has oc-
14 curred in connection with the employment of such
15 employee by such employer, and that such employee
16 has been tentatively determined to be such an unau-
17 thorized alien.

18 (2) **ISSUANCE OF CONCLUSIVE DETERMINA-**
19 **TION.**—If, during the period of 30 business days fol-
20 lowing the date on which such employee receives
21 such notification, such employee fails to offer to the
22 Commissioner evidence of the employee's correct
23 identity and that such employee is not an unauthor-
24 ized alien (as defined in section 274A(h) of the Im-
25 migration and Nationality Act (8 U.S.C. 1324a(h)))

1 with respect to the employment, the Commissioner
2 shall issue to such employer and such employee a
3 conclusive determination that such employee is such
4 an unauthorized alien.

5 (3) **MANDATORY TERMINATION OF EMPLOY-**
6 **MENT.**—The failure of such employer to immediately
7 terminate such employment of such employee upon
8 receipt of such conclusive determination shall be
9 treated as a violation of section 274a(a)(2) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1324a(a)(2)).

12 (d) **NOTIFICATION OF MISMATCHED NAME AND SO-**
13 **CIAL SECURITY NUMBER.**—The Commissioner of Social
14 Security shall notify on an annual basis each United
15 States employer with one or more employees whose Social
16 Security account number does not match the employees
17 name or date of birth in the records of the Commissioner.
18 Such notification shall instruct employers to notify listed
19 employees that they have 30 business days to correct the
20 mismatch with the Social Security Administration or the
21 employer will be required to terminate their employment.
22 The notification also shall inform employers that they may
23 not terminate listed employees prior to the close of the
24 30-day period.

1 (e) INFORMATION SHARING WITH THE DEPARTMENT
2 OF HOMELAND SECURITY.—

3 (1) Not later than 180 days following the date
4 of enactment of this Act, the Commissioner of Social
5 Security shall promulgate regulations in accordance
6 with section 1106 of the Social Security Act (42
7 U.S.C. 1306) to require that information regarding
8 all unresolved mismatch notifications and regarding
9 all multiple use notifications that lead to the identi-
10 fication of an unauthorized user of a Social Security
11 account number be shared with the Secretary of
12 Homeland Security on a timely basis.

13 (2) Information to be shared with the Secretary
14 shall include, at a minimum, the name and mailing
15 address of all employees who are the subject of an
16 unresolved mismatch notification or who are unau-
17 thorized users of another individual's Social Security
18 account number.

19 **SEC. 603. PENALTY FOR FAILURE TO FILE CORRECT INFOR-**
20 **MATION RETURNS.**

21 Section 6721 of the Internal Revenue Code of 1986
22 (26 U.S.C. 6721) is amended by adding at the end the
23 following:

24 “(f) The Secretary shall assess the maximum allow-
25 able penalties on 100 percent of the employers designated

1 in any tax year by the Social Security Administration as
 2 the most egregious noncompliant employers.

3 “(g) Notwithstanding any other provision in this sec-
 4 tion, in the case of a failure described in subsection (a)(2)
 5 with respect to any person employing an alien not author-
 6 ized to be so employed, the penalty under this section shall
 7 be determined in accordance with the following table:

“In the case of—	Not less than—	Not more than—
The first offense	\$2,500	\$5,000
The second offense	\$7,500	\$10,000
The third offense	\$25,000	\$40,000.”.

8 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums
 10 as may be required to carry out this subtitle.

11 **Subtitle B—Self-Employed**
 12 **Subcontractors Loophole**

13 **SEC. 611. REQUIRING SELF-EMPLOYED SUBCONTRACTORS**
 14 **TO PARTICIPATE IN EMPLOYMENT ELIGI-**
 15 **BILITY VERIFICATION PILOT PROGRAM.**

16 Beginning with fiscal year 2010, none of the funds
 17 authorized to be appropriated for the Department of
 18 Homeland Security or the Department of Justice may be
 19 made available to those departments unless each State and
 20 local government in the United States requires, as condi-
 21 tion on acquisition of a business license, that the applicant
 22 demonstrate that the applicant has verified through the

1 E-Verify program, established as the basic pilot program
 2 by section 403(a) of the Illegal Immigration Reform and
 3 Immigrant Responsibility Act of 1996 (division C of Pub-
 4 lic Law 104–208; 8 U.S.C. 1324a note), that the appli-
 5 cant, and each individual employed by the applicant, is
 6 authorized to work in the United States.

7 **Subtitle C—Prohibition on Unlaw-**
 8 **ful Employment of Aliens in**
 9 **Capitol**

10 **SEC. 621. REQUIRING LEGISLATIVE BRANCH CONTRAC-**
 11 **TORS TO PARTICIPATE IN EMPLOYMENT ELI-**
 12 **GIBILITY VERIFICATION PILOT PROGRAM.**

13 An office of the legislative branch may not enter into
 14 a contract for the provision of goods or services within
 15 the Capitol Complex with any contractor who employs in-
 16 dividuals unless the contractor—

17 (1) elects to participate in the basic pilot pro-
 18 gram described in section 403(a) of the Illegal Im-
 19 migration Reform and Immigrant Responsibility Act
 20 of 1996 (8 U.S.C. 1324a note), and is in compliance
 21 with the terms and conditions of such election, with
 22 respect to all of its employees as well as those pro-
 23 viding goods or services under the contract; and

24 (2) certifies that each of its subcontractors pro-
 25 viding goods or services under the contract has elect-

1 ed to participate in such program, and is in compli-
2 ance with the terms and conditions of such election,
3 with respect to all of its employees as well as those
4 providing goods or services under the subcontract.

5 **SEC. 622. CAPITOL COMPLEX DEFINED.**

6 For purposes of this subtitle, the “Capitol Complex”
7 consists of the following facilities together with their
8 grounds:

9 (1) The United States Capitol (including the
10 Capitol Visitor Center) and the Capitol Grounds.

11 (2) The Cannon, Longworth, Rayburn, and
12 Ford House Office Buildings.

13 (3) The Russell, Dirksen, and Hart Senate Of-
14 fice Buildings.

15 (4) The House of Representatives Child Care
16 Center and the Senate Employee Child Care Center.

17 (5) Any facility serving as a dormitory resi-
18 dence for Congressional pages.

19 (6) The United States Botanic Garden.

20 (7) The Jefferson, Madison, and Adams Build-
21 ings of the Library of Congress.

22 (8) The Capitol Power Plant.

23 (9) The United States Capitol Police Head-
24 quarters Building.

1 **SEC. 623. EFFECTIVE DATE; TRANSITION FOR CURRENT**
2 **CONTRACTS.**

3 (a) **IN GENERAL.**—This subtitle shall apply with re-
4 spect to contracts entered into after the expiration of the
5 30-day period which begins on the date of the enactment
6 of this Act.

7 (b) **TRANSITION FOR CURRENT CONTRACTS.**—Upon
8 the enactment of this Act, each office of the legislative
9 branch with a contract in effect on the date of the enact-
10 ment of this Act which is described in section 621 shall
11 obtain assurances from the contractor involved that the
12 contractor will meet the requirements of such section prior
13 to the expiration of the period described in subsection (a).

14 **Subtitle D—Coordination Between**
15 **SSA and IRS**

16 **SEC. 631. AVAILABILITY OF INFORMATION.**

17 The Commissioner of Social Security shall make
18 available to the Commissioner of Internal Revenue any in-
19 formation related to the investigation and enforcement of
20 section 162(c)(4) of the Internal Revenue Code of 1986,
21 including any no-match letter and any information in the
22 earnings suspense file.

1 **TITLE VII—PROHIBITING UN-**
 2 **LAWFULLY PRESENT ALIENS**
 3 **FROM OBTAINING FINANCIAL**
 4 **SERVICES**

5 **SEC. 701. FOREIGN-ISSUED FORMS OF IDENTIFICATION**
 6 **PROHIBITED AS PROOF OF IDENTITY TO**
 7 **OPEN ACCOUNTS AT FINANCIAL INSTITU-**
 8 **TIONS.**

9 Section 5318(l) of title 31, United States Code (relat-
 10 ing to identification and verification of accountholders) is
 11 inserting after paragraph (6) (as added by section 202)
 12 the following new paragraph:

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

1 **SEC. 702. “KNOW YOUR CUSTOMER” REGULATIONS AP-**
2 **PLIED TO CERTAIN TRANSMITTING BUSI-**
3 **NESSES.**

4 Section 5318(m) of title 31, United States Code, is
5 amended by striking “promulgated pursuant to the au-
6 thority contained in” and inserting “prescribed under
7 paragraph (1) of subsection (l) (notwithstanding para-
8 graph (5) of such subsection) or”.

9 **SEC. 703. REQUIREMENTS RELATING TO THE UNITED**
10 **STATES POSTAL SERVICE.**

11 (a) **IN GENERAL.**—The United States Postal Service
12 shall take such measures as may be necessary to ensure
13 that in the administration of any international wire trans-
14 fer service, no transfer may be made unless the sender
15 presents an acceptable form of identification, as deter-
16 mined in accordance with section 201.

17 (b) **DEFINITION.**—For purposes of this section, the
18 term “international wire transfer service” means any pro-
19 gram or service, administered by the United States Postal
20 Service, which provides for the international electronic
21 transfer of money.

22 (c) **EFFECTIVE DATE.**—The requirements of this sec-
23 tion shall take effect six months after the date of the en-
24 actment of this Act.

1 **SEC. 704. APPLICABILITY OF IDENTIFICATION RULES TO**
2 **CERTAIN TRANSACTIONS INVOLVING THE**
3 **FEDERAL RESERVE BOARD, INCLUDING THE**
4 **DIRECTO A MÉXICO PROGRAM.**

5 (a) **IN GENERAL.**—The Board of Governors of the
6 Federal Reserve System shall take such measures as may
7 be necessary to ensure that in the administration of any
8 international wire transfer service or settlement services,
9 including any automated clearing house transaction such
10 as the Directo a MéxicoTM program, no transfer may be
11 made unless the financial institution involved has certified
12 that the sender has presented an acceptable form of identi-
13 fication, as determined in accordance with section 202(a).

14 (b) **DEFINITION.**—For purposes of this section, the
15 term “international wire transfer service or settlement”
16 means any program or service, administered by the Board
17 of Governors of the Federal Reserve System directly or
18 through any Federal reserve bank, including the Fedwire
19 Funds Service, which provides for the international elec-
20 tronic transfer of funds.

21 (c) **EFFECTIVE DATE.**—The requirements of this sec-
22 tion shall take effect six months after the date of the en-
23 actment of this Act.

1 **TITLE VIII—BORDER AND LAW**
2 **ENFORCEMENT**

3 **SEC. 801. CONSTRUCTION OF BORDER FENCING AND SECU-**
4 **RITY IMPROVEMENTS.**

5 (a) **IN GENERAL.**—Section 102(b)(1) of the Illegal
6 Immigration Reform and Immigrant Responsibility Act of
7 1996 (8 U.S.C. 1103 note) is amended to read as follows:

8 “(1) **SECURITY FEATURES.**—

9 “(A) **REINFORCED FENCING.**—In carrying
10 out subsection (a), the Secretary of Homeland
11 Security shall provide for at least 2 layers of re-
12 inforced fencing, the installation of additional
13 physical barriers, roads, lighting, cameras, and
14 sensors—

15 “(i) extending from 10 miles west of
16 the Tecate, California, port of entry to 10
17 miles east of the Tecate, California, port of
18 entry;

19 “(ii) extending from 10 miles west of
20 the Calexico, California, port of entry to 5
21 miles east of the Douglas, Arizona, port of
22 entry;

23 “(iii) extending from 5 miles west of
24 the Columbus, New Mexico, port of entry
25 to 10 miles east of El Paso, Texas;

1 “(iv) extending from 5 miles north-
2 west of the Del Rio, Texas, port of entry
3 to 5 miles southeast of the Eagle Pass,
4 Texas, port of entry; and

5 “(v) extending 15 miles northwest of
6 the Laredo, Texas, port of entry to the
7 Brownsville, Texas, port of entry.

8 “(B) **COMPLETION DATES.**—With respect
9 to the border area described in subparagraph
10 (A), the Secretary shall ensure that the duties
11 required under such subparagraph are com-
12 pleted by not later than July 31, 2010.

13 “(C) **EXCEPTION.**—If the topography of a
14 specific area has an elevation grade that ex-
15 ceeds 10 percent, the Secretary may use other
16 means to secure such area, including the use of
17 surveillance and barrier tools.”.

18 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There is
19 authorized to be appropriated to the Secretary of Home-
20 land Security such sums as may be necessary to carry out
21 the amendment made by subsection (a).

22 (c) **REPEALS.**—Subsection (b) of section 564 of divi-
23 sion E of the Consolidated Appropriations Act, 2008
24 (Public Law 110–161) is repealed. The amendment made
25 by subsection (a)(2)(A) of such section is repealed.

1 **SEC. 802. INCREASE IN FULL-TIME BORDER PATROL**
2 **AGENTS.**

3 Section 5202 of the Intelligence Reform and Ter-
4 rorism Prevention Act of 2004 (Public Law 108–458; 118
5 Stat. 3734) is amended to read as follows:

6 **“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
7 **AGENTS.**

8 “(a) **ANNUAL INCREASES.**—The Secretary of Home-
9 land Security shall, subject to the availability of appropria-
10 tions for such purpose, increase the number of positions
11 for full-time active-duty Border Patrol agents within the
12 Department of Homeland Security (above the number of
13 positions for which funds were appropriated for the pre-
14 ceding fiscal year), by—

15 “(1) 2,500 in fiscal year 2010;

16 “(2) 2,000 in fiscal year 2011;

17 “(3) 1,500 in fiscal year 2012;

18 “(4) 1,000 in fiscal year 2013; and

19 “(5) 1,000 in fiscal year 2014.

20 “(b) **ALLOCATIONS.**—Of the Border Patrol agents
21 hired under subsection (a), 80 percent shall be deployed
22 along the southern border of the United States and 20
23 percent shall be deployed along the northern border of the
24 United States.

25 “(c) **AUTHORIZATION OF APPROPRIATIONS.**—The
26 necessary funds are authorized to be appropriated for each

1 of fiscal years 2010 through 2014 to carry out this sec-
 2 tion.”.

3 **SEC. 803. INCREASE IN NUMBER OF ICE AGENTS.**

4 Section 5203 of the Intelligence Reform and Ter-
 5 rorism Prevention Act of 2004 (Public Law 108–458; 118
 6 Stat. 3734) is amended to read as follows:

7 **“SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND**
 8 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

9 “(a) **IN GENERAL.**—By not later than September 30,
 10 2013, the Secretary of Homeland Security shall, subject
 11 to the availability of appropriations for such purpose, in-
 12 crease by 3,000 the number of positions for full-time ac-
 13 tive-duty investigators within the Department of Home-
 14 land Security investigating violations of immigration laws
 15 (as defined in section 101(a)(17) of the Immigration and
 16 Nationality Act (8 U.S.C. 1101(a)(17))) above the number
 17 of such positions for which funds were made available dur-
 18 ing the preceding fiscal year.

19 “(b) **AUTHORIZATION OF APPROPRIATIONS.**—There
 20 are authorized to be appropriated to the Secretary to carry
 21 out this section such sums as may be necessary for each
 22 fo fiscal years 2010 through 2013.”.

1 **TITLE IX—STATE AND LOCAL**
 2 **GOVERNMENT AUTHORITY**
 3 **Subtitle A—General Provisions**

4 **SEC. 901. STATE DEFINED; SEVERABILITY.**

5 (a) **STATE DEFINED.**—For purposes of this title the
 6 term “State” has the meaning given such term in section
 7 101(a)(36) of the Immigration and Nationality Act (8
 8 U.S.C. 1101(a)(36)).

9 (b) **SEVERABILITY.**—If any provision of this title, or
 10 the application of such provision to any person or cir-
 11 cumstance, is held invalid, the remainder of this title and
 12 the application of such provision to other persons not simi-
 13 larly situated or to other circumstances, shall not be af-
 14 fected by such invalidation.

15 **SEC. 902. FEDERAL AFFIRMATION OF ASSISTANCE IN THE**
 16 **IMMIGRATION LAW ENFORCEMENT BY**
 17 **STATES AND POLITICAL SUBDIVISIONS OF**
 18 **STATES.**

19 Notwithstanding any other provision of law and re-
 20 affirming the existing inherent authority of States, law en-
 21 forcement personnel of a State, or of a political subdivision
 22 of a State, have the inherent authority of a sovereign enti-
 23 ty to investigate, identify, apprehend, arrest, detain, or
 24 transfer to Federal custody aliens in the United States
 25 (including the transportation of such aliens across State

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

6 **SEC. 903. STATE AUTHORIZATION FOR ASSISTANCE IN THE**
7 **ENFORCEMENT OF IMMIGRATION LAWS EN-**
8 **COURAGED.**

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

20 (b) **CONSTRUCTION.**—Nothing in this section shall
21 require law enforcement officials from States, or from po-
22 litical subdivisions of States, to report or arrest victims
23 or witnesses of a criminal offense.

24 (c) **REALLOCATION OF FUNDS.**—Any funds that are
25 not allocated to a State, or to a political subdivision of

1 a State, due to the failure of the State, or of the political
2 subdivision of the State, to comply with subsection (a)
3 shall be reallocated to States, or to political subdivisions
4 of States, that comply with such subsection.

5 **SEC. 904. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
6 **TIONAL CRIME INFORMATION CENTER DATA-**
7 **BASE.**

8 (a) **PROVISION OF INFORMATION TO THE NCIC.**—
9 Not later than 180 days after the date of the enactment
10 of this Act and periodically thereafter as updates may re-
11 quire, the Under Secretary for Border and Transportation
12 Security of the Department of Homeland Security shall
13 provide the National Crime Information Center of the De-
14 partment of Justice with such information as the Under
15 Secretary may possess regarding any aliens against whom
16 a final order of removal has been issued, any aliens who
17 have signed a voluntary departure agreement, any aliens
18 who have overstayed their authorized period of stay, and
19 any aliens whose visas have been revoked. The National
20 Crime Information Center shall enter such information
21 into the Immigration Violators File of the National Crime
22 Information Center database, regardless of whether—
23 (1) the alien concerned received notice of a final
24 order of removal;

1 (2) the alien concerned has already been re-
2 moved; or

3 (3) sufficient identifying information is avail-
4 able with respect to the alien concerned.

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

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

10 (2) by redesignating paragraph (4) as para-
11 graph (5); and

12 (3) by inserting after paragraph (3) the fol-
13 lowing new paragraph:

14 “(4) acquire, collect, classify, and preserve
15 records of violations by aliens of the immigration
16 laws of the United States, regardless of whether any
17 such alien has received notice of the violation or
18 whether sufficient identifying information is avail-
19 able with respect to any such alien and even if any
20 such alien has already been removed from the
21 United States; and”.

1 **SEC. 905. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
2 **SION OF INFORMATION ABOUT APPRE-**
3 **HENDED ALIENS.**

4 (a) **PROVISION OF INFORMATION.**—In compliance
5 with section 642(a) of the Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
7 and section 434 of the Personal Responsibility and Work
8 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
9 each State, and each political subdivision of a State, shall
10 provide the Secretary of Homeland Security in a timely
11 manner with the information specified in subsection (b)
12 with respect to each alien apprehended in the jurisdiction
13 of the State, or in the political subdivision of the State,
14 who is believed to be in violation of the immigration laws
15 of the United States.

16 (b) **INFORMATION REQUIRED.**—The information re-
17 ferred to in subsection (a) is as follows:

- 18 (1) The alien's name.
- 19 (2) The alien's address or place of residence.
- 20 (3) A physical description of the alien.
- 21 (4) The date, time, and location of the encoun-
22 ter with the alien and reason for stopping, detaining,
23 apprehending, or arresting the alien.
- 24 (5) If applicable, the alien's driver's license
25 number and the State of issuance of such license.

1 (6) If applicable, the type of any other identi-
2 fication document issued to the alien, any designa-
3 tion number contained on the identification docu-
4 ment, and the issuing entity for the identification
5 document.

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

9 (8) A photo of the alien, if available or readily
10 obtainable.

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

13 (c) **ANNUAL REPORT ON REPORTING.**—The Sec-
14 retary shall maintain and annually submit to Congress a
15 detailed report listing the States, or the political subdivi-
16 sions of States, that have provided information under sub-
17 section (a) in the preceding year.

18 (d) **REIMBURSEMENT.**—The Secretary of Homeland
19 Security shall reimburse States, and political subdivisions
20 of a State, for all reasonable costs, as determined by the
21 Secretary, incurred by the State, or the political subdivi-
22 sion of a State, as a result of providing information under
23 subsection (a).

1 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is
2 authorized to be appropriated to the Secretary such sums
3 as are necessary to carry out this section.

4 (f) **CONSTRUCTION.**—Nothing in this section shall re-
5 quire law enforcement officials of a State, or of a political
6 subdivision of a State, to provide the Secretary of Home-
7 land Security with information related to a victim of a
8 crime or witness to a criminal offense.

9 **SEC. 906. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
10 **POLICE AGENCIES THAT ASSIST IN THE EN-**
11 **FORCEMENT OF IMMIGRATION LAWS.**

12 (a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING**
13 **AND PROCESSING CERTAIN ALIENS.**—From amounts
14 made available to make grants under this section, the Sec-
15 retary of Homeland Security shall make grants to States,
16 and to political subdivisions of States, for procurement of
17 equipment, technology, facilities, and other products that
18 facilitate and are directly related to investigating, appre-
19 hending, arresting, detaining, or transporting aliens who
20 have violated the immigration law of the United States,
21 including additional administrative costs incurred under
22 this title.

23 (b) **ELIGIBILITY.**—To be eligible to receive a grant
24 under this section, a State, or a political subdivision of
25 a State, must have the authority to, and shall have a writ-

1 ten policy and a practice to, assist in the enforcement of
2 the immigration laws of the United States in the course
3 of carrying out the routine law enforcement duties of such
4 State or political subdivision of a State. Entities covered
5 under this section may not have any policy or practice that
6 prevents local law enforcement from inquiring about a sus-
7 pect's immigration status.

8 (c) **FUNDING.**—There is authorized to be appro-
9 priated to the Secretary for grants under this section such
10 sums as may be necessary for fiscal year 2010 and each
11 subsequent fiscal year.

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

17 **SEC. 907. INCREASED FEDERAL DETENTION SPACE.**

18 (a) **CONSTRUCTION OR ACQUISITION OF DETENTION**
19 **FACILITIES.**—

20 (1) **IN GENERAL.**—The Secretary of Homeland
21 Security shall construct or acquire, in addition to ex-
22 isting facilities for the detention of aliens, 20 deten-
23 tion facilities in the United States, with at least 500
24 beds per facility, for aliens detained pending removal

1 from the United States or a decision regarding such
2 removal.

3 (2) **DETERMINATIONS.**—The location of any de-
4 tention facility built or acquired in accordance with
5 this subsection shall be determined by the Deputy
6 Assistant Director of the Detention Management Di-
7 vision of the Immigration and Customs Enforcement
8 Office of Detention and Removal within United
9 States Immigration and Customs Enforcement.

10 (3) **USE OF INSTALLATIONS UNDER BASE CLO-**
11 **SURE LAWS.**—In acquiring detention facilities under
12 this subsection, the Secretary of Homeland Security
13 shall consider the transfer of appropriate portions of
14 military installations approved for closure or realign-
15 ment under the Defense Base Closure and Realign-
16 ment Act of 1990 (part A of title XXIX of Public
17 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
18 cordance with paragraph (1).

19 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated to the Secretary such
21 sums as are necessary to carry out this section.

22 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
23 Section 241(g)(1) of the Immigration and Nationality Act
24 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
25 pend” and inserting “shall expend”.

1 **SEC. 908. FEDERAL CUSTODY OF ALIENS UNLAWFULLY**
 2 **PRESENT IN THE UNITED STATES APPRE-**
 3 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
 4 **MENT.**

5 (a) **STATE APPREHENSION.—**

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

10 **“CUSTODY OF ALIENS UNLAWFULLY PRESENT IN THE**
 11 **UNITED STATES**

12 **“SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 13 **AND LOCAL OFFICIALS.**—If a State, or a political subdivi-
 14 sion of the State, exercising authority with respect to the
 15 apprehension or arrest of an alien who is unlawfully
 16 present in the United States submits to the Secretary of
 17 Homeland Security a request that the alien be taken into
 18 Federal custody, the Secretary—

19 “(1) shall—

20 “(A) not later than 48 hours after the con-
 21 clusion of the State, or the political subdivision
 22 of a State, charging process or dismissal proc-
 23 ess, or if no State or political subdivision charg-
 24 ing or dismissal process is required, not later
 25 than 48 hours after the alien is apprehended,

1 take the alien into the custody of the Federal
2 Government and incarcerate the alien; or

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

7 “(2) shall designate at least one Federal, State,
8 or local prison or jail or a private contracted prison
9 or detention facility within each State as the central
10 facility for that State to transfer custody of aliens
11 to the Department of Homeland Security.

12 “(b) **POLICY ON DETENTION IN STATE AND LOCAL**
13 **DETENTION FACILITIES.**—In carrying out section
14 241(g)(1), the Attorney General or Secretary of Homeland
15 Security shall ensure that an alien arrested under this Act
16 shall be detained, pending the alien’s being taken for the
17 examination under this section, in a State or local prison,
18 jail, detention center, or other comparable facility. Not-
19 withstanding any other provision of law or regulation,
20 such facility is adequate for detention, if—

21 “(1) such a facility is the most suitably located
22 Federal, State, or local facility available for such
23 purpose under the circumstances;

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

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

4 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
5 Security shall reimburse States, and political subdivisions
6 of a State, for all reasonable expenses, as determined by
7 the Secretary, incurred by the State, or political subdivi-
8 sion, as a result of the incarceration and transportation
9 of an alien who is unlawfully present in the United States
10 as described in subparagraphs (A) and (B) of subsection
11 (a)(1). Compensation provided for costs incurred under
12 such subparagraphs shall be the average cost of incarcer-
13 ation of a prisoner in the relevant State, as determined
14 by the chief executive officer of a State, or of a political
15 subdivision of a State, plus the cost of transporting the
16 alien from the point of apprehension to the place of deten-
17 tion, and to the custody transfer point if the place of de-
18 tention and place of custody are different.

19 “(d) **SECURE FACILITIES.**—The Secretary of Home-
20 land Security shall ensure that aliens incarcerated in Fed-
21 eral facilities pursuant to this Act are held in facilities
22 that provide an appropriate level of security.

23 “(e) **TRANSFER.**—

24 “(1) **IN GENERAL.**—In carrying out this sec-
25 tion, the Secretary of Homeland Security shall es-

1 tablish a regular circuit and schedule for the prompt
2 transfer of apprehended aliens from the custody of
3 States, and political subdivisions of a State, to Fed-
4 eral custody.

5 “(2) **CONTRACTS.**—The Secretary may enter
6 into contracts, including appropriate private con-
7 tracts, to implement this subsection.

8 “(f) **DEFINITION.**—For purposes of this section, the
9 term ‘alien who is unlawfully present in the United States’
10 means an alien who—

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

14 “(2) was admitted as a nonimmigrant and who,
15 at the time the alien was taken into custody by the
16 State, or a political subdivision of the State, had
17 failed to—

18 “(A) maintain the nonimmigrant status in
19 which the alien was admitted or to which it was
20 changed under section 248; or

21 “(B) comply with the conditions of any
22 such status;

23 “(3) was admitted as an immigrant and has
24 subsequently failed to comply with the requirements
25 of that status; or

1 “(4) failed to depart the United States under a
2 voluntary departure agreement or under a final
3 order of removal.”.

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

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

7 (b) **GAO AUDIT.**—Not later than three years after
8 the date of the enactment of this Act, the Comptroller
9 General of the United States shall conduct an audit of
10 compensation to States, and to political subdivisions of a
11 State, for the incarceration of aliens unlawfully present
12 in the United States under section 240D(a) of the Immi-
13 gration and Nationality Act (as added by subsection
14 (a)(1)).

15 **SEC. 909. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
16 **MENT PERSONNEL RELATING TO THE EN-**
17 **FORCEMENT OF IMMIGRATION LAWS.**

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

22 (1) a training manual for law enforcement per-
23 sonnel of a State, or of a political subdivision of a
24 State, to train such personnel in the investigation,
25 identification, apprehension, arrest, detention, and

1 transfer to Federal custody of aliens unlawfully
2 present in the United States (including the transpor-
3 tation of such aliens across State lines to detention
4 centers and the identification of fraudulent docu-
5 ments); and

6 (2) an immigration enforcement pocket guide
7 for law enforcement personnel of a State, or of a po-
8 litical subdivision of a State, to provide a quick ref-
9 erence for such personnel in the course of duty.

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

14 (c) **APPLICABILITY.**—Nothing in this section shall be
15 construed to require State or local law enforcement per-
16 sonnel to carry the training manual or pocket guide with
17 them while on duty.

18 (d) **COSTS.**—The Secretary of Homeland Security
19 shall be responsible for any costs incurred in establishing
20 the training manual and pocket guide.

21 (e) **TRAINING FLEXIBILITY.**—

22 (1) **IN GENERAL.**—The Secretary of Homeland
23 Security shall make training of State and local law
24 enforcement officers available through as many
25 means as possible, including through residential

1 training at the Center for Domestic Preparedness,
2 onsite training held at State or local police agencies
3 or facilities, online training courses by computer,
4 teleconferencing, and videotape, or the digital video
5 display (DVD) of a training course or courses. E-
6 learning through a secure, encrypted distributed
7 learning system that has all its servers based in the
8 United States, is scalable, survivable, and can have
9 a portal in place not later than 30 days after the
10 date of the enactment of this Act, shall be made
11 available by the Federal Law Enforcement Training
12 Center Distributed Learning Program for State and
13 local law enforcement personnel.

14 (2) **FEDERAL PERSONNEL TRAINING.**—The
15 training of State and local law enforcement per-
16 sonnel under this section shall not displace the train-
17 ing of Federal personnel.

18 (3) **CLARIFICATION.**—Nothing in this title or
19 any other provision of law shall be construed as
20 making any immigration-related training a require-
21 ment for, or prerequisite to, any State or local law
22 enforcement officer to assist in the enforcement of
23 Federal immigration laws in the normal course of
24 carrying out the normal law enforcement duties of
25 such officers.

1 In carrying out this section, priority funding shall be given
2 for existing web-based immigration enforcement training
3 systems.

4 **SEC. 910. IMMUNITY.**

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

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

21 **SEC. 911. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

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

23 (1) **IN GENERAL.**—The Secretary of Homeland
24 Security shall continue to operate and implement the

1 program known as the Institutional Removal Pro-
2 gram (IRP) which—

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

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

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

9 (2) **EXPANSION.**—The Institutional Removal
10 Program shall be extended to all States. Any State
11 that receives Federal funds for the incarceration of
12 criminal aliens shall—

13 (A) cooperate with officials of the Institu-
14 tional Removal Program;

15 (B) expeditiously and systematically iden-
16 tify criminal aliens in its prison and jail popu-
17 lations; and

18 (C) promptly convey such information to
19 officials of such Program as a condition of re-
20 ceiving such funds.

21 (b) **AUTHORIZATION FOR DETENTION AFTER COM-**
22 **PLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law
23 enforcement officers of a State, or of a political subdivision
24 of a State, are authorized to—

1 (1) hold a criminal alien for a period of up to
2 14 days after the alien has completed the alien's
3 State prison sentence in order to effectuate the
4 transfer of the alien to Federal custody when the
5 alien is removable or not lawfully present in the
6 United States; or

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

12 (c) **TECHNOLOGY USAGE.**—Technology such as video
13 conferencing shall be used to the maximum extent prac-
14 ticable in order to make the Institutional Removal Pro-
15 gram available in remote locations. Mobile access to Fed-
16 eral databases of aliens, such as IDENT, and live scan
17 technology shall be used to the maximum extent prac-
18 ticable in order to make these resources available to State
19 and local law enforcement agencies in remote locations.

20 **Subtitle B—Eliminating Sanctuary** 21 **Cities**

22 **SEC. 921. ELIMINATING SANCTUARY CITIES.**

23 None of the funds made available for the Department
24 of Homeland Security or the Department of Justice may
25 be provided to any State or unit of local government that

1 has in effect any law, policy, or procedure in contravention
 2 of subsection (a) or (b) of section 642 of the Illegal Immi-
 3 gration Reform and Immigrant Responsibility Act of 1996
 4 (8 U.S.C. 1373).

5 **Subtitle C—Criminal Aliens**

6 **SEC. 931. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM** 7 **(SCAAP).**

8 Section 241(i)(5) of the Immigration and Nationality
 9 Act (8 U.S.C.1231(i)) is amended to read as follows:

10 “(5) There are authorized to be appropriated to
 11 carry out this subsection such sums as may be nec-
 12 essary for fiscal year 2010 and each subsequent fis-
 13 cal year.”.

14 **SEC. 932. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to the Sec-
 16 retary for fiscal year 2010 and each subsequent fiscal year
 17 such sums as may be necessary to carry out this title.

18 **SEC. 933. ASSISTANCE FOR STATES INCARCERATING UN-** 19 **DOCUMENTED ALIENS CHARGED WITH CER-** 20 **TAIN CRIMES.**

21 Section 241(i)(3)(A) of the Immigration and Nation-
 22 ality Act (8 U.S.C. 1231(a)(3)(A)) is amended by insert-
 23 ing “charged with or” before “convicted”.

1 **SEC. 934. PREEMPTION.**

2 It is the sense of the Congress that States and local
3 political subdivisions are not preempted from the enact-
4 ment and enforcement of immigration-related laws and or-
5 dinances that do not directly conflict with Federal immi-
6 gration laws.

7 **TITLE X—PROHIBITING IN-**
8 **STATE TUITION FOR UNLAW-**
9 **FULLY PRESENT ALIENS**

10 **SEC. 1001. ENSURING ENFORCEABILITY.**

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

14 (1) in subsection (a)—

15 (A) by striking “on the basis of residence
16 within a State (or a political subdivision)”; and

17 (B) by striking “unless a citizen” and all
18 that follows through the period at the end and
19 inserting “unless every citizen or national of the
20 United States is entitled to such a benefit (in
21 no less an amount, duration, and scope) with-
22 out regard to whether the citizen or national is
23 a resident of the State or has attended or grad-
24 uated from a school in the State.”;

25 (2) by redesignating subsection (b) as sub-
26 section (c); and

1 (3) by inserting the following after subsection

2 (a):

3 “(b) **ENFORCEMENT THROUGH CIVIL ACTION.**—

4 “(1) **IN GENERAL.**—Any citizen or national of
5 the United States who is attending or is enrolled to
6 attend a postsecondary educational institution al-
7 leged to be in violation of subsection (a) may com-
8 mence a civil action on his own behalf against any
9 official of the State entity that governs such postsec-
10 ondary educational institutions or of the educational
11 institution itself to enforce the terms of subsection
12 (a).

13 “(2) **RELIEF.**—The court shall provide all ap-
14 propriate relief, including damages equal to the
15 monetary value of any benefit provided to an illegal
16 alien but denied to the citizen or national of the
17 United States, and shall award attorneys’ fees and
18 costs to a citizen or national of the United States
19 who establishes a violation of subsection (a) to the
20 satisfaction of the court.

21 “(3) **AUTHORITY.**—This subsection is enacted
22 pursuant to section 5 of the 14th amendment to the
23 Constitution of the United States.”.

○

EXHIBIT E-3

I

114TH CONGRESS
1ST SESSION

H. R. 1148

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2015

Mr. GOWDY (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. COLLINS of Georgia, Mr. POE of Texas, Mr. FORBES, Mr. CARTER of Texas, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Michael Davis, Jr. in
5 Honor of State and Local Law Enforcement Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

2

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

- Sec. 101. Definitions and severability.
- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
- Sec. 104. Technology access.
- Sec. 105. State and local law enforcement provision of information about apprehended aliens.
- Sec. 106. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 107. Increased Federal detention space.
- Sec. 108. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 109. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 110. Immunity.
- Sec. 111. Criminal alien identification program.
- Sec. 112. Clarification of congressional intent.
- Sec. 113. State criminal alien assistance program (SCAAP).
- Sec. 114. State violations of enforcement of immigration laws.
- Sec. 115. Clarifying the authority of ICE detainees.

TITLE II—NATIONAL SECURITY

- Sec. 201. Removal of, and denial of benefits to, terrorist aliens.
- Sec. 202. Terrorist bar to good moral character.
- Sec. 203. Terrorist bar to naturalization.
- Sec. 204. Denaturalization for terrorists.
- Sec. 205. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 206. Background and security checks.
- Sec. 207. Technical amendments relating to the Intelligence Reform and Terrorism Prevention Act of 2004.

TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony.
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.
- Sec. 303. Espionage clarification.
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 306. Conforming amendment to the definition of racketeering activity.
- Sec. 307. Conforming amendments for the aggravated felony definition.
- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.
- Sec. 309. Precluding withholding of removal for aggravated felons.
- Sec. 310. Inadmissibility, deportability, and detention of drunk drivers.
- Sec. 311. Detention of dangerous aliens.

3

- Sec. 312. Grounds of inadmissibility and deportability for alien gang members.
- Sec. 313. Extension of identity theft offenses.
- Sec. 314. Laundering of monetary instruments.
- Sec. 315. Penalties for illegal entry or presence.
- Sec. 316. Illegal reentry.
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.
- Sec. 318. Forfeiture.
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
- Sec. 321. Protecting immigrants from convicted sex offenders.
- Sec. 322. Clarification to crimes of violence and crimes involving moral turpitude.
- Sec. 323. Penalties for failure to obey removal orders.
- Sec. 324. Pardons.
- Sec. 325. Convictions.

TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.
- Sec. 402. Visa information sharing.
- Sec. 403. Restricting waiver of visa interviews.
- Sec. 404. Authorizing the Department of State to not interview certain ineligible visa applicants.
- Sec. 405. Visa refusal and revocation.
- Sec. 406. Funding for the visa security program.
- Sec. 407. Expeditious expansion of visa security program to high-risk posts.
- Sec. 408. Expedited clearance and placement of Department of Homeland Security personnel at overseas embassies and consular posts.
- Sec. 409. Accreditation requirements.
- Sec. 410. Visa fraud.
- Sec. 411. Background checks.
- Sec. 412. Number of designated school officials.
- Sec. 413. Reporting requirement.
- Sec. 414. Flight schools not certified by FAA.
- Sec. 415. Revocation of accreditation.
- Sec. 416. Report on risk assessment.
- Sec. 417. Implementation of GAO recommendations.
- Sec. 418. Implementation of SEVIS II.
- Sec. 419. Definitions.

TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT OFFICERS

- Sec. 501. ICE immigration enforcement agents.
- Sec. 502. ICE detention enforcement officers.
- Sec. 503. Ensuring the safety of ICE officers and agents.
- Sec. 504. ICE Advisory Council.
- Sec. 505. Pilot program for electronic field processing.
- Sec. 506. Additional ICE deportation officers and support staff.
- Sec. 507. Additional ICE prosecutors.

TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS

Sec. 601. Timely repatriation.

Sec. 602. Encouraging aliens to depart voluntarily.

Sec. 603. Deterring aliens ordered removed from remaining in the United States unlawfully.

Sec. 604. Reinstatement of removal orders.

Sec. 605. Clarification with respect to definition of admission.

Sec. 606. Reports to Congress on the exercise and abuse of prosecutorial discretion.

Sec. 607. Certain activities restricted.

Sec. 608. GAO study on deaths in custody.

Sec. 609. Removal proceedings.

1 TITLE I—IMMIGRATION LAW EN- 2 FORCEMENT BY STATES AND 3 LOCALITIES

4 SEC. 101. DEFINITIONS AND SEVERABILITY.

5 (a) **STATE DEFINED.**—For the purposes of this title,
6 the term “State” has the meaning given to such term in
7 section 101(a)(36) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(36)).

9 (b) **SECRETARY DEFINED.**—For the purpose of this
10 title, the term “Secretary” means the Secretary of Home-
11 land Security.

12 (c) **SEVERABILITY.**—If any provision of this title, or
13 the application of such provision to any person or cir-
14 cumstance, is held invalid, the remainder of this title, and
15 the application of such provision to other persons not simi-
16 larly situated or to other circumstances, shall not be af-
17 fected by such invalidation.

1 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**
2 **AND LOCALITIES.**

3 (a) **IN GENERAL.**—Subject to section 274A(h)(2) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1324a(h)(2)), States, or political subdivisions of States,
6 may enact, implement and enforce criminal penalties that
7 penalize the same conduct that is prohibited in the crimi-
8 nal provisions of immigration laws (as defined in section
9 101(a)(17) of the Immigration and Nationality Act (8
10 U.S.C. 1101(a)(17))), as long as the criminal penalties do
11 not exceed the relevant Federal criminal penalties (without
12 regard to ancillary issues such as the availability of proba-
13 tion or pardon). States, or political subdivisions of States,
14 may enact, implement and enforce civil penalties that pe-
15 nalize the same conduct that is prohibited in the civil pro-
16 visions of immigration laws (as defined in such section
17 101(a)(17)), as long as the civil penalties do not exceed
18 the relevant Federal civil penalties.

19 (b) **LAW ENFORCEMENT PERSONNEL.**—Subject to
20 section 274A(h)(2) of the Immigration and Nationality
21 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of
22 a State, or of a political subdivision of a State, may inves-
23 tigate, identify, apprehend, arrest, detain, or transfer to
24 Federal custody aliens for the purposes of enforcing the
25 immigration laws of the United States to the same extent
26 as Federal law enforcement personnel. Law enforcement

1 personnel of a State, or of a political subdivision of a
2 State, may also investigate, identify, apprehend, arrest, or
3 detain aliens for the purposes of enforcing the immigration
4 laws of a State or of a political subdivision of State, as
5 long as those immigration laws are permissible under this
6 section. Law enforcement personnel of a State, or of a po-
7 litical subdivision of a State, may not admit aliens to or
8 remove them from the United States.

9 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
10 **TIONAL CRIME INFORMATION CENTER DATA-**
11 **BASE.**

12 (a) **PROVISION OF INFORMATION TO THE NCIC.**—
13 Not later than 180 days after the date of the enactment
14 of this Act and periodically thereafter as updates may re-
15 quire, the Secretary shall provide the National Crime In-
16 formation Center of the Department of Justice with all
17 information that the Secretary may possess regarding any
18 alien against whom a final order of removal has been
19 issued, any alien who has entered into a voluntary depar-
20 ture agreement, any alien who has overstayed their au-
21 thorized period of stay, and any alien whose visa has been
22 revoked. The National Crime Information Center shall
23 enter such information into the Immigration Violators File
24 of the National Crime Information Center database, re-
25 gardless of whether—

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

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

4 (3) sufficient identifying information is avail-
5 able with respect to the alien.

6 (b) **INCLUSION OF INFORMATION IN THE NCIC**
7 **DATABASE.**—

8 (1) **IN GENERAL.**—Section 534(a) of title 28,
9 United States Code, is amended—

10 (A) in paragraph (3), by striking “and” at
11 the end;

12 (B) by redesignating paragraph (4) as
13 paragraph (5); and

14 (C) by inserting after paragraph (3) the
15 following:

16 “(4) acquire, collect, classify, and preserve
17 records of violations by aliens of the immigration
18 laws of the United States, regardless of whether any
19 such alien has received notice of the violation or
20 whether sufficient identifying information is avail-
21 able with respect to any such alien or whether any
22 such alien has already been removed from the
23 United States; and”.

24 (2) **EFFECTIVE DATE.**—The Attorney General
25 and the Secretary shall ensure that the amendment

1 made by paragraph (1) is implemented by not later
2 than 6 months after the date of the enactment of
3 this Act.

4 **SEC. 104. TECHNOLOGY ACCESS.**

5 States shall have access to Federal programs or tech-
6 nology directed broadly at identifying inadmissible or de-
7 portable aliens.

8 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
9 **SION OF INFORMATION ABOUT APPRE-**
10 **HENDED ALIENS.**

11 (a) **PROVISION OF INFORMATION.**—In compliance
12 with section 642(a) of the Illegal Immigration Reform and
13 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
14 and section 434 of the Personal Responsibility and Work
15 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
16 each State, and each political subdivision of a State, shall
17 provide the Secretary of Homeland Security in a timely
18 manner with the information specified in subsection (b)
19 with respect to each alien apprehended in the jurisdiction
20 of the State, or in the political subdivision of the State,
21 who is believed to be inadmissible or deportable.

22 (b) **INFORMATION REQUIRED.**—The information re-
23 ferred to in subsection (a) is as follows:

24 (1) The alien's name.

25 (2) The alien's address or place of residence.

1 (3) A physical description of the alien.

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

5 (5) If applicable, the alien's driver's license
6 number and the State of issuance of such license.

7 (6) If applicable, the type of any other identi-
8 fication document issued to the alien, any designa-
9 tion number contained on the identification docu-
10 ment, and the issuing entity for the identification
11 document.

12 (7) If applicable, the license plate number,
13 make, and model of any automobile registered to, or
14 driven by, the alien.

15 (8) A photo of the alien, if available or readily
16 obtainable.

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

19 (c) **ANNUAL REPORT ON REPORTING.**—The Sec-
20 retary shall maintain and annually submit to the Congress
21 a detailed report listing the States, or the political subdivi-
22 sions of States, that have provided information under sub-
23 section (a) in the preceding year.

24 (d) **REIMBURSEMENT.**—The Secretary shall reim-
25 burse States, and political subdivisions of a State, for all

1 reasonable costs, as determined by the Secretary, incurred
2 by the State, or the political subdivision of a State, as
3 a result of providing information under subsection (a).

4 (e) **CONSTRUCTION.**—Nothing in this section shall re-
5 quire law enforcement officials of a State, or of a political
6 subdivision of a State, to provide the Secretary with infor-
7 mation related to a victim of a crime or witness to a crimi-
8 nal offense.

9 (f) **EFFECTIVE DATE.**—This section shall take effect
10 on the date that is 120 days after the date of the enact-
11 ment of this Act and shall apply with respect to aliens
12 apprehended on or after such date.

13 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
14 **POLICE AGENCIES THAT ASSIST IN THE EN-**
15 **FORCEMENT OF IMMIGRATION LAWS.**

16 (a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING**
17 **AND PROCESSING CERTAIN ALIENS.**—From amounts
18 made available to make grants under this section, the Sec-
19 retary shall make grants to States, and to political subdivi-
20 sions of States, for procurement of equipment, technology,
21 facilities, and other products that facilitate and are di-
22 rectly related to investigating, apprehending, arresting,
23 detaining, or transporting aliens who are inadmissible or
24 deportable, including additional administrative costs in-
25 curred under this title.

1 (b) **ELIGIBILITY.**—To be eligible to receive a grant
 2 under this section, a State, or a political subdivision of
 3 a State, must have the authority to, and shall have a writ-
 4 ten policy and a practice to, assist in the enforcement of
 5 the immigration laws of the United States in the course
 6 of carrying out the routine law enforcement duties of such
 7 State or political subdivision of a State. Entities covered
 8 under this section may not have any policy or practice that
 9 prevents local law enforcement from inquiring about a sus-
 10 pect’s immigration status.

11 (c) **GAO AUDIT.**—Not later than 3 years after the
 12 date of the enactment of this Act, the Comptroller General
 13 of the United States shall conduct an audit of funds dis-
 14 tributed to States, and to political subdivisions of a State,
 15 under subsection (a).

16 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

17 (a) **CONSTRUCTION OR ACQUISITION OF DETENTION**
 18 **FACILITIES.**—

19 (1) **IN GENERAL.**—The Secretary shall con-
 20 struct or acquire, in addition to existing facilities for
 21 the detention of aliens, detention facilities in the
 22 United States, for aliens detained pending removal
 23 from the United States or a decision regarding such
 24 removal. Each facility shall have a number of beds
 25 necessary to effectuate the purposes of this title.

1 (2) **DETERMINATIONS.**—The location of any de-
 2 tention facility built or acquired in accordance with
 3 this subsection shall be determined by the Secretary.

4 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
 5 Section 241(g)(1) of the Immigration and Nationality Act
 6 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
 7 pend” and inserting “shall expend”.

8 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
 9 **PORTABLE ALIENS IN THE UNITED STATES**
 10 **APPREHENDED BY STATE OR LOCAL LAW EN-**
 11 **FORCEMENT.**

12 (a) **STATE APPREHENSION.**—

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

17 “**CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS**
 18 **PRESENT IN THE UNITED STATES**

19 “**SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 20 **AND LOCAL OFFICIALS.**—If a State, or a political subdivi-
 21 sion of the State, exercising authority with respect to the
 22 apprehension or arrest of an inadmissible or deportable
 23 alien submits to the Secretary of Homeland Security a re-
 24 quest that the alien be taken into Federal custody, not-
 25 withstanding any other provision of law, regulation, or pol-
 26 icy the Secretary—

1 “(1) shall take the alien into custody not later
2 than 48 hours (excluding Saturdays, Sundays, and
3 holidays) after the detainer has been issued following
4 the conclusion of the State or local charging process
5 or dismissal process, or if no State or local charging
6 or dismissal process is required, the Secretary
7 should issue a detainer and take the alien into cus-
8 tody not later than 48 hours (excluding Saturdays,
9 Sundays, and holidays) after the alien is appre-
10 hended, in order to determine whether the alien
11 should be detained, placed in removal proceedings,
12 released, or removed; and

13 “(2) shall request that the relevant State or
14 local law enforcement agency temporarily hold the
15 alien in their custody or transport the alien for
16 transfer to Federal custody.

17 “(b) **POLICY ON DETENTION IN FEDERAL, CON-**
18 **TRACT, STATE, OR LOCAL DETENTION FACILITIES.**—In
19 carrying out section 241(g)(1), the Attorney General or
20 Secretary of Homeland Security shall ensure that an alien
21 arrested under this title shall be held in custody, pending
22 the alien’s examination under this section, in a Federal,
23 contract, State, or local prison, jail, detention center, or
24 other comparable facility. Notwithstanding any other pro-

1 vision of law, regulation or policy, such facility is adequate
2 for detention, if—

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

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

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

11 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
12 Security shall reimburse a State, and a political subdivi-
13 sion of a State, for all reasonable expenses, as determined
14 by the Secretary, incurred by the State, or political sub-
15 division, as a result of the incarceration and transpor-
16 tation of an alien who is inadmissible or deportable as de-
17 scribed in subsections (a) and (b). Compensation provided
18 for costs incurred under such subsections shall be the av-
19 erage cost of incarceration of a prisoner in the relevant
20 State, as determined by the chief executive officer of a
21 State, or of a political subdivision of a State, plus the cost
22 of transporting the alien from the point of apprehension
23 to the place of detention, and to the custody transfer point
24 if the place of detention and place of custody are different.

1 “(d) **SECURE FACILITIES.**—The Secretary of Home-
 2 land Security shall ensure that aliens incarcerated pursu-
 3 ant to this title are held in facilities that provide an appro-
 4 priate level of security.

5 “(e) **TRANSFER.**—

6 “(1) **IN GENERAL.**—In carrying out this sec-
 7 tion, the Secretary of Homeland Security shall es-
 8 tablish a regular circuit and schedule for the prompt
 9 transfer of apprehended aliens from the custody of
 10 States, and political subdivisions of a State, to Fed-
 11 eral custody.

12 “(2) **CONTRACTS.**—The Secretary may enter
 13 into contracts, including appropriate private con-
 14 tracts, to implement this subsection.”.

15 “(2) **CLERICAL AMENDMENT.**—The table of con-
 16 tents of such Act is amended by inserting after the
 17 item relating to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the
 United States.”.

18 “(b) **GAO AUDIT.**—Not later than 3 years after the
 19 date of the enactment of this Act, the Comptroller General
 20 of the United States shall conduct an audit of compensa-
 21 tion to States, and to political subdivisions of a State, for
 22 the incarceration of inadmissible or deportable aliens
 23 under section 240D(a) of the Immigration and Nationality
 24 Act (as added by subsection (a)(1)).

1 (c) **EFFECTIVE DATE.**—Section 240D of the Immi-
 2 gration and Nationality Act, as added by subsection (a),
 3 shall take effect on the date of the enactment of this Act,
 4 except that subsection (e) of such section shall take effect
 5 on the date that is 120 day after the date of the enactment
 6 of this Act.

7 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
 8 **MENT PERSONNEL RELATING TO THE EN-**
 9 **FORCEMENT OF IMMIGRATION LAWS.**

10 (a) **ESTABLISHMENT OF TRAINING MANUAL AND**
 11 **POCKET GUIDE.**—Not later than 180 days after the date
 12 of the enactment of this Act, the Secretary shall estab-
 13 lish—

14 (1) a training manual for law enforcement per-
 15 sonnel of a State, or of a political subdivision of a
 16 State, to train such personnel in the investigation,
 17 identification, apprehension, arrest, detention, and
 18 transfer to Federal custody of inadmissible and de-
 19 portable aliens in the United States (including the
 20 transportation of such aliens across State lines to
 21 detention centers and the identification of fraudulent
 22 documents); and

23 (2) an immigration enforcement pocket guide
 24 for law enforcement personnel of a State, or of a po-

1 litical subdivision of a State, to provide a quick ref-
2 erence for such personnel in the course of duty.

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

7 (c) **APPLICABILITY.**—Nothing in this section shall be
8 construed to require State or local law enforcement per-
9 sonnel to carry the training manual or pocket guide with
10 them while on duty.

11 (d) **COSTS.**—The Secretary shall be responsible for
12 any costs incurred in establishing the training manual and
13 pocket guide.

14 (e) **TRAINING FLEXIBILITY.**—

15 (1) **IN GENERAL.**—The Secretary shall make
16 training of State and local law enforcement officers
17 available through as many means as possible, includ-
18 ing through residential training at the Center for
19 Domestic Preparedness, onsite training held at State
20 or local police agencies or facilities, online training
21 courses by computer, teleconferencing, and video-
22 tape, or the digital video display (DVD) of a train-
23 ing course or courses. E-learning through a secure,
24 encrypted distributed learning system that has all its
25 servers based in the United States, is scalable, sur-

1 vivable, and can have a portal in place not later than
2 30 days after the date of the enactment of this Act,
3 shall be made available by the Federal Law Enforce-
4 ment Training Center Distributed Learning Pro-
5 gram for State and local law enforcement personnel.

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

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

16 (4) **PRIORITY.**—In carrying out this subsection,
17 priority funding shall be given for existing web-based
18 immigration enforcement training systems.

19 **SEC. 110. IMMUNITY.**

20 Notwithstanding any other provision of law, a law en-
21 forcement officer of a State or local law enforcement agen-
22 cy who is acting within the scope of the officer's official
23 duties shall be immune, to the same extent as a Federal
24 law enforcement officer, from personal liability arising out
25 of the performance of any duty described in this title, in-

cluding the authorities to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody, an alien for the purposes of enforcing the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) or the immigration laws of a State or a political subdivision of a State.

SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.

(a) CONTINUATION AND EXPANSION.—

(1) IN GENERAL.—The Secretary shall continue to operate and implement a program that—

(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 program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens (pursuant to the State Criminal Alien Assistance Program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or other similar program) shall—

(A) cooperate with officials of the program;

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

4 (C) promptly convey such information to
5 officials of such program as a condition of re-
6 ceiving such funds.

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

11 (1) hold a criminal alien for a period of up to
12 48 hours (excluding Saturdays, Sundays, and holi-
13 days) after the alien has completed the alien’s sen-
14 tence under State or local law in order to effectuate
15 the transfer of the alien to Federal custody when the
16 alien is inadmissible or deportable; or

17 (2) issue a detainer that would allow aliens who
18 have served a prison sentence under State or local
19 law to be detained by the State or local prison or jail
20 until the Secretary can take the alien into custody.

21 (c) **TECHNOLOGY USAGE.**—Technology, such as video
22 conferencing, shall be used to the maximum extent prac-
23 ticable in order to make the program available in remote
24 locations. Mobile access to Federal databases of aliens and
25 live scan technology shall be used to the maximum extent

1 practicable in order to make these resources available to
2 State and local law enforcement agencies in remote loca-
3 tions.

4 (d) **EFFECTIVE DATE.**—This section shall take effect
5 of the date of the enactment of this Act, except that sub-
6 section (a)(2) shall take effect on the date that is 180 days
7 after such date.

8 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

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

11 (1) in paragraph (1) by striking “may enter”
12 and all that follows through the period at the end
13 and inserting the following: “shall enter into a writ-
14 ten agreement with a State, or any political subdivi-
15 sion of a State, upon request of the State or political
16 subdivision, pursuant to which an officer or em-
17 ployee of the State or subdivision, who is determined
18 by the Secretary to be qualified to perform a func-
19 tion of an immigration officer in relation to the in-
20 vestigation, apprehension, or detention of aliens in
21 the United States (including the transportation of
22 such aliens across State lines to detention centers),
23 may carry out such function at the expense of the
24 State or political subdivision and to extent consistent
25 with State and local law. No request from a bona

1 fide State or political subdivision or bona fide law
2 enforcement agency shall be denied absent a compel-
3 ling reason. No limit on the number of agreements
4 under this subsection may be imposed. The Sec-
5 retary shall process requests for such agreements
6 with all due haste, and in no case shall take not
7 more than 90 days from the date the request is
8 made until the agreement is consummated.”;

9 (2) by redesignating paragraph (2) as para-
10 graph (5) and paragraphs (3) through (10) as para-
11 graphs (7) through (14), respectively;

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

14 “(2) An agreement under this subsection shall accom-
15 modate a requesting State or political subdivision with re-
16 spect to the enforcement model or combination of models,
17 and shall accommodate a patrol model, task force model,
18 jail model, any combination thereof, or any other reason-
19 able model the State or political subdivision believes is best
20 suited to the immigration enforcement needs of its juris-
21 diction.

22 “(3) No Federal program or technology directed
23 broadly at identifying inadmissible or deportable aliens
24 shall substitute for such agreements, including those es-

1 tablishing a jail model, and shall operate in addition to
2 any agreement under this subsection.

3 “(4)(A) No agreement under this subsection shall be
4 terminated absent a compelling reason.

5 “(B)(i) The Secretary shall provide a State or polit-
6 ical subdivision written notice of intent to terminate at
7 least 180 days prior to date of intended termination, and
8 the notice shall fully explain the grounds for termination,
9 along with providing evidence substantiating the Sec-
10 retary’s allegations.

11 “(ii) The State or political subdivision shall have the
12 right to a hearing before an administrative law judge and,
13 if the ruling is against the State or political subdivision,
14 to appeal the ruling to the Federal Circuit Court of Ap-
15 peals and, if the ruling is against the State or political
16 subdivision, to the Supreme Court.

17 “(C) The agreement shall remain in full effect during
18 the course of any and all legal proceedings.”; and

19 (4) by inserting after paragraph (5) (as redesign-
20 nated) the following:

21 “(6) The Secretary of Homeland Security shall make
22 training of State and local law enforcement officers avail-
23 able through as many means as possible, including
24 through residential training at the Center for Domestic
25 Preparedness and the Federal Law Enforcement Training

1 Center, onsite training held at State or local police agen-
2 cies or facilities, online training courses by computer, tele-
3 conferencing, and videotape, or the digital video display
4 (DVD) of a training course or courses. Distance learning
5 through a secure, encrypted distributed learning system
6 that has all its servers based in the United States, is scal-
7 able, survivable, and can have a portal in place not later
8 than 30 days after the date of the enactment of this Act,
9 shall be made available by the COPS Office of the Depart-
10 ment of Justice and the Federal Law Enforcement Train-
11 ing Center Distributed Learning Program for State and
12 local law enforcement personnel. Preference shall be given
13 to private sector-based web-based immigration enforce-
14 ment training programs for which the Federal Govern-
15 ment has already provided support to develop.”.

16 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
17 **(SCAAP).**

18 Section 241(i) of the Immigration and Nationality
19 Act (8 U.S.C. 1231(i)) is amended—

20 (1) by striking “Attorney General” the first
21 place such term appears and inserting “Secretary of
22 Homeland Security”;

23 (2) by striking “Attorney General” each place
24 such term appears thereafter and inserting “Sec-
25 retary”; and

1 (3) in paragraph (3)(A), by inserting “charged
2 with or” before “convicted”.

3 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**
4 **GRATION LAWS.**

5 (a) **IN GENERAL.**—Section 642 of the Illegal Immi-
6 gration Reform and Immigrant Responsibility Act of 1996
7 (8 U.S.C. 1373) is amended—

8 (1) by striking “Immigration and Naturaliza-
9 tion Service” each place it appears and inserting
10 “Department of Homeland Security”;

11 (2) in subsection (a), by striking “may” and in-
12 serting “shall”;

13 (3) in subsection (b)—

14 (A) by striking “no person or agency may”
15 and inserting “a person or agency shall not”;

16 (B) by striking “doing any of the following
17 with respect to information” and inserting “un-
18 dertaking any of the following law enforcement
19 activities”; and

20 (C) by striking paragraphs (1) through (3)
21 and inserting the following:

22 “(1) Notifying the Federal Government regard-
23 ing the presence of inadmissible and deportable
24 aliens who are encountered by law enforcement per-
25 sonnel of a State or political subdivision of a State.

1 “(2) Complying with requests for information
2 from Federal law enforcement.

3 “(3) Issuing policies in the form of a resolu-
4 tions, ordinances, administrative actions, general or
5 special orders, or departmental policies that violate
6 Federal law or restrict a State or political subdivi-
7 sion of a State from complying with Federal law or
8 coordinating with Federal law enforcement.”; and

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

10 “(d) **COMPLIANCE.**—

11 “(1) **IN GENERAL.**—A State, or a political sub-
12 division of a State, that has in effect a statute, pol-
13 icy, or practice that prohibits law enforcement offi-
14 cers of the State, or of a political subdivision of the
15 State, from assisting or cooperating with Federal
16 immigration law enforcement in the course of car-
17 rying out the officers’ routine law enforcement du-
18 ties shall not be eligible to receive—

19 “(A) any of the funds that would otherwise
20 be allocated to the State or political subdivision
21 under section 241(i) of the Immigration and
22 Nationality Act (8 U.S.C. 1231(i)) or the ‘Cops
23 on the Beat’ program under part Q of title I of
24 the Omnibus Crime Control and Safe Streets
25 Act of 1968 (42 U.S.C. 3796dd et seq.); or

1 “(B) any other law enforcement or Depart-
2 ment of Homeland Security grant.

3 “(2) **ANNUAL DETERMINATION.**—The Secretary
4 shall determine annually which State or political
5 subdivision of a State are not in compliance with
6 this section and shall report such determinations to
7 Congress on March 1 of each year.

8 “(3) **REPORTS.**—The Attorney General shall
9 issue a report concerning the compliance of any par-
10 ticular State or political subdivision at the request of
11 the House or Senate Judiciary Committee. Any ju-
12 risdiction that is found to be out of compliance shall
13 be ineligible to receive Federal financial assistance
14 as provided in paragraph (1) for a minimum period
15 of 1 year, and shall only become eligible again after
16 the Attorney General certifies that the jurisdiction is
17 in compliance.

18 “(4) **REALLOCATION.**—Any funds that are not
19 allocated to a State or to a political subdivision of
20 a State, due to the failure of the State, or of the po-
21 litical subdivision of the State, to comply with sub-
22 section (c) shall be reallocated to States, or to polit-
23 ical subdivisions of States, that comply with such
24 subsection.

1 “(e) **CONSTRUCTION.**—Nothing in this section shall
2 require law enforcement officials from States, or from po-
3 litical subdivisions of States, to report or arrest victims
4 or witnesses of a criminal offense.”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act, except that subsection (d) of section 642 of
8 the Illegal Immigration Reform and Immigrant Responsi-
9 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
10 tion, shall take effect beginning one year after the date
11 of the enactment of this Act.

12 **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

13 (a) **IN GENERAL.**—Except as otherwise provided by
14 Federal law or rule of procedure, the Secretary of Home-
15 land Security shall execute all lawful writs, process, and
16 orders issued under the authority of the United States,
17 and shall command all necessary assistance to execute the
18 Secretary’s duties.

19 (b) **STATE AND LOCAL COOPERATION WITH DHS**
20 **DETAINERS.**—A State, or a political subdivision of a
21 State, that has in effect a statute or policy or practice
22 providing that it not comply with any Department of
23 Homeland Security detainer ordering that it temporarily
24 hold an alien in their custody so that the alien may be
25 taken into Federal custody, or transport the alien for

1 transfer to Federal custody, shall not be eligible to re-
2 ceive—

3 (1) any of the funds that would otherwise be al-
4 located to the State or political subdivision under
5 section 241(i) of the Immigration and Nationality
6 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
7 program under part Q of title I of the Omnibus
8 Crime Control and Safe Streets Act of 1968 (42
9 U.S.C. 3796dd et seq.); or

10 (2) any other law enforcement or Department
11 of Homeland Security grant.

12 (c) **IMMUNITY.**—A State or a political subdivision of
13 a State acting in compliance with a Department of Home-
14 land Security detainer who temporarily holds aliens in its
15 custody so that they may be taken into Federal custody,
16 or transports the aliens for transfer to Federal custody,
17 shall be considered to be acting under color of Federal
18 authority for purposes of determining its liability, and im-
19 munity from suit, in civil actions brought by the aliens
20 under Federal or State law.

21 (d) **PROBABLE CAUSE.**—It is the sense of Congress
22 that the Department of Homeland Security has probable
23 cause to believe that an alien is inadmissible or deportable
24 when it issues a detainer regarding such alien under the
25 standards in place on the date of introduction of this Act.

1 **TITLE II—NATIONAL SECURITY**

2 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
 3 **RORIST ALIENS.**

4 (a) **ASYLUM.**—Section 208(b)(2)(A) of the Immigra-
 5 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
 6 amended—

7 (1) by inserting “or the Secretary of Homeland
 8 Security” after “if the Attorney General”; and

9 (2) by amending clause (v) to read as follows:

10 “(v) the alien is described in subpara-
 11 graph (B)(i) or (F) of section 212(a)(3),
 12 unless, in the case of an alien described in
 13 subparagraph (IV), (V), or (IX) of section
 14 212(a)(3)(B)(i), the Secretary of Home-
 15 land Security or the Attorney General de-
 16 termines, in the discretion of the Secretary
 17 or the Attorney General, that there are not
 18 reasonable grounds for regarding the alien
 19 as a danger to the security of the United
 20 States; or”.

21 (b) **CANCELLATION OF REMOVAL.**—Section
 22 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-
 23 ed—

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

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

3 (c) **VOLUNTARY DEPARTURE.**—Section
 4 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is
 5 amended by striking “deportable under section
 6 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-
 7 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

8 (d) **RESTRICTION ON REMOVAL.**—Section
 9 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
 10 amended—

11 (1) in the matter preceding clause (i), by insert-
 12 ing “or the Secretary of Homeland Security” after
 13 “Attorney General” each place it appears;

14 (2) in clause (iii), by striking “or” at the end;

15 (3) in clause (iv), by striking the period at the
 16 end and inserting a semicolon;

17 (4) by striking the flush matter that follows
 18 after clause (iv); and

19 (5) by inserting after clause (iv) the following:

20 “(v) the alien is described in subpara-
 21 graph (B)(i) or (F) of section 212(a)(3),
 22 unless, in the case of an alien described in
 23 subparagraph (IV), (V), or (IX) of section
 24 212(a)(3)(B)(i), the Secretary of Home-
 25 land Security or the Attorney General de-

1 termines, in discretion of the Secretary or
 2 the Attorney General, that there are not
 3 reasonable grounds for regarding the alien
 4 as a danger to the security of the United
 5 States; or”.

6 (e) **RECORD OF ADMISSION.**—

7 (1) **IN GENERAL.**—Section 249 of such Act (8
 8 U.S.C. 1259) is amended to read as follows:

9 “**RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN**
 10 **THE CASE OF CERTAIN ALIENS WHO ENTERED THE**
 11 **UNITED STATES PRIOR TO JANUARY 1, 1972**

12 “**SEC. 249.** The Secretary of Homeland Security, in
 13 the discretion of the Secretary and under such regulations
 14 as the Secretary may prescribe, may enter a record of law-
 15 ful admission for permanent residence in the case of any
 16 alien, if no such record is otherwise available and the
 17 alien—

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

20 “(2) has continuously resided in the United
 21 States since such entry;

22 “(3) has been a person of good moral character
 23 since such entry;

24 “(4) is not ineligible for citizenship;

25 “(5) is not described in paragraph (1)(A)(iv),
 26 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

1 “(6) did not, at any time, without reasonable
2 cause fail or refuse to attend or remain in attend-
3 ance at a proceeding to determine the alien’s inad-
4 missibility or deportability.

5 Such recordation shall be effective as of the date of ap-
6 proval of the application or as of the date of entry if such
7 entry occurred prior to July 1, 1924.”.

8 (2) **CLERICAL AMENDMENT.**—The table of con-
9 tents for such Act is amended by amending the item
10 relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain
aliens who entered the United States prior to January 1,
1972.”.

11 (f) **EFFECTIVE DATE.**—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act and sections 208(b)(2)(A), 212(a), 240A, 240B,
14 241(b)(3), and 249 of the Immigration and Nationality
15 Act, as so amended, shall apply to—

16 (1) all aliens in removal, deportation, or exclu-
17 sion proceedings;

18 (2) all applications pending on, or filed after,
19 the date of the enactment of this Act; and

20 (3) with respect to aliens and applications de-
21 scribed in paragraph (1) or (2) of this subsection,
22 acts and conditions constituting a ground for exclu-
23 sion, deportation, or removal occurring or existing

1 before, on, or after the date of the enactment of this
2 Act.

3 **SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.**

4 (a) **DEFINITION OF GOOD MORAL CHARACTER.**—
5 Section 101(f) of the Immigration and Nationality Act (8
6 U.S.C. 1101(f)) is amended—

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

9 “(2) one who the Secretary of Homeland Secu-
10 rity or Attorney General determines to have been at
11 any time an alien described in section 212(a)(3) or
12 237(a)(4), which determination may be based upon
13 any relevant information or evidence, including clas-
14 sified, sensitive, or national security information;”;

15 (2) in paragraph (8), by inserting “, regardless
16 whether the crime was classified as an aggravated
17 felony at the time of conviction, except that the Sec-
18 retary of Homeland Security or Attorney General
19 may, in the unreviewable discretion of the Secretary
20 or Attorney General, determine that this paragraph
21 shall not apply in the case of a single aggravated fel-
22 ony conviction (other than murder, manslaughter,
23 homicide, rape, or any sex offense when the victim
24 of such sex offense was a minor) for which comple-
25 tion of the term of imprisonment or the sentence

1 (whichever is later) occurred 10 or more years prior
2 to the date of application” after “(as defined in sub-
3 section (a)(43))”; and

4 (3) in the matter following paragraph (9), by
5 striking the first sentence and inserting the fol-
6 lowing: “The fact that any person is not within any
7 of the foregoing classes shall not preclude a discre-
8 tionary finding for other reasons that such a person
9 is or was not of good moral character. The Secretary
10 or the Attorney General shall not be limited to the
11 applicant’s conduct during the period for which good
12 moral character is required, but may take into con-
13 sideration as a basis for determination the appli-
14 cant’s conduct and acts at any time.”.

15 (b) **AGGRAVATED FELONS**.—Section 509(b) of the
16 Immigration Act of 1990 (8 U.S.C. 1101 note) is amended
17 to read as follows:

18 “(b) **EFFECTIVE DATE**.—The amendment made by
19 subsection (a) shall take effect on November 29, 1990,
20 and shall apply to convictions occurring before, on or after
21 such date.”.

22 (c) **TECHNICAL CORRECTION TO THE INTELLIGENCE**
23 **REFORM ACT**.—Section 5504(2) of the Intelligence Re-
24 form and Terrorism Prevention Act of 2004 (Public Law

1 108–458) is amended by striking “adding at the end” and
 2 inserting “inserting after paragraph (8)”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
 4 subsections (a) and (b) shall take effect on the date of
 5 enactment of this Act, shall apply to any act that occurred
 6 before, on, or after such date and shall apply to any appli-
 7 cation for naturalization or any other benefit or relief, or
 8 any other case or matter under the immigration laws
 9 pending on or filed after such date. The amendments
 10 made by subsection (c) shall take effect as if enacted in
 11 the Intelligence Reform and Terrorism Prevention Act of
 12 2004 (Public Law 108–458).

13 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

14 (a) **NATURALIZATION OF PERSONS ENDANGERING**
 15 **THE NATIONAL SECURITY.**—Section 316 of the Immigra-
 16 tion and Nationality Act (8 U.S.C. 1426) is amended by
 17 adding at the end the following:

18 “(g) **PERSONS ENDANGERING THE NATIONAL SECU-**
 19 **RITY.**—No person shall be naturalized who the Secretary
 20 of Homeland Security determines to have been at any time
 21 an alien described in section 212(a)(3) or 237(a)(4). Such
 22 determination may be based upon any relevant informa-
 23 tion or evidence, including classified, sensitive, or national
 24 security information.”.

1 (b) CONCURRENT NATURALIZATION AND REMOVAL
2 PROCEEDINGS.—Section 318 of the Immigration and Na-
3 tionality Act (8 U.S.C. 1429) is amended by striking
4 “other Act;” and inserting “other Act; and no application
5 for naturalization shall be considered by the Secretary of
6 Homeland Security or any court if there is pending
7 against the applicant any removal proceeding or other pro-
8 ceeding to determine the applicant’s inadmissibility or de-
9 portability, or to determine whether the applicant’s lawful
10 permanent resident status should be rescinded, regardless
11 of when such proceeding was commenced: *Provided*, That
12 the findings of the Attorney General in terminating re-
13 moval proceedings or in canceling the removal of an alien
14 pursuant to the provisions of this Act, shall not be deemed
15 binding in any way upon the Secretary of Homeland Secu-
16 rity with respect to the question of whether such person
17 has established his eligibility for naturalization as required
18 by this title;”.

19 (c) PENDING DENATURALIZATION OR REMOVAL
20 PROCEEDINGS.—Section 204(b) of the Immigration and
21 Nationality Act (8 U.S.C. 1154(b)) is amended by adding
22 at the end the following: “No petition shall be approved
23 pursuant to this section if there is any administrative or
24 judicial proceeding (whether civil or criminal) pending
25 against the petitioner that could (whether directly or indi-

1 rectly) result in the petitioner’s denaturalization or the
2 loss of the petitioner’s lawful permanent resident status.”.

3 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sec-
4 tions 216(e) and section 216A(e) of the Immigration and
5 Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are
6 each amended by striking the period at the end and insert-
7 ing “, if the alien has had the conditional basis removed
8 pursuant to this section.”.

9 (e) **DISTRICT COURT JURISDICTION.**—Subsection
10 336(b) of the Immigration and Nationality Act (8 U.S.C.
11 1447(b)) is amended to read as follows:

12 “(b) If there is a failure to render a final administra-
13 tive decision under section 335 before the end of the 180-
14 day period after the date on which the Secretary of Home-
15 land Security completes all examinations and interviews
16 conducted under such section, as such terms are defined
17 by the Secretary of Homeland Security pursuant to regu-
18 lations, the applicant may apply to the district court for
19 the district in which the applicant resides for a hearing
20 on the matter. Such court shall only have jurisdiction to
21 review the basis for delay and remand the matter to the
22 Secretary of Homeland Security for the Secretary’s deter-
23 mination on the application.”.

1 (f) ~~CONFORMING AMENDMENT.~~—Section 310(c) of
2 the Immigration and Nationality Act (8 U.S.C. 1421(c))
3 is amended—

4 (1) by inserting “, not later than the date that
5 is 120 days after the Secretary of Homeland Secu-
6 rity’s final determination,” after “seek”; and

7 (2) by striking the second sentence and insert-
8 ing the following: “The burden shall be upon the pe-
9 titioner to show that the Secretary’s denial of the
10 application was not supported by facially legitimate
11 and bona fide reasons. Except in a proceeding under
12 section 340, notwithstanding any other provision of
13 law (statutory or nonstatutory), including section
14 2241 of title 28, United States Code, or any other
15 habeas corpus provision, and sections 1361 and
16 1651 of such title, no court shall have jurisdiction
17 to determine, or to review a determination of the
18 Secretary made at any time regarding, whether, for
19 purposes of an application for naturalization, an
20 alien is a person of good moral character, whether
21 the alien understands and is attached to the prin-
22 ciples of the Constitution of the United States, or
23 whether an alien is well disposed to the good order
24 and happiness of the United States.”.

1 (g) **EFFECTIVE DATE.**—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act, shall apply to any act that occurred before, on,
4 or after such date, and shall apply to any application for
5 naturalization or any other case or matter under the immi-
6 gration laws pending on, or filed after, such date.

7 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

8 (a) **IN GENERAL.**—Section 340 of the Immigration
9 and Nationality Act is amended—

10 (1) by redesignating subsections (f) through (h)
11 as subsections (g) through (i), respectively; and

12 (2) by inserting after subsection (e) the fol-
13 lowing:

14 “(f)(1) If a person who has been naturalized partici-
15 pates in any act described in paragraph (2), the Attorney
16 General is authorized to find that, as of the date of such
17 naturalization, such person was not attached to the prin-
18 ciples of the Constitution of the United States and was
19 not well disposed to the good order and happiness of the
20 United States at the time of naturalization, and upon such
21 finding shall set aside the order admitting such person to
22 citizenship and cancel the certificate of naturalization as
23 having been obtained by concealment of a material fact
24 or by willful misrepresentation, and such revocation and
25 setting aside of the order admitting such person to citizen-

1 ship and such canceling of certificate of naturalization
2 shall be effective as of the original date of the order and
3 certificate, respectively.

4 “(2) The acts described in this paragraph are the fol-
5 lowing:

6 “(A) Any activity a purpose of which is the op-
7 position to, or the control or overthrow of, the Gov-
8 ernment of the United States by force, violence, or
9 other unlawful means.

10 “(B) Engaging in a terrorist activity (as de-
11 fined in clauses (iii) and (iv) of section
12 212(a)(3)(B)).

13 “(C) Incitement of terrorist activity under cir-
14 cumstances indicating an intention to cause death or
15 serious bodily harm.

16 “(D) Receiving military-type training (as de-
17 fined in section 2339D(c)(1) of title 18, United
18 States Code) from or on behalf of any organization
19 that, at the time the training was received, was a
20 terrorist organization (as defined in section
21 212(a)(3)(B)(vi)).”.

22 (b) **EFFECTIVE DATE.**—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to acts that occur on
25 or after such date.

1 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
 2 **FOR NATIONAL SECURITY PURPOSES.**

3 (a) **SPECIAL AGRICULTURAL WORKERS.**—Section
 4 210(b)(6) of the Immigration and Nationality Act (8
 5 U.S.C. 1160(b)(6)) is amended—

6 (1) by striking “Attorney General” each place
 7 such term appears and inserting “Secretary of
 8 Homeland Security”;

9 (2) in subparagraph (A), by striking “Depart-
 10 ment of Justice,” and inserting “Department of
 11 Homeland Security,”;

12 (3) by redesignating subparagraphs (C) and
 13 (D) as subparagraphs (D) and (E), respectively;

14 (4) by inserting after subparagraph (B) the fol-
 15 lowing:

16 “(C) **AUTHORIZED DISCLOSURES.**—

17 “(i) **CENSUS PURPOSE.**—The Sec-
 18 retary of Homeland Security may provide,
 19 in his discretion, for the furnishing of in-
 20 formation furnished under this section in
 21 the same manner and circumstances as
 22 census information may be disclosed under
 23 section 8 of title 13, United States Code.

24 “(ii) **NATIONAL SECURITY PUR-**
 25 **POSE.**—The Secretary of Homeland Secu-
 26 rity may provide, in his discretion, for the

1 furnishing, use, publication, or release of
 2 information furnished under this section in
 3 any investigation, case, or matter, or for
 4 any purpose, relating to terrorism, national
 5 intelligence or the national security.”; and

6 (5) in subparagraph (D), as redesignated, by
 7 striking “Service” and inserting “Department of
 8 Homeland Security”.

9 (b) **ADJUSTMENT OF STATUS UNDER THE IMMIGRA-**
 10 **TION REFORM AND CONTROL ACT OF 1986.**—Section
 11 245A(c)(5) of the Immigration and Nationality Act (8
 12 U.S.C. 1255a(c)(5)), is amended—

13 (1) by striking “Attorney General” each place
 14 such term appears and inserting “Secretary of
 15 Homeland Security”;

16 (2) in subparagraph (A), by striking “Depart-
 17 ment of Justice,” and inserting “Department of
 18 Homeland Security,”;

19 (3) by amending subparagraph (C) to read as
 20 follows:

21 “(C) **AUTHORIZED DISCLOSURES.**—

22 “(i) **CENSUS PURPOSE.**—The Sec-
 23 retary of Homeland Security may provide,
 24 in his discretion, for the furnishing of in-
 25 formation furnished under this section in

1 the same manner and circumstances as
 2 census information may be disclosed under
 3 section 8 of title 13, United States Code.

4 “(ii) **NATIONAL SECURITY PUR-**
 5 **POSE.**—The Secretary of Homeland Secu-
 6 rity may provide, in his discretion, for the
 7 furnishing, use, publication, or release of
 8 information furnished under this section in
 9 any investigation, case, or matter, or for
 10 any purpose, relating to terrorism, national
 11 intelligence or the national security.”; and

12 (4) in subparagraph (D)(i), striking “Service”
 13 and inserting “Department of Homeland Security”.

14 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

15 (a) **REQUIREMENT TO COMPLETE BACKGROUND AND**
 16 **SECURITY CHECKS.**—Section 103 of the Immigration and
 17 Nationality Act (8 U.S.C. 1103) is amended by adding
 18 at the end the following:

19 “(h) Notwithstanding any other provision of law
 20 (statutory or nonstatutory), including but not limited to
 21 section 309 of Public Law 107–173, sections 1361 and
 22 1651 of title 28, United States Code, and section 706(1)
 23 of title 5, United States Code, neither the Secretary of
 24 Homeland Security, the Attorney General, nor any court
 25 may—

1 “(1) grant, or order the grant of or adjudica-
2 tion of an application for adjustment of status to
3 that of an alien lawfully admitted for permanent res-
4 idence;

5 “(2) grant, or order the grant of or adjudica-
6 tion of an application for United States citizenship
7 or any other status, relief, protection from removal,
8 employment authorization, or other benefit under
9 the immigration laws;

10 “(3) grant, or order the grant of or adjudica-
11 tion of, any immigrant or nonimmigrant petition; or

12 “(4) issue or order the issuance of any docu-
13 mentation evidencing or related to any such grant,
14 until such background and security checks as the
15 Secretary may in his discretion require have been
16 completed or updated to the satisfaction of the Sec-
17 retary.

18 “(i) Notwithstanding any other provision of law (stat-
19 utory or nonstatutory), including but not limited to section
20 309 of Public Law 107–173, sections 1361 and 1651 of
21 title 28, United States Code, and section 706(1) of title
22 5, United States Code, neither the Secretary of Homeland
23 Security nor the Attorney General may be required to—

24 “(1) grant, or order the grant of or adjudica-
25 tion of an application for adjustment of status to

1 that of an alien lawfully admitted for permanent res-
2 idence,

3 “(2) grant, or order the grant of or adjudica-
4 tion of an application for United States citizenship
5 or any other status, relief, protection from removal,
6 employment authorization, or other benefit under
7 the immigration laws,

8 “(3) grant, or order the grant of or adjudica-
9 tion of, any immigrant or nonimmigrant petition, or

10 “(4) issue or order the issuance of any docu-
11 mentation evidencing or related to any such grant,
12 until any suspected or alleged materially false infor-
13 mation, material misrepresentation or omission, con-
14 cealment of a material fact, fraud or forgery, coun-
15 terfeiting, or alteration, or falsification of a docu-
16 ment, as determined by the Secretary, relating to
17 the adjudication of an application or petition for any
18 status (including the granting of adjustment of sta-
19 tus), relief, protection from removal, or other benefit
20 under this subsection has been investigated and re-
21 solved to the Secretary’s satisfaction.

22 “(j) Notwithstanding any other provision of law (stat-
23 utory or nonstatutory), including section 309 of the En-
24 hanced Border Security and Visa Entry Reform Act (8
25 U.S.C. 1738), sections 1361 and 1651 of title 28, United

1 States Code, and section 706(1) of title 5, United States
 2 Code, no court shall have jurisdiction to require any of
 3 the acts in subsection (h) or (i) to be completed by a cer-
 4 tain time or award any relief for failure to complete or
 5 delay in completing such acts.”.

6 (b) CONSTRUCTION.—

7 (1) IN GENERAL.—Chapter 4 of title III of the
 8 Immigration and Nationality Act (8 U.S.C. 1501 et
 9 seq.) is amended by adding at the end the following:

10 “CONSTRUCTION

11 “SEC. 362. (a) IN GENERAL.—Nothing in this Act
 12 or any other law, except as provided in subsection (d),
 13 shall be construed to require the Secretary of Homeland
 14 Security, the Attorney General, the Secretary of State, the
 15 Secretary of Labor, or a consular officer to grant any ap-
 16 plication, approve any petition, or grant or continue any
 17 relief, protection from removal, employment authorization,
 18 or any other status or benefit under the immigration laws
 19 by, to, or on behalf of—

20 “(1) any alien deemed by the Secretary to be
 21 described in section 212(a)(3) or section 237(a)(4);
 22 or

23 “(2) any alien with respect to whom a criminal
 24 or other proceeding or investigation is open or pend-
 25 ing (including, but not limited to, issuance of an ar-
 26 rest warrant, detainer, or indictment), where such

1 proceeding or investigation is deemed by the official
2 described in subsection (a) to be material to the
3 alien's eligibility for the status or benefit sought.

4 “(b) **DENIAL OR WITHHOLDING OF ADJUDICA-**
5 **TION.**—An official described in subsection (a) may, in the
6 discretion of the official, deny (with respect to an alien
7 described in paragraph (1) or (2) of subsection (a)) or
8 withhold adjudication of pending resolution of the inves-
9 tigation or case (with respect to an alien described in sub-
10 section (a)(2) of this section) any application, petition, re-
11 lief, protection from removal, employment authorization,
12 status or benefit.

13 “(c) **JURISDICTION.**—Notwithstanding any other pro-
14 vision of law (statutory or nonstatutory), including section
15 309 of the Enhanced Border Security and Visa Entry Re-
16 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title
17 28, United States Code, and section 706(1) of title 5,
18 United States Code, no court shall have jurisdiction to re-
19 view a decision to deny or withhold adjudication pursuant
20 to subsection (b) of this section.

21 “(d) **WITHHOLDING OF REMOVAL AND TORTURE**
22 **CONVENTION.**—This section does not limit or modify the
23 applicability of section 241(b)(3) or the United Nations
24 Convention Against Torture and Other Cruel, Inhuman or
25 Degrading Treatment or Punishment, subject to any res-

1 ervations, understandings, declarations and provisos con-
 2 tained in the United States Senate resolution of ratifica-
 3 tion of the Convention, as implemented by section 2242
 4 of the Foreign Affairs Reform and Restructuring Act of
 5 1998 (Public Law 105–277) with respect to an alien oth-
 6 erwise eligible for protection under such provisions.”.

7 (2) **CLERICAL AMENDMENT.**—The table of con-
 8 tents for such Act is amended by inserting after the
 9 item relating to section 361 the following:

“Sec. 362. Construction.”.

10 (c) **EFFECTIVE DATE.**—The amendments made by
 11 this section shall take effect on the date of the enactment
 12 of this Act and shall apply to applications for immigration
 13 benefits pending on or after such date.

14 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
 15 **TELLIGENCE REFORM AND TERRORISM PRE-**
 16 **VENTION ACT OF 2004.**

17 (a) **TRANSIT WITHOUT VISA PROGRAM.**—Section
 18 7209(d) of the Intelligence Reform and Terrorism Preven-
 19 tion Act of 2004 (8 U.S.C. 1185 note) is amended by
 20 striking “the Secretary, in conjunction with the Secretary
 21 of Homeland Security,” and inserting “the Secretary of
 22 Homeland Security, in consultation with the Secretary of
 23 State,”.

24 (b) **TECHNOLOGY ACQUISITION AND DISSEMINATION**
 25 **PLAN.**—Section 7201(c)(1) of such Act is amended by in-

1 serting “and the Department of State” after “used by the
2 Department of Homeland Security”.

3 **TITLE III—REMOVAL OF** 4 **CRIMINAL ALIENS**

5 **SEC. 301. DEFINITION OF AGGRAVATED FELONY.**

6 (a) **DEFINITION OF AGGRAVATED FELONY.**—Section
7 101(a)(43) of the Immigration and Nationality Act (8
8 U.S.C. 1101(a)(43)) is amended—

9 (1) by striking “The term ‘aggravated felony’
10 means—” and inserting “Notwithstanding any other
11 provision of law, the term ‘aggravated felony’ applies
12 to an offense described in this paragraph, whether in
13 violation of Federal or State law, or in violation of
14 the law of a foreign country for which the term of
15 imprisonment was completed within the previous 15
16 years, even if the length of the term of imprisonment
17 for the offense is based on recidivist or other en-
18 hancements and regardless of whether the conviction
19 was entered before, on, or after September 30, 1996,
20 and means—”;

21 (2) in subparagraph (A), by striking “murder,
22 rape, or sexual abuse of a minor;” and inserting
23 “murder, manslaughter, homicide, rape (whether the
24 victim was conscious or unconscious), or any offense

1 of a sexual nature involving a victim under the age
2 of 18 years;”;

3 (3) in subparagraph (I), by striking “or 2252”
4 and inserting “2252, or 2252A”;

5 (4) in subparagraph (F), by striking “at least
6 one year;” and inserting “is at least one year, except
7 that if the conviction records do not conclusively es-
8 tablish whether a crime constitutes a crime of vio-
9 lence, the Attorney General may consider other evi-
10 dence related to the conviction that clearly estab-
11 lishes that the conduct for which the alien was en-
12 gaged constitutes a crime of violence;”;

13 (5) in subparagraph (N)—

14 (A) by striking “paragraph (1)(A) or (2)
15 of”; and

16 (B) by inserting a semicolon at the end;

17 (6) in subparagraph (O), by striking “section
18 275(a) or 276 committed by an alien who was pre-
19 viously deported on the basis of a conviction for an
20 offense described in another subparagraph of this
21 paragraph” and inserting “section 275 or 276 for
22 which the term of imprisonment is at least 1 year”;

23 (7) in subparagraph (U), by striking “an at-
24 tempt or conspiracy to commit an offense described
25 in this paragraph” and inserting “attempting or

1 conspiring to commit an offense described in this
 2 paragraph, or aiding, abetting, counseling, pro-
 3 curing, commanding, inducing, or soliciting the com-
 4 mission of such an offense”; and

5 (8) by striking the undesignated matter fol-
 6 lowing subparagraph (U).

7 (b) **EFFECTIVE DATE; APPLICATION OF AMEND-**
 8 **MENTS.—**

9 (1) **IN GENERAL.**—The amendments made by
 10 subsection (a)—

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

13 (B) shall apply to any act or conviction
 14 that occurred before, on, or after such date.

15 (2) **APPLICATION OF IIRIRA AMENDMENTS.—**

16 The amendments to section 101(a)(43) of the Immi-
 17 gration and Nationality Act (8 U.S.C. 1101(a)(43))
 18 made by section 321 of the Illegal Immigration Re-
 19 form and Immigrant Responsibility Act of 1996 (di-
 20 vision C of Public Law 104–208; 110 Stat. 3009–
 21 627) shall continue to apply, whether the conviction
 22 was entered before, on, or after September 30, 1996.

1 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**
 2 **VICTED OF AGGRAVATED FELONIES OR**
 3 **OTHER SERIOUS OFFENSES.**

4 (a) **INADMISSIBILITY ON CRIMINAL AND RELATED**
 5 **GROUND; WAIVERS.**—Section 212 of the Immigration
 6 and Nationality Act (8 U.S.C. 1182) is amended—

7 (1) in subsection (a)(2)(A)(i)—

8 (A) in subclause (I), by striking “or” at
 9 the end;

10 (B) in subclause (II), by adding “or” at
 11 the end; and

12 (C) by inserting after subclause (II) the
 13 following:

14 “(III) a violation of (or a con-
 15 spiracy or attempt to violate) an of-
 16 fense described in section 408 of title
 17 42, United States Code (relating to
 18 social security account numbers or so-
 19 cial security cards) or section 1028 of
 20 title 18, United States Code (relating
 21 to fraud and related activity in con-
 22 nection with identification documents,
 23 authentication features, and informa-
 24 tion),”;

25 (2) by adding at the end of subsection (a)(2)
 26 the following:

1 “(J) **PROCUREMENT OF CITIZENSHIP OR**
2 **NATURALIZATION UNLAWFULLY.**—Any alien
3 convicted of, or who admits having committed,
4 or who admits committing acts which constitute
5 the essential elements of, a violation of, or an
6 attempt or a conspiracy to violate, subsection
7 (a) or (b) of section 1425 of title 18, United
8 States Code (relating to the procurement of
9 citizenship or naturalization unlawfully) is inad-
10 missible.

11 “(K) **CERTAIN FIREARM OFFENSES.**—Any
12 alien who at any time has been convicted under
13 any law of, or who admits having committed or
14 admits committing acts which constitute the es-
15 sential elements of, purchasing, selling, offering
16 for sale, exchanging, using, owning, possessing,
17 or carrying, or of attempting or conspiring to
18 purchase, sell, offer for sale, exchange, use,
19 own, possess, or carry, any weapon, part, or ac-
20 cessory which is a firearm or destructive device
21 (as defined in section 921(a) of title 18, United
22 States Code) in violation of any law is inadmis-
23 sible.

1 “(L) **AGGRAVATED FELONS.**—Any alien
2 who has been convicted of an aggravated felony
3 at any time is inadmissible.

4 “(M) **CRIMES OF DOMESTIC VIOLENCE,**
5 **STALKING, OR VIOLATION OF PROTECTION OR-**
6 **DERS, CRIMES AGAINST CHILDREN.**—

7 “(i) **DOMESTIC VIOLENCE, STALKING,**
8 **AND CHILD ABUSE.**—Any alien who at any
9 time is convicted of, or who admits having
10 committed or admits committing acts
11 which constitute the essential elements of,
12 a crime of domestic violence, a crime of
13 stalking, or a crime of child abuse, child
14 neglect, or child abandonment is inadmis-
15 sible. For purposes of this clause, the term
16 ‘crime of domestic violence’ means any
17 crime of violence (as defined in section 16
18 of title 18, United States Code) against a
19 person committed by a current or former
20 spouse of the person, by an individual with
21 whom the person shares a child in com-
22 mon, by an individual who is cohabiting
23 with or has cohabited with the person as a
24 spouse, by an individual similarly situated
25 to a spouse of the person under the domes-

1 tic or family violence laws of the jurisdic-
2 tion where the offense occurs, or by any
3 other individual against a person who is
4 protected from that individual's acts under
5 the domestic or family violence laws of the
6 United States or any State, Indian tribal
7 government, or unit of local or foreign gov-
8 ernment.

9 “(ii) **VIOLATORS OF PROTECTION OR-**
10 **DER.**—Any alien who at any time is en-
11 joined under a protection order issued by
12 a court and whom the court determines
13 has engaged in conduct that violates the
14 portion of a protection order that involves
15 protection against credible threats of vio-
16 lence, repeated harassment, or bodily in-
17 jury to the person or persons for whom the
18 protection order was issued is inadmissible.
19 For purposes of this clause, the term ‘pro-
20 tection order’ means any injunction issued
21 for the purpose of preventing violent or
22 threatening acts of domestic violence, in-
23 cluding temporary or final orders issued by
24 civil or criminal courts (other than support
25 or child custody orders or provisions)

1 whether obtained by filing an independent
 2 action or as a independent order in an-
 3 other proceeding.

4 “(iii) **WAIVER AUTHORIZED.**—The
 5 waiver authority available under section
 6 237(a)(7) with respect to section
 7 237(a)(2)(E)(i) shall be available on a
 8 comparable basis with respect to this sub-
 9 paragraph.

10 “(iv) **CLARIFICATION.**—If the convic-
 11 tion records do not conclusively establish
 12 whether a crime of domestic violence con-
 13 stitutes a crime of violence (as defined in
 14 section 16 of title 18, United States Code),
 15 the Attorney General may consider other
 16 evidence related to the conviction that
 17 clearly establishes that the conduct for
 18 which the alien was engaged constitutes a
 19 crime of violence.”; and

20 (3) in subsection (h)—

21 (A) by striking “The Attorney General
 22 may, in his discretion, waive the application of
 23 subparagraphs (A)(i)(I), (B), (D), and (E) of
 24 subsection (a)(2)” and inserting “The Attorney
 25 General or the Secretary of Homeland Security

1 may, in the discretion of the Attorney General
 2 or the Secretary, waive the application of sub-
 3 paragraphs (A)(i)(I), (III), (B), (D), (E), (K),
 4 and (M) of subsection (a)(2)”;

5 (B) by striking “a criminal act involving
 6 torture.” and inserting “a criminal act involving
 7 torture, or has been convicted of an aggravated
 8 felony.”;

9 (C) by striking “if either since the date of
 10 such admission the alien has been convicted of
 11 an aggravated felony or the alien” and inserting
 12 “if since the date of such admission the alien”;
 13 and

14 (D) by inserting “or Secretary of Home-
 15 land Security” after “the Attorney General”
 16 each place it appears.

17 (b) **DEPORTABILITY; CRIMINAL OFFENSES.**—Section
 18 237(a)(3)(B) of the Immigration and Nationality Act (8
 19 U.S.C. 1227(a)(3)(B)) is amended—

20 (1) in clause (ii), by striking “or” at the end;

21 (2) in clause (iii), by inserting “or” at the end;

22 and

23 (3) by inserting after clause (iii) the following:

24 “(iv) of a violation of, or an attempt
 25 or a conspiracy to violate, section 1425(a)

1 or (b) of title 18 (relating to the procure-
 2 ment of citizenship or naturalization un-
 3 lawfully),”.

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

8 “(G) **FRAUD AND RELATED ACTIVITY AS-**
 9 **SOCIATED WITH SOCIAL SECURITY ACT BENE-**
 10 **FITS AND IDENTIFICATION DOCUMENTS.**—Any
 11 alien who at any time after admission has been
 12 convicted of a violation of (or a conspiracy or
 13 attempt to violate) section 208 of the Social Se-
 14 curity Act (42 U.S.C. 408) (relating to social
 15 security account numbers or social security
 16 cards) or section 1028 of title 18, United States
 17 Code (relating to fraud and related activity in
 18 connection with identification) is deportable.”.

19 (d) **EFFECTIVE DATE.**—The amendments made by
 20 this section shall apply—

21 (1) to any act that occurred before, on, or after
 22 the date of the enactment of this Act; and

23 (2) to all aliens who are required to establish
 24 admissibility on or after such date, and in all re-

1 moval, deportation, or exclusion proceedings that are
 2 filed, pending, or reopened, on or after such date.

3 (e) **CONSTRUCTION.**—The amendments made by sub-
 4 section (a) shall not be construed to create eligibility for
 5 relief from removal under former section 212(c) of the Im-
 6 migration and Nationality Act where such eligibility did
 7 not exist before these amendments became effective.

8 **SEC. 303. ESPIONAGE CLARIFICATION.**

9 Section 212(a)(3)(A) of the Immigration and Nation-
 10 ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read
 11 as follows:

12 “(A) **IN GENERAL.**—Any alien who a con-
 13 sular officer, the Attorney General, or the Sec-
 14 retary of Homeland Security knows, or has rea-
 15 sonable ground to believe, seeks to enter the
 16 United States to engage solely, principally, or
 17 incidentally in, or who is engaged in, or with re-
 18 spect to clauses (i) and (iii) of this subpara-
 19 graph has engaged in—

20 “(i) any activity—

21 “(I) to violate any law of the
 22 United States relating to espionage or
 23 sabotage; or

24 “(II) to violate or evade any law
 25 prohibiting the export from the

1 United States of goods, technology, or
 2 sensitive information;
 3 “(ii) any other unlawful activity; or
 4 “(iii) any activity a purpose of which
 5 is the opposition to, or the control or over-
 6 throw of, the Government of the United
 7 States by force, violence, or other unlawful
 8 means;
 9 is inadmissible.”.

10 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
 11 **THE POSSESSION OF FIREARMS BY, CERTAIN**
 12 **ALIENS.**

13 Section 922 of title 18, United States Code, is
 14 amended—

15 (1) in subsection (d)(5), in subparagraph (B),
 16 by striking “(y)(2)” and all that follows and insert-
 17 ing “(y), is in the United States not as an alien law-
 18 fully admitted for permanent residence;”;

19 (2) in subsection (g)(5), in subparagraph (B),
 20 by striking “(y)(2)” and all that follows and insert-
 21 ing “(y), is in the United States not as an alien law-
 22 fully admitted for permanent residence;” and

23 (3) in subsection (y)—

24 (A) in the header, by striking “**ADMITTED**
 25 **UNDER NONIMMIGRANT VISAS.—**” and insert-

1 ing “NOT LAWFULLY ADMITTED FOR PERMA-
 2 NENT RESIDENCE.—”;

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

5 “(B) the term ‘lawfully admitted for per-
 6 manent residence’ has the same meaning as in
 7 section 101(a)(20) of the Immigration and Na-
 8 tionality Act (8 U.S.C. 1101(a)(20)).”;

9 (C) in paragraph (2), by striking “under a
 10 nonimmigrant visa” and inserting “but not law-
 11 fully admitted for permanent residence”; and

12 (D) in paragraph (3)(A), by striking “ad-
 13 mitted to the United States under a non-
 14 immigrant visa” and inserting “lawfully admit-
 15 ted to the United States but not as an alien
 16 lawfully admitted for permanent residence”.

17 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
 18 **TAIN IMMIGRATION, NATURALIZATION, AND**
 19 **PEONAGE OFFENSES.**

20 Section 3291 of title 18, United States Code, is
 21 amended by striking “No person” and all that follows
 22 through the period at the end and inserting the following:
 23 “No person shall be prosecuted, tried, or punished for a
 24 violation of any section of chapters 69 (relating to nation-
 25 ality and citizenship offenses) and 75 (relating to pass-

1 port, visa, and immigration offenses), or for a violation
 2 of any criminal provision of sections 243, 266, 274, 275,
 3 276, 277, or 278 of the Immigration and Nationality Act,
 4 or for an attempt or conspiracy to violate any such section,
 5 unless the indictment is returned or the information is
 6 filed within ten years after the commission of the of-
 7 fense.”.

8 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
 9 **OF RACKETEERING ACTIVITY.**

10 Section 1961(1) of title 18, United States Code, is
 11 amended by striking “section 1542” through “section
 12 1546 (relating to fraud and misuse of visas, permits, and
 13 other documents)” and inserting “sections 1541–1548 (re-
 14 lating to passports and visas)”.

15 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**
 16 **VATED FELONY DEFINITION.**

17 (a) **IN GENERAL.**—Subparagraph (P) of section
 18 101(a)(43) of the Immigration and Nationality Act (8
 19 U.S.C. 1101(a)(43)) is amended—

20 (1) by striking “(i) which either is falsely mak-
 21 ing, forging, counterfeiting, mutilating, or altering a
 22 passport or instrument in violation of section 1543
 23 of title 18, United States Code, or is described in
 24 section 1546(a) of such title (relating to document
 25 fraud) and (ii)” and inserting “which is described in

1 any section of chapter 75 of title 18, United States
 2 Code,”; and

3 (2) by inserting after “first offense” the fol-
 4 lowing: “(i) that is not described in section 1548 of
 5 such title (relating to increased penalties), and (ii)”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
 7 subsection (a) shall take effect on the date of the enact-
 8 ment of this Act and shall apply to acts that occur before,
 9 on, or after the date of the enactment of this Act.

10 **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**
 11 **OF STATUS FOR AGGRAVATED FELONS.**

12 (a) **IN GENERAL.**—Section 209(c) of the Immigration
 13 and Nationality Act (8 U.S.C. 1159(c)) is amended by
 14 adding at the end thereof the following: “However, an
 15 alien who is convicted of an aggravated felony is not eligi-
 16 ble for a waiver or for adjustment of status under this
 17 section.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
 19 subsection (a) shall apply—

20 (1) to any act that occurred before, on, or after
 21 the date of the enactment of this Act; and

22 (2) to all aliens who are required to establish
 23 admissibility on or after such date, and in all re-
 24 moval, deportation, or exclusion proceedings that are
 25 filed, pending, or reopened, on or after such date.

1 **SEC. 309. PRECLUDING WITHHOLDING OF REMOVAL FOR**
 2 **AGGRAVATED FELONS.**

3 (a) **IN GENERAL.**—Section 241(b)(3)(B) (8 U.S.C.
 4 1231(b)(3)(B)), as amended by section 201, is further
 5 amended by inserting after clause (v), as inserted by sec-
 6 tion 201, the following:

7 “(vi) the alien is convicted of an ag-
 8 gravated felony.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
 10 subsection (a) shall apply—

11 (1) to any act that occurred before, on, or after
 12 the date of the enactment of this Act; and

13 (2) to all aliens who are required to establish
 14 admissibility on or after such date, and in all re-
 15 moval, deportation, or exclusion proceedings that are
 16 filed, pending, or reopened on or after such date.

17 **SEC. 310. INADMISSIBILITY, DEPORTABILITY, AND DETEN-**
 18 **TION OF DRUNK DRIVERS.**

19 (a) **IN GENERAL.**—Section 101(a)(43) of the Immi-
 20 gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
 21 amended by this Act) is further amended—

22 (1) in subparagraph (T), by striking “and”;

23 (2) in subparagraph (U), by striking the period
 24 at the end and inserting “; and”; and

25 (3) by inserting after subparagraph (U) the fol-
 26 lowing:

1 “(V) a second or subsequent conviction for
 2 driving while intoxicated (including a conviction
 3 for driving while under the influence of or im-
 4 paired by alcohol or drugs) without regard to
 5 whether the conviction is classified as a mis-
 6 demeanor or felony under State law.”.

7 (b) **DETENTION**.—Section 236(c)(1) of the Immigra-
 8 tion and Nationality Act (8 U.S.C. 1226(c)(1)) is amend-
 9 ed—

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

12 (2) in subparagraph (D), by adding “or” at the
 13 end; and

14 (3) by inserting after subparagraph (D) the fol-
 15 lowing:

16 “(E) is unlawfully present in the United
 17 States and has been convicted one or multiple
 18 times for driving while intoxicated (including a
 19 conviction for driving while under the influence
 20 or impaired by alcohol or drugs) without regard
 21 to whether the conviction is classified as a mis-
 22 demeanor or felony under State law,”.

23 (c) **EFFECTIVE DATE**.—The amendments made by
 24 this section shall take effect on the date of the enactment

1 of this Act and apply to convictions entered on or after
 2 such date.

3 **SEC. 311. DETENTION OF DANGEROUS ALIENS.**

4 (a) **IN GENERAL.**—Section 241(a) of the Immigra-
 5 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—

6 (1) by striking “Attorney General” each place
 7 it appears, except for the first reference in para-
 8 graph (4)(B)(i), and inserting “Secretary of Home-
 9 land Security”;

10 (2) in paragraph (1), by amending subpara-
 11 graph (B) to read as follows:

12 “(B) **BEGINNING OF PERIOD.**—The re-
 13 moval period begins on the latest of the fol-
 14 lowing:

15 “(i) The date the order of removal be-
 16 comes administratively final.

17 “(ii) If the alien is not in the custody
 18 of the Secretary on the date the order of
 19 removal becomes administratively final, the
 20 date the alien is taken into such custody.

21 “(iii) If the alien is detained or con-
 22 fined (except under an immigration proc-
 23 ess) on the date the order of removal be-
 24 comes administratively final, the date the
 25 alien is taken into the custody of the Sec-

1 retary, after the alien is released from such
2 detention or confinement.”;

3 (3) in paragraph (1), by amending subpara-
4 graph (C) to read as follows:

5 “(C) **SUSPENSION OF PERIOD.**—

6 “(i) **EXTENSION.**—The removal period
7 shall be extended beyond a period of 90
8 days and the Secretary may, in the Sec-
9 retary’s sole discretion, keep the alien in
10 detention during such extended period if—

11 “(I) the alien fails or refuses to
12 make all reasonable efforts to comply
13 with the removal order, or to fully co-
14 operate with the Secretary’s efforts to
15 establish the alien’s identity and carry
16 out the removal order, including mak-
17 ing timely application in good faith
18 for travel or other documents nec-
19 essary to the alien’s departure or con-
20 spires or acts to prevent the alien’s
21 removal that is subject to an order of
22 removal;

23 “(II) a court, the Board of Immi-
24 gration Appeals, or an immigration
25 judge orders a stay of removal of an

1 alien who is subject to an administra-
2 tively final order of removal;

3 “(III) the Secretary transfers
4 custody of the alien pursuant to law
5 to another Federal agency or a State
6 or local government agency in connec-
7 tion with the official duties of such
8 agency; or

9 “(IV) a court or the Board of
10 Immigration Appeals orders a remand
11 to an immigration judge or the Board
12 of Immigration Appeals, during the
13 time period when the case is pending
14 a decision on remand (with the re-
15 moval period beginning anew on the
16 date that the alien is ordered removed
17 on remand).

18 “(ii) **RENEWAL**.—If the removal pe-
19 riod has been extended under clause (C)(i),
20 a new removal period shall be deemed to
21 have begun on the date—

22 “(I) the alien makes all reason-
23 able efforts to comply with the re-
24 moval order, or to fully cooperate with
25 the Secretary’s efforts to establish the

1 alien’s identity and carry out the re-
 2 moval order;

3 “(II) the stay of removal is no
 4 longer in effect; or

5 “(III) the alien is returned to the
 6 custody of the Secretary.

7 “(iii) **MANDATORY DETENTION FOR**
 8 **CERTAIN ALIENS.**—In the case of an alien
 9 described in subparagraphs (A) through
 10 (D) of section 236(c)(1), the Secretary
 11 shall keep that alien in detention during
 12 the extended period described in clause (i).

13 “(iv) **SOLE FORM OF RELIEF.**—An
 14 alien may seek relief from detention under
 15 this subparagraph only by filing an appli-
 16 cation for a writ of habeas corpus in ac-
 17 cordance with chapter 153 of title 28,
 18 United States Code. No alien whose period
 19 of detention is extended under this sub-
 20 paragraph shall have the right to seek re-
 21 lease on bond.”;

22 (4) in paragraph (3)—

23 (A) by adding after “If the alien does not
 24 leave or is not removed within the removal pe-

1 riod” the following: “or is not detained pursu-
2 ant to paragraph (6) of this subsection”; and

3 (B) by striking subparagraph (D) and in-
4 serting the following:

5 “(D) to obey reasonable restrictions on the
6 alien’s conduct or activities that the Secretary
7 prescribes for the alien, in order to prevent the
8 alien from absconding, for the protection of the
9 community, or for other purposes related to the
10 enforcement of the immigration laws.”;

11 (5) in paragraph (4)(A), by striking “paragraph
12 (2)” and inserting “subparagraph (B)”; and

13 (6) by striking paragraph (6) and inserting the
14 following:

15 “(6) **ADDITIONAL RULES FOR DETENTION OR**
16 **RELEASE OF CERTAIN ALIENS.—**

17 “(A) **DETENTION REVIEW PROCESS FOR**
18 **COOPERATIVE ALIENS ESTABLISHED.—**For an
19 alien who is not otherwise subject to mandatory
20 detention, who has made all reasonable efforts
21 to comply with a removal order and to cooper-
22 ate fully with the Secretary of Homeland Secu-
23 rity’s efforts to establish the alien’s identity and
24 carry out the removal order, including making
25 timely application in good faith for travel or

1 other documents necessary to the alien's depar-
2 ture, and who has not conspired or acted to
3 prevent removal, the Secretary shall establish
4 an administrative review process to determine
5 whether the alien should be detained or released
6 on conditions. The Secretary shall make a de-
7 termination whether to release an alien after
8 the removal period in accordance with subpara-
9 graph (B). The determination shall include con-
10 sideration of any evidence submitted by the
11 alien, and may include consideration of any
12 other evidence, including any information or as-
13 sistance provided by the Secretary of State or
14 other Federal official and any other information
15 available to the Secretary of Homeland Security
16 pertaining to the ability to remove the alien.

17 **“(B) AUTHORITY TO DETAIN BEYOND RE-**
18 **MOVAL PERIOD.—**

19 **“(i) IN GENERAL.—**The Secretary of
20 Homeland Security, in the exercise of the
21 Secretary's sole discretion, may continue to
22 detain an alien for 90 days beyond the re-
23 moval period (including any extension of
24 the removal period as provided in para-
25 graph (1)(C)). An alien whose detention is

1 extended under this subparagraph shall
2 have no right to seek release on bond.

3 “(ii) **SPECIFIC CIRCUMSTANCES.**—The
4 Secretary of Homeland Security, in the ex-
5 ercise of the Secretary’s sole discretion,
6 may continue to detain an alien beyond the
7 90 days authorized in clause (i)—

8 “(I) until the alien is removed, if
9 the Secretary, in the Secretary’s sole
10 discretion, determines that there is a
11 significant likelihood that the alien—

12 “(aa) will be removed in the
13 reasonably foreseeable future; or

14 “(bb) would be removed in
15 the reasonably foreseeable future,
16 or would have been removed, but
17 for the alien’s failure or refusal
18 to make all reasonable efforts to
19 comply with the removal order,
20 or to cooperate fully with the
21 Secretary’s efforts to establish
22 the alien’s identity and carry out
23 the removal order, including
24 making timely application in
25 good faith for travel or other doc-

1 uments necessary to the alien’s
2 departure, or conspires or acts to
3 prevent removal;

4 “(II) until the alien is removed,
5 if the Secretary of Homeland Security
6 certifies in writing—

7 “(aa) in consultation with
8 the Secretary of Health and
9 Human Services, that the alien
10 has a highly contagious disease
11 that poses a threat to public safe-
12 ty;

13 “(bb) after receipt of a writ-
14 ten recommendation from the
15 Secretary of State, that release
16 of the alien is likely to have seri-
17 ous adverse foreign policy con-
18 sequences for the United States;

19 “(cc) based on information
20 available to the Secretary of
21 Homeland Security (including
22 classified, sensitive, or national
23 security information, and without
24 regard to the grounds upon
25 which the alien was ordered re-

1 moved), that there is reason to
2 believe that the release of the
3 alien would threaten the national
4 security of the United States; or
5 “(dd) that the release of the
6 alien will threaten the safety of
7 the community or any person,
8 conditions of release cannot rea-
9 sonably be expected to ensure the
10 safety of the community or any
11 person, and either (AA) the alien
12 has been convicted of one or
13 more aggravated felonies (as de-
14 fined in section 101(a)(43)(A))
15 or of one or more crimes identi-
16 fied by the Secretary of Home-
17 land Security by regulation, or of
18 one or more attempts or conspir-
19 acies to commit any such aggra-
20 vated felonies or such identified
21 crimes, if the aggregate term of
22 imprisonment for such attempts
23 or conspiracies is at least 5
24 years; or (BB) the alien has com-
25 mitted one or more crimes of vio-

1 lence (as defined in section 16 of
2 title 18, United States Code, but
3 not including a purely political
4 offense) and, because of a mental
5 condition or personality disorder
6 and behavior associated with that
7 condition or disorder, the alien is
8 likely to engage in acts of vio-
9 lence in the future; or

10 “(III) pending a certification
11 under subclause (II), so long as the
12 Secretary of Homeland Security has
13 initiated the administrative review
14 process not later than 30 days after
15 the expiration of the removal period
16 (including any extension of the re-
17 moval period, as provided in para-
18 graph (1)(C)).

19 “(iii) **NO RIGHT TO BOND HEARING.**—
20 An alien whose detention is extended under
21 this subparagraph shall have no right to
22 seek release on bond, including by reason
23 of a certification under clause (ii)(II).

24 “(C) **RENEWAL AND DELEGATION OF CER-**
25 **TIFICATION.**—

1 “(i) **RENEWAL**.—The Secretary of
2 Homeland Security may renew a certifi-
3 cation under subparagraph (B)(ii)(II)
4 every 6 months, after providing an oppor-
5 tunity for the alien to request reconsider-
6 ation of the certification and to submit
7 documents or other evidence in support of
8 that request. If the Secretary does not
9 renew a certification, the Secretary may
10 not continue to detain the alien under sub-
11 paragraph (B)(ii)(II).

12 “(ii) **DELEGATION**.—Notwithstanding
13 section 103, the Secretary of Homeland
14 Security may not delegate the authority to
15 make or renew a certification described in
16 item (bb), (cc), or (dd) of subparagraph
17 (B)(ii)(II) below the level of the Assistant
18 Secretary for Immigration and Customs
19 Enforcement.

20 “(iii) **HEARING**.—The Secretary of
21 Homeland Security may request that the
22 Attorney General or the Attorney General’s
23 designee provide for a hearing to make the
24 determination described in item (dd)(BB)
25 of subparagraph (B)(ii)(II).

1 “(D) **RELEASE ON CONDITIONS.**—If it is
2 determined that an alien should be released
3 from detention by a Federal court, the Board of
4 Immigration Appeals, or if an immigration
5 judge orders a stay of removal, the Secretary of
6 Homeland Security, in the exercise of the Sec-
7 retary’s discretion, may impose conditions on
8 release as provided in paragraph (3).

9 “(E) **REDETENTION.**—The Secretary of
10 Homeland Security, in the exercise of the Sec-
11 retary’s discretion, without any limitations
12 other than those specified in this section, may
13 again detain any alien subject to a final re-
14 moval order who is released from custody, if re-
15 moval becomes likely in the reasonably foresee-
16 able future, the alien fails to comply with the
17 conditions of release, or to continue to satisfy
18 the conditions described in subparagraph (A),
19 or if, upon reconsideration, the Secretary, in
20 the Secretary’s sole discretion, determines that
21 the alien can be detained under subparagraph
22 (B). This section shall apply to any alien re-
23 turned to custody pursuant to this subpara-
24 graph, as if the removal period terminated on
25 the day of the redetention.

1 “(F) **REVIEW OF DETERMINATIONS BY**
 2 **SECRETARY.**—A determination by the Secretary
 3 under this paragraph shall not be subject to re-
 4 view by any other agency.”.

5 (b) **DETENTION OF ALIENS DURING REMOVAL PRO-**
 6 **CEEDINGS.**—

7 (1) **CLERICAL AMENDMENT.**—(A) Section 236
 8 of the Immigration and Nationality Act (8 U.S.C.
 9 1226) is amended by striking “Attorney General”
 10 each place it appears (except in the second place
 11 that term appears in section 236(a)) and inserting
 12 “Secretary of Homeland Security”.

13 (B) Section 236(a) of such Act (8 U.S.C.
 14 1226(a)) is amended by inserting “the Secretary of
 15 Homeland Security or” before “the Attorney Gen-
 16 eral—”.

17 (C) Section 236(e) of such Act (8 U.S.C.
 18 1226(e)) is amended by striking “Attorney Gen-
 19 eral’s” and inserting “Secretary of Homeland Secu-
 20 rity’s”.

21 (2) **LENGTH OF DETENTION.**—Section 236 of
 22 such Act (8 U.S.C. 1226) is amended by adding at
 23 the end the following:

24 “(f) **LENGTH OF DETENTION.**—

1 “(1) **IN GENERAL.**—Notwithstanding any other
2 provision of this section, an alien may be detained,
3 and for an alien described in subsection (c) shall be
4 detained, under this section without time limitation,
5 except as provided in subsection (h), during the
6 pendency of removal proceedings.

7 “(2) **CONSTRUCTION.**—The length of detention
8 under this section shall not affect detention under
9 section 241.”.

10 (3) **DETENTION OF CRIMINAL ALIENS.**—Section
11 236(c)(1) of the Immigration and Nationality Act (8
12 U.S.C. 1226(c)(1)) (as amended by section 310(b))
13 is further amended, in the matter following subpara-
14 graph (E) to read as follows:

15 “any time after the alien is released, without regard
16 to whether an alien is released related to any activ-
17 ity, offense, or conviction described in this para-
18 graph; to whether the alien is released on parole, su-
19 pervised release, or probation; or to whether the
20 alien may be arrested or imprisoned again for the
21 same offense. If the activity described in this para-
22 graph does not result in the alien being taken into
23 custody by any person other than the Secretary,
24 then when the alien is brought to the attention of
25 the Secretary or when the Secretary determines it is

1 practical to take such alien into custody, the Sec-
 2 retary shall take such alien into custody.”.

3 (4) **ADMINISTRATIVE REVIEW.**—Section 236 of
 4 the Immigration and Nationality Act (8 U.S.C.
 5 1226), as amended by paragraph (2), is further
 6 amended by adding at the end the following:

7 “(g) **ADMINISTRATIVE REVIEW.**—

8 “(1) **IN GENERAL.**—The Attorney General’s re-
 9 view of the Secretary’s custody determinations under
 10 subsection (a) for the following classes of aliens shall
 11 be limited to whether the alien may be detained, re-
 12 leased on bond (of at least \$1,500 with security ap-
 13 proved by the Secretary), or released with no bond:

14 “(A) Aliens in exclusion proceedings.

15 “(B) Aliens described in section 212(a)(3)
 16 or 237(a)(4).

17 “(C) Aliens described in subsection (c).

18 “(2) **SPECIAL RULE.**—

19 “(h) **RELEASE ON BOND.**—

20 “(1) **IN GENERAL.**—An alien detained under
 21 subsection (a) may seek release on bond. No bond
 22 may be granted except to an alien who establishes
 23 by clear and convincing evidence that the alien is not
 24 a flight risk or a risk to another person or the com-
 25 munity.

1 “(2) **CERTAIN ALIENS INELIGIBLE.**—No alien
2 detained under subsection (c) may seek release on
3 bond.”.

4 (5) **CLERICAL AMENDMENTS.**—(A) Section
5 236(a)(2)(B) of the Immigration and Nationality
6 Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-
7 ing “conditional parole” and inserting “recog-
8 nizance”.

9 (B) Section 236(b) of such Act (8 U.S.C.
10 1226(b)) is amended by striking “parole” and in-
11 serting “recognizance”.

12 (c) **SEVERABILITY.**—If any of the provisions of this
13 section or any amendment by this section, or the applica-
14 tion of any such provision to any person or circumstance,
15 is held to be invalid for any reason, the remainder of this
16 section and of amendments made by this section, and the
17 application of the provisions and of the amendments made
18 by this section to any other person or circumstance shall
19 not be affected by such holding.

20 (d) **EFFECTIVE DATES.**—

21 (1) The amendments made by subsection (a)
22 shall take effect upon the date of enactment of this
23 Act, and section 241 of the Immigration and Na-
24 tionality Act, as so amended, shall in addition apply
25 to—

1 (A) all aliens subject to a final administra-
 2 tive removal, deportation, or exclusion order
 3 that was issued before, on, or after the date of
 4 the enactment of this Act; and

5 (B) acts and conditions occurring or exist-
 6 ing before, on, or after such date.

7 (2) The amendments made by subsection (b)
 8 shall take effect upon the date of the enactment of
 9 this Act, and section 236 of the Immigration and
 10 Nationality Act, as so amended, shall in addition
 11 apply to any alien in detention under provisions of
 12 such section on or after such date.

13 **SEC. 312. GROUNDS OF INADMISSIBILITY AND DEPORT-**
 14 **ABILITY FOR ALIEN GANG MEMBERS.**

15 (a) **DEFINITION OF GANG MEMBER.**—Section 101(a)
 16 of the Immigration and Nationality Act (8 U.S.C.
 17 1101(a)) is amended by adding at the end the following:

18 “(53)(A) The term ‘criminal gang’ means an ongoing
 19 group, club, organization, or association of 5 or more per-
 20 sons that has as one of its primary purposes the commis-
 21 sion of 1 or more of the following criminal offenses and
 22 the members of which engage, or have engaged within the
 23 past 5 years, in a continuing series of such offenses, or
 24 that has been designated as a criminal gang by the Sec-
 25 retary of Homeland Security, in consultation with the At-

1 torney General, as meeting these criteria. The offenses de-
2 scribed, whether in violation of Federal or State law or
3 foreign law and regardless of whether the offenses oc-
4 curred before, on, or after the date of the enactment of
5 this paragraph, are the following:

6 “(i) A ‘felony drug offense’ (as defined in sec-
7 tion 102 of the Controlled Substances Act (21
8 U.S.C. 802)).

9 “(ii) An offense under section 274 (relating to
10 bringing in and harboring certain aliens), section
11 277 (relating to aiding or assisting certain aliens to
12 enter the United States), or section 278 (relating to
13 importation of alien for immoral purpose).

14 “(iii) A crime of violence (as defined in section
15 16 of title 18, United States Code).

16 “(iv) A crime involving obstruction of justice,
17 tampering with or retaliating against a witness, vic-
18 tim, or informant, or burglary.

19 “(v) Any conduct punishable under sections
20 1028 and 1029 of title 18, United States Code (re-
21 lating to fraud and related activity in connection
22 with identification documents or access devices), sec-
23 tions 1581 through 1594 of such title (relating to
24 peonage, slavery and trafficking in persons), section
25 1952 of such title (relating to interstate and foreign

1 travel or transportation in aid of racketeering enter-
2 prises), section 1956 of such title (relating to the
3 laundering of monetary instruments), section 1957
4 of such title (relating to engaging in monetary trans-
5 actions in property derived from specified unlawful
6 activity), or sections 2312 through 2315 of such title
7 (relating to interstate transportation of stolen motor
8 vehicles or stolen property).

9 “(vi) A conspiracy to commit an offense de-
10 scribed in clauses (i) through (v).

11 “(B) Notwithstanding any other provision of law (in-
12 cluding any effective date), the term applies regardless of
13 whether the conduct occurred before, on, or after the date
14 of the enactment of this paragraph.”.

15 (b) **INADMISSIBILITY.**—Section 212(a)(2) of such Act
16 (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
17 of this Act, is further amended by adding at the end the
18 following:

19 “(N) **ALIENS ASSOCIATED WITH CRIMINAL**
20 **GANGS.**—Any alien is inadmissible who a con-
21 sular officer, the Secretary of Homeland Secu-
22 rity, or the Attorney General knows or has rea-
23 son to believe—

1 “(i) to be or to have been a member
 2 of a criminal gang (as defined in section
 3 101(a)(53)); or

4 “(ii) to have participated in the activi-
 5 ties of a criminal gang (as defined in sec-
 6 tion 101(a)(53)), knowing or having reason
 7 to know that such activities will promote,
 8 further, aid, or support the illegal activity
 9 of the criminal gang.”.

10 (c) **DEPORTABILITY.**—Section 237(a)(2) of the Im-
 11 migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
 12 amended by section 302(c) of this Act, is further amended
 13 by adding at the end the following:

14 “(H) **ALIENS ASSOCIATED WITH CRIMINAL**
 15 **GANGS.**—Any alien is deportable who the Sec-
 16 retary of Homeland Security or the Attorney
 17 General knows or has reason to believe—

18 “(i) is or has been a member of a
 19 criminal gang (as defined in section
 20 101(a)(53)); or

21 “(ii) has participated in the activities
 22 of a criminal gang (as so defined), knowing
 23 or having reason to know that such activi-
 24 ties will promote, further, aid, or support
 25 the illegal activity of the criminal gang.”.

1 (d) **DESIGNATION.**—

2 (1) **IN GENERAL.**—Chapter 2 of title II of the
3 Immigration and Nationality Act (8 U.S.C. 1182) is
4 amended by inserting after section 219 the fol-
5 lowing:

6 “**DESIGNATION**

7 “**SEC. 220. (a) IN GENERAL.**—The Secretary of
8 Homeland Security, in consultation with the Attorney
9 General, and the Secretary of State may designate a group
10 or association as a criminal street gang if their conduct
11 is described in section 101(a)(53) or if the group or asso-
12 ciation conduct poses a significant risk that threatens the
13 security and the public safety of United States nationals
14 or the national security, homeland security, foreign policy,
15 or economy of the United States.

16 “(b) **EFFECTIVE DATE.**—Designations under sub-
17 section (a) shall remain in effect until the designation is
18 revoked after consultation between the Secretary of Home-
19 land Security, the Attorney General, and the Secretary of
20 State or is terminated in accordance with Federal law.”.

21 (2) **CLERICAL AMENDMENT.**—The table of con-
22 tents for such Act is amended by inserting after the
23 item relating to section 219 the following:

“220. Designation.”.

24 (e) **MANDATORY DETENTION OF CRIMINAL STREET**
25 **GANG MEMBERS.**—

1 (1) **IN GENERAL.**—Section 236(c)(1)(D) of the
 2 Immigration and Nationality Act (8 U.S.C.
 3 1226(c)(1)(D)) is amended—

4 (A) by inserting “or 212(a)(2)(N)” after
 5 “212(a)(3)(B)”; and

6 (B) by inserting “237(a)(2)(H) or” before
 7 “237(a)(4)(B)”.

8 (2) **ANNUAL REPORT.**—Not later than March 1
 9 of each year (beginning 1 year after the date of the
 10 enactment of this Act), the Secretary of Homeland
 11 Security, after consultation with the appropriate
 12 Federal agencies, shall submit a report to the Com-
 13 mittees on the Judiciary of the House of Represent-
 14 atives and of the Senate on the number of aliens de-
 15 tained under the amendments made by paragraph
 16 (1).

17 (f) **ASYLUM CLAIMS BASED ON GANG AFFILI-**
 18 **ATION.**—

19 (1) **INAPPLICABILITY OF RESTRICTION ON RE-**
 20 **MOVAL TO CERTAIN COUNTRIES.**—Section
 21 241(b)(3)(B) of the Immigration and Nationality
 22 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
 23 matter preceding clause (i), by inserting “who is de-
 24 scribed in section 212(a)(2)(N)(i) or section
 25 237(a)(2)(H)(i) or who is” after “to an alien”.

1 (2) **INELIGIBILITY FOR ASYLUM.**—Section
 2 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
 3 (as amended by this Act) is further amended—

4 (A) in clause (v), by striking “or” at the
 5 end;

6 (B) by redesignating clause (vi) as clause
 7 (vii); and

8 (C) by inserting after clause (v) the fol-
 9 lowing:

10 “(vi) the alien is described in section
 11 212(a)(2)(N)(i) or section 237(a)(2)(H)(i)
 12 (relating to participation in criminal street
 13 gangs); or”.

14 (g) **TEMPORARY PROTECTED STATUS.**—Section 244
 15 of such Act (8 U.S.C. 1254a) is amended—

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

19 (2) in subparagraph (c)(2)(B)—

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

22 (B) in clause (ii), by striking the period
 23 and inserting “; or”; and

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

1 “(iii) the alien is, or at any time after
 2 admission has been, a member of a crimi-
 3 nal gang (as defined in section
 4 101(a)(53)).”; and
 5 (3) in subsection (d)—

6 (A) by striking paragraph (3); and

7 (B) in paragraph (4), by adding at the end
 8 the following: “The Secretary of Homeland Se-
 9 curity may detain an alien provided temporary
 10 protected status under this section whenever
 11 appropriate under any other provision of law.”.

12 (h) **EFFECTIVE DATE.**—The amendments made by
 13 this section shall take effect on the date of the enactment
 14 of this Act and shall apply to acts that occur before, on,
 15 or after the date of the enactment of this Act.

16 **SEC. 313. EXTENSION OF IDENTITY THEFT OFFENSES.**

17 Section 1028A of title 18, United States Code, is
 18 amended by adding at the end the following:

19 “(d) **STATE OF MIND PROOF REQUIREMENT.**—In a
 20 prosecution for a violation of subsection (a)(1) predicated
 21 on a violation described in subsection (c)(2), (6), (7), (9),
 22 or (10) of this section, the Government need not prove
 23 that the defendant knew the means of identification was
 24 of another person.”.

1 **SEC. 314. LAUNDERING OF MONETARY INSTRUMENTS.**

2 (a) **ADDITIONAL PREDICATE OFFENSES.**—Section
3 1956(c)(7)(D) of title 18, United States Code, is amend-
4 ed—

5 (1) by inserting “section 1590 (relating to traf-
6 ficking with respect to peonage, slavery, involuntary
7 servitude, or forced labor),” after “section 1363 (re-
8 lating to destruction of property within the special
9 maritime and territorial jurisdiction),”; and

10 (2) by inserting “section 274(a) of the Immi-
11 gration and Nationality Act (8 U.S.C.1324(a)) (re-
12 lating to bringing in and harboring certain aliens),”
13 after “section 590 of the Tariff Act of 1930 (19
14 U.S.C. 1590) (relating to aviation smuggling),”.

15 (b) **INTENT TO CONCEAL OR DISGUISE.**—Section
16 1956(a) of title 18, United States Code, is amended—

17 (1) in paragraph (1) so that subparagraph (B)
18 reads as follows:

19 “(B) knowing that the transaction—

20 “(i) conceals or disguises, or is intended to
21 conceal or disguise, the nature, source, location,
22 ownership, or control of the proceeds of some
23 form of unlawful activity; or

24 “(ii) avoids, or is intended to avoid, a
25 transaction reporting requirement under State
26 or Federal law,”; and

1 (2) in paragraph (2) so that subparagraph (B)
 2 reads as follows:

3 “(B) knowing that the monetary instrument or
 4 funds involved in the transportation, transmission,
 5 or transfer represent the proceeds of some form of
 6 unlawful activity, and knowing that such transpor-
 7 tation, transmission, or transfer—

8 “(i) conceals or disguises, or is intended to
 9 conceal or disguise, the nature, source, location,
 10 ownership, or control of the proceeds of some
 11 form of unlawful activity; or

12 “(ii) avoids, or is intended to avoid, a
 13 transaction reporting requirement under State
 14 or Federal law.”.

15 **SEC. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

16 (a) **IN GENERAL.**—Section 275 of the Immigration
 17 and Nationality Act (8 U.S.C. 1325) is amended to read
 18 as follows:

19 “**SEC. 275. (a) IN GENERAL.**—

20 “(1) **ILLEGAL ENTRY OR PRESENCE.**—An alien
 21 shall be subject to the penalties set forth in para-
 22 graph (2) if the alien—

23 “(A) knowingly enters or crosses the bor-
 24 der into the United States at any time or place

1 other than as designated by the Secretary of
2 Homeland Security;

3 “(B) knowingly eludes, at any time or
4 place, examination or inspection by an author-
5 ized immigration, customs, or agriculture offi-
6 cer (including by failing to stop at the com-
7 mand of such officer);

8 “(C) knowingly enters or crosses the bor-
9 der to the United States and, upon examination
10 or inspection, knowingly makes a false or mis-
11 leading representation or the knowing conceal-
12 ment of a material fact (including such rep-
13 resentation or concealment in the context of ar-
14 rival, reporting, entry, or clearance require-
15 ments of the customs laws, immigration laws,
16 agriculture laws, or shipping laws);

17 “(D) knowingly violates the terms or con-
18 ditions of the alien’s admission or parole into
19 the United States; or

20 “(E) knowingly is unlawfully present in the
21 United States (as defined in section
22 212(a)(9)(B)(ii) subject to the exceptions set
23 for in section 212(a)(9)(B)(iii)).

24 “(2) **CRIMINAL PENALTIES.**—Any alien who
25 violates any provision under paragraph (1)—

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

4 “(B) shall, for a second or subsequent vio-
5 lation, or following an order of voluntary depar-
6 ture, be fined under such title, imprisoned not
7 more than 2 years (or not more than 6 months
8 in the case of a second or subsequent violation
9 of paragraph (1)(E)), or both;

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

15 “(D) if the violation occurred after the
16 alien had been convicted of a felony for which
17 the alien received a term of imprisonment of
18 not less than 30 months, shall be fined under
19 such title, imprisoned not more than 15 years,
20 or both; and

21 “(E) if the violation occurred after the
22 alien had been convicted of a felony for which
23 the alien received a term of imprisonment of
24 not less than 60 months, such alien shall be

1 fined under such title, imprisoned not more
2 than 20 years, or both.

3 “(3) **PRIOR CONVICTIONS.**—The prior convic-
4 tions described in subparagraphs (C) through (E) of
5 paragraph (2) are elements of the offenses described
6 and the penalties in such subparagraphs shall apply
7 only in cases in which the conviction or convictions
8 that form the basis for the additional penalty are—

9 “(A) alleged in the indictment or informa-
10 tion; and

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

13 “(4) **DURATION OF OFFENSE.**—An offense
14 under this subsection continues until the alien is dis-
15 covered within the United States by an immigration,
16 customs, or agriculture officer.

17 “(5) **ATTEMPT.**—Whoever attempts to commit
18 any offense under this section shall be punished in
19 the same manner as for a completion of such of-
20 fense.

21 “(b) **IMPROPER TIME OR PLACE; CIVIL PEN-**
22 **ALTIES.**—Any alien who is apprehended while entering, at-
23 tempting to enter, or knowingly crossing or attempting to
24 cross the border to the United States at a time or place
25 other than as designated by immigration officers shall be

1 subject to a civil penalty, in addition to any criminal or
 2 other civil penalties that may be imposed under any other
 3 provision of law, in an amount equal to—

4 “(1) not less than \$50 or more than \$250 for
 5 each such entry, crossing, attempted entry, or at-
 6 tempted crossing; or

7 “(2) twice the amount specified in paragraph
 8 (1) if the alien had previously been subject to a civil
 9 penalty under this subsection.”.

10 (b) **CLERICAL AMENDMENT.**—The table of contents
 11 for the Immigration and Nationality Act is amended by
 12 striking the item relating to section 275 and inserting the
 13 following:

“Sec. 275. Illegal entry or presence.”.

14 **SEC. 316. ILLEGAL REENTRY.**

15 Section 276 of the Immigration and Nationality Act
 16 (8 U.S.C. 1326) is amended to read as follows:

17 “**REENTRY OF REMOVED ALIEN**

18 “**SEC. 276. (a) REENTRY AFTER REMOVAL.**—Any
 19 alien who has been denied admission, excluded, deported,
 20 or removed, or who has departed the United States while
 21 an order of exclusion, deportation, or removal is out-
 22 standing, and subsequently enters, attempts to enter,
 23 crosses the border to, attempts to cross the border to, or
 24 is at any time found in the United States, shall be fined

1 under title 18, United States Code, imprisoned not more
2 than 2 years, or both.

3 “(b) **REENTRY OF CRIMINAL OFFENDERS.**—Not-
4 withstanding the penalty provided in subsection (a), if an
5 alien described in that subsection was convicted before
6 such removal or departure—

7 “(1) for 3 or more misdemeanors or for a fel-
8 ony, the alien shall be fined under title 18, United
9 States Code, imprisoned not more than 10 years, or
10 both;

11 “(2) for a felony for which the alien was sen-
12 tenced to a term of imprisonment of not less than
13 30 months, the alien shall be fined under such title,
14 imprisoned not less than 2 years and not more than
15 15 years, or both;

16 “(3) for a felony for which the alien was sen-
17 tenced to a term of imprisonment of not less than
18 60 months, the alien shall be fined under such title,
19 imprisoned not less than 4 years and not more than
20 20 years, or both; or

21 “(4) for murder, rape, kidnapping, or a felony
22 offense described in chapter 77 (relating to peonage
23 and slavery) or 113B (relating to terrorism) of such
24 title, or for 3 or more felonies of any kind, the alien

1 shall be fined under such title, imprisoned not less
2 than 5 years and not more than 25 years, or both.

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

10 “(d) **PROOF OF PRIOR CONVICTIONS.**—The prior
11 convictions described in subsection (b) are elements of the
12 crimes described, and the penalties in that subsection shall
13 apply only in cases in which the conviction or convictions
14 that form the basis for the additional penalty are—

15 “(1) alleged in the indictment or information;
16 and

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

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

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

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

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

6 “(B) had complied with all other laws and
7 regulations governing the alien’s admission into
8 the United States.

9 “(f) **LIMITATION ON COLLATERAL ATTACK ON UN-**
10 **DERLYING REMOVAL ORDER.**—In a criminal proceeding
11 under this section, an alien may not challenge the validity
12 of any prior removal order concerning the alien.

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

1 as may be available under this section or any other provi-
2 sion of law.

3 “(h) **DEFINITIONS.**—For purposes of this section and
4 section 275, the following definitions shall apply:

5 “(1) **CROSSES THE BORDER TO THE UNITED**
6 **STATES.**—The term ‘crosses the border’ refers to the
7 physical act of crossing the border, regardless of
8 whether the alien is free from official restraint.

9 “(2) **FELONY.**—The term ‘felony’ means any
10 criminal offense punishable by a term of imprison-
11 ment of more than 1 year under the laws of the
12 United States, any State, or a foreign government.

13 “(3) **MISDEMEANOR.**—The term ‘misdemeanor’
14 means any criminal offense punishable by a term of
15 imprisonment of not more than 1 year under the ap-
16 plicable laws of the United States, any State, or a
17 foreign government.

18 “(4) **REMOVAL.**—The term ‘removal’ includes
19 any denial of admission, exclusion, deportation, or
20 removal, or any agreement by which an alien stipu-
21 lates or agrees to exclusion, deportation, or removal.

22 “(5) **STATE.**—The term ‘State’ means a State
23 of the United States, the District of Columbia, and
24 any commonwealth, territory, or possession of the
25 United States.”.

1 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**2 **FRAUD OFFENSES.**

3 Chapter 75 of title 18, United States Code, is amend-
 4 ed to read as follows:

5 **“CHAPTER 75—PASSPORTS AND VISAS**

“1541. Issuance without authority.

“1542. False statement in application and use of passport.

“1543. Forgery or false use of passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Attempts and conspiracies.

“1548. Alternative penalties for certain offenses.

“1549. Definitions.

6 **“§ 1541. Issuance without authority**

7 **“(a) IN GENERAL.—**Whoever—

8 “(1) acting or claiming to act in any office or
 9 capacity under the United States, or a State, with-
 10 out lawful authority grants, issues, or verifies any
 11 passport or other instrument in the nature of a
 12 passport to or for any person; or

13 “(2) being a consular officer authorized to
 14 grant, issue, or verify passports, knowingly grants,
 15 issues, or verifies any such passport to or for any
 16 person not owing allegiance, to the United States,
 17 whether a citizen or not;

18 shall be fined under this title or imprisoned not more than
 19 15 years, or both.

20 **“(b) DEFINITION.—**In this section, the term ‘State’
 21 means a State of the United States, the District of Colum-

1 bia, and any commonwealth, territory, or possession of the
2 United States.

3 **“§ 1542. False statement in application and use of**
4 **passport**

5 “Whoever knowingly—

6 “(1) makes any false statement in an applica-
7 tion for passport with intent to induce or secure the
8 issuance of a passport under the authority of the
9 United States, either for his own use or the use of
10 another, contrary to the laws regulating the issuance
11 of passports or the rules prescribed pursuant to such
12 laws; or

13 “(2) uses or attempts to use, or furnishes to
14 another for use any passport the issue of which was
15 secured in any way by reason of any false statement;
16 shall be fined under this title or imprisoned not more than
17 15 years, or both.

18 **“§ 1543. Forgery or false use of passport**

19 “Whoever—

20 “(1) falsely makes, forges, counterfeits, muti-
21 lates, or alters any passport or instrument pur-
22 porting to be a passport, with intent that the same
23 may be used; or

24 “(2) knowingly uses, or attempts to use, or fur-
25 nishes to another for use any such false, forged,

1 counterfeited, mutilated, or altered passport or in-
2 strument purporting to be a passport, or any pass-
3 port validly issued which has become void by the oc-
4 currence of any condition therein prescribed invali-
5 dating the same;

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

8 **“§ 1544. Misuse of a passport**

9 “Whoever knowingly—

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

12 “(2) uses any passport in violation of the condi-
13 tions or restrictions therein contained, or in violation
14 of the laws, regulations, or rules governing the
15 issuance and use of the passport;

16 “(3) secures, possesses, uses, receives, buys,
17 sells, or distributes any passport knowing it to be
18 forged, counterfeited, altered, falsely made, procured
19 by fraud, stolen, or produced or issued without law-
20 ful authority; or

21 “(4) violates the terms and conditions of any
22 safe conduct duly obtained and issued under the au-
23 thority of the United States;

24 shall be fined under this title, imprisoned not more than
25 15 years, or both.

1 **“§ 1545. Schemes to defraud aliens**

2 “Whoever inside the United States, or in or affecting
3 interstate or foreign commerce, in connection with any
4 matter that is authorized by or arises under the immigra-
5 tion laws of the United States or any matter the offender
6 claims or represents is authorized by or arises under the
7 immigration laws of the United States, knowingly executes
8 a scheme or artifice—

9 “(1) to defraud any person, or

10 “(2) to obtain or receive money or anything else
11 of value from any person by means of false or fraud-
12 ulent pretenses, representations, or promises;
13 shall be fined under this title, imprisoned not more than
14 15 years, or both.

15 **“§ 1546. Immigration and visa fraud**

16 “Whoever knowingly—

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

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

21 “(3) mails, prepares, presents, or signs any im-
22 migration document knowing it to contain any mate-
23 rially false statement or representation;

24 “(4) secures, possesses, uses, transfers, re-
25 ceives, buys, sells, or distributes any immigration
26 document knowing it to be forged, counterfeited, al-

1 tered, falsely made, stolen, procured by fraud, or
2 produced or issued without lawful authority;

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

5 “(6) transfers or furnishes, without lawful au-
6 thority, an immigration document to another person
7 for use by a person other than the person for whom
8 the immigration document was issued or designed;
9 or

10 “(7) produces, issues, authorizes, or verifies,
11 without lawful authority, an immigration document;
12 shall be fined under this title, imprisoned not more than
13 15 years, or both.

14 **“§ 1547. Attempts and conspiracies**

15 “Whoever attempts or conspires to violate this chap-
16 ter shall be punished in the same manner as a person who
17 completes that violation.

18 **“§ 1548. Alternative penalties for certain offenses**

19 “(a) **TERRORISM.**—Whoever violates any section in
20 this chapter to facilitate an act of international terrorism
21 or domestic terrorism (as such terms are defined in section
22 2331), shall be fined under this title or imprisoned not
23 more than 25 years, or both.

24 “(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-
25 lates any section in this chapter to facilitate a drug traf-

1 ficking crime (as defined in section 929(a)) shall be fined
2 under this title or imprisoned not more than 20 years, or
3 both.

4 **“§ 1549. Definitions**

5 “In this chapter:

6 “(1) An ‘application for a United States pass-
7 port’ includes any document, photograph, or other
8 piece of evidence attached to or submitted in support
9 of the application.

10 “(2) The term ‘immigration document’ means
11 any instrument on which is recorded, by means of
12 letters, figures, or marks, matters which may be
13 used to fulfill any requirement of the Immigration
14 and Nationality Act.”.

15 **SEC. 318. FORFEITURE.**

16 Section 981(a)(1) of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(I) Any property, real or personal, that has
19 been used to commit or facilitate the commission of
20 a violation of chapter 75, the gross proceeds of such
21 violation, and any property traceable to any such
22 property or proceeds.”.

1 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
 2 **ON CRIMINAL OR SECURITY GROUNDS.**

3 (a) **IN GENERAL.**—Section 238(b) of the Immigra-
 4 tion and Nationality Act (8 U.S.C. 1228(b)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “Attorney General” and in-
 7 serting “Secretary of Homeland Security in the
 8 exercise of discretion”; and

9 (B) by striking “set forth in this sub-
 10 section or” and inserting “set forth in this sub-
 11 section, in lieu of removal proceedings under”;

12 (2) in paragraph (3), by striking “paragraph
 13 (1) until 14 calendar days” and inserting “para-
 14 graph (1) or (3) until 7 calendar days”;

15 (3) by striking “Attorney General” each place
 16 it appears in paragraphs (3) and (4) and inserting
 17 “Secretary of Homeland Security”;

18 (4) in paragraph (5)—

19 (A) by striking “described in this section”
 20 and inserting “described in paragraph (1) or
 21 (2)”; and

22 (B) by striking “the Attorney General may
 23 grant in the Attorney General’s discretion” and
 24 inserting “the Secretary of Homeland Security
 25 or the Attorney General may grant, in the dis-

1 cretion of the Secretary or Attorney General, in
2 any proceeding”;

3 (5) by redesignating paragraphs (3), (4), and
4 (5) as paragraphs (4), (5), and (6), respectively; and
5 (6) by inserting after paragraph (2) the fol-
6 lowing new paragraph:

7 “(3) The Secretary of Homeland Security in
8 the exercise of discretion may determine inadmis-
9 sibility under section 212(a)(2) (relating to criminal
10 offenses) or section 212(a)(3)(related to security
11 grounds) and issue an order of removal pursuant to
12 the procedures set forth in this subsection, in lieu of
13 removal proceedings under section 240, with respect
14 to an alien who—

15 “(A) has not been admitted or paroled;

16 “(B) has not been found to have a credible
17 fear of persecution pursuant to the procedures
18 set forth in section 235(b)(1)(B); and

19 “(C) is not eligible for a waiver of inadmis-
20 sibility or relief from removal.”.

21 (b) **EFFECTIVE DATE.**—The amendments made by
22 subsection (a) shall take effect on the date of the enact-
23 ment of this Act but shall not apply to aliens who are
24 in removal proceedings under section 240 of the Immigra-
25 tion and Nationality Act as of such date.

1 **SEC. 320. INCREASED PENALTIES BARRING THE ADMIS-**
 2 **SION OF CONVICTED SEX OFFENDERS FAIL-**
 3 **ING TO REGISTER AND REQUIRING DEPORTA-**
 4 **TION OF SEX OFFENDERS FAILING TO REG-**
 5 **ISTER.**

6 (a) **INADMISSIBILITY.**—Section 212(a)(2)(A)(i) of
 7 the Immigration and Nationality Act (8 U.S.C.
 8 1182(a)(2)(A)(i)), as amended by section 302(a) of this
 9 Act, is further amended—

10 (1) in subclause (II), by striking “or” at the
 11 end;

12 (2) in subclause (III), by adding “or” at the
 13 end; and

14 (3) by inserting after subclause (III) the fol-
 15 lowing:

16 “(IV) a violation of section 2250
 17 of title 18, United States Code (relat-
 18 ing to failure to register as a sex of-
 19 fender),”.

20 (b) **DEPORTABILITY.**—Section 237(a)(2) of such Act
 21 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and
 22 311(c) of this Act, is further amended—

23 (1) in subparagraph (A), by striking clause (v);
 24 and

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

1 “(I) **FAILURE TO REGISTER AS A SEX OF-**
 2 **FENDER.**—Any alien convicted of, or who ad-
 3 mits having committed, or who admits commit-
 4 ting acts which constitute the essential elements
 5 of a violation of section 2250 of title 18, United
 6 States Code (relating to failure to register as a
 7 sex offender) is deportable.”.

8 (c) **EFFECTIVE DATE.**—The amendments made by
 9 this section shall take effect on the date of the enactment
 10 of this Act and shall apply to acts that occur before, on,
 11 or after the date of the enactment of this Act.

12 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED**
 13 **SEX OFFENDERS.**

14 (a) **IMMIGRANTS.**—Section 204(a)(1) of the Immigra-
 15 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-
 16 ed—

17 (1) in subparagraph (A), by amending clause
 18 (viii) to read as follows:

19 “(viii) Clause (i) shall not apply to a citizen of the
 20 United States who has been convicted of an offense de-
 21 scribed in subparagraph (A), (I), or (K) of section
 22 101(a)(43), unless the Secretary of Homeland Security,
 23 in the Secretary’s sole and unreviewable discretion, deter-
 24 mines that the citizen poses no risk to the alien with re-

1 spect to whom a petition described in clause (i) is filed.”;

2 and

3 (2) in subparagraph (B)(i)—

4 (A) by redesignating the second subclause

5 (I) as subclause (II); and

6 (B) by amending such subclause (II) to

7 read as follows:

8 “(II) Subclause (I) shall not apply in the case of an
9 alien admitted for permanent residence who has been con-
10 victed of an offense described in subparagraph (A), (I),
11 or (K) of section 101(a)(43), unless the Secretary of
12 Homeland Security, in the Secretary’s sole and
13 unreviewable discretion, determines that the alien lawfully
14 admitted for permanent residence poses no risk to the
15 alien with respect to whom a petition described in sub-
16 clause (I) is filed.”.

17 (b) **NONIMMIGRANTS.**—Section 101(a)(15)(K) of
18 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-
19 ing “204(a)(1)(A)(viii)(I)” each place such term appears
20 and inserting “204(a)(1)(A)(viii)”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply to petitions filed on or after
24 such date.

1 **SEC. 322. CLARIFICATION TO CRIMES OF VIOLENCE AND**
 2 **CRIMES INVOLVING MORAL TURPITUDE.**

3 (a) **INADMISSIBLE ALIENS.**—Section 212(a)(2)(A) of
 4 the Immigration and Nationality Act (8 U.S.C.
 5 1182(a)(2)(A)) is amended by adding at the end the fol-
 6 lowing:

7 “(iii) **CLARIFICATION.**—If the convic-
 8 tion records do not conclusively establish
 9 whether a crime constitutes a crime involv-
 10 ing moral turpitude, the Attorney General
 11 may consider other evidence related to the
 12 conviction that clearly establishes that the
 13 conduct for which the alien was engaged
 14 constitutes a crime involving moral turpi-
 15 tude.”.

16 (b) **DEPORTABLE ALIENS.**—

17 (1) **GENERAL CRIMES.**—Section 237(a)(2)(A)
 18 of such Act (8 U.S.C. 1227(a)(2)(A)), as amended
 19 by section 320(b) of this Act, is further amended by
 20 inserting after clause (iv) the following:

21 “(v) **CRIMES INVOLVING MORAL TUR-**
 22 **PITUDE.**—If the conviction records do not
 23 conclusively establish whether a crime con-
 24 stitutes a crime involving moral turpitude,
 25 the Attorney General may consider other
 26 evidence related to the conviction that

1 clearly establishes that the conduct for
 2 which the alien was engaged constitutes a
 3 crime involving moral turpitude.”.

4 (2) **DOMESTIC VIOLENCE.**—Section
 5 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))
 6 is amended by adding at the end the following:

7 “(iii) **CRIMES OF VIOLENCE.**—If the
 8 conviction records do not conclusively es-
 9 tablish whether a crime of domestic vio-
 10 lence constitutes a crime of violence (as de-
 11 fined in section 16 of title 18, United
 12 States Code), the Attorney General may
 13 consider other evidence related to the con-
 14 viction that clearly establishes that the
 15 conduct for which the alien was engaged
 16 constitutes a crime of violence.”.

17 (c) **EFFECTIVE DATE.**—The amendments made by
 18 this section shall take effect on the date of the enactment
 19 of this Act and shall apply to acts that occur before, on,
 20 or after the date of the enactment of this Act.

21 **SEC. 323. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
 22 **DERS.**

23 (a) **IN GENERAL.**—Section 243(a) of the Immigra-
 24 tion and Nationality Act (8 U.S.C. 1253(a)) is amended—

1 (1) in the matter preceding subparagraph (A)
 2 of paragraph (1), by inserting “212(a) or” before
 3 “237(a),”; and
 4 (2) by striking paragraph (3).

5 (b) **EFFECTIVE DATE.**—The amendments made by
 6 subsection (a) shall take effect on the date of the enact-
 7 ment of this Act and shall apply to acts that are described
 8 in subparagraphs (A) through (D) of section 243(a)(1) of
 9 the Immigration and Nationality Act (8 U.S.C.
 10 1253(a)(1)) that occur on or after the date of the enact-
 11 ment of this Act.

12 **SEC. 324. PARDONS.**

13 (a) **DEFINITION.**—Section 101(a) of the Immigration
 14 and Nationality Act (8 U.S.C. 1101(a)), as amended by
 15 section 312(a) of this Act, is further amended by adding
 16 at the end the following:

17 “(54) The term ‘pardon’ means a full and uncondi-
 18 tional pardon granted by the President of the United
 19 States, Governor of any of the several States or constitu-
 20 tionally recognized body.”.

21 (b) **DEPORTABILITY.**—Section 237(a) of such Act (8
 22 U.S.C. 1227(a)) is amended—

23 (1) in paragraph (2)(A), by striking clause (vi);
 24 and
 25 (2) by adding at the end the following:

1 “(8) **PARDONS.**—In the case of an alien who
 2 has been convicted of a crime and is subject to re-
 3 moval due to that conviction, if the alien, subsequent
 4 to receiving the criminal conviction, is granted a
 5 pardon, the alien shall not be deportable by reason
 6 of that criminal conviction.”.

7 (c) **EFFECTIVE DATE.**—The amendments made by
 8 this section shall take effect on the date of the enactment
 9 of this Act and shall apply to a pardon granted before,
 10 on, or after such date.

11 **SEC. 325. CONVICTIONS.**

12 (a) Section 212(a)(2) of the Immigration and Nation-
 13 ality Act (8 U.S.C. 1182(a)(2)) is amended by adding at
 14 the end the following subparagraph:

15 “(J) **CONVICTIONS.**—

16 “(i) **IN GENERAL.**—For purposes of
 17 determining whether an underlying crimi-
 18 nal offense constitutes a ground of inad-
 19 missibility under this subsection, all stat-
 20 utes or common law offenses are divisible
 21 so long as any of the conduct encompassed
 22 by the statute constitutes an offense that
 23 is a ground of inadmissibility.

24 “(ii) **OTHER EVIDENCE.**—If the con-
 25 viction records do not conclusively establish

1 whether a crime constitutes a ground of in-
2 admissibility, the Attorney General or the
3 Secretary of Homeland Security may con-
4 sider other evidence related to the convic-
5 tion that clearly establishes that the con-
6 duct for which the alien was engaged con-
7 stitutes a ground of inadmissibility.”.

8 (b) Section 237(a)(2) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1227(a)(2)) is amended by adding at
10 the end the following subparagraph:

11 “(G) **CRIMINAL OFFENSES.**—

12 “(i) **IN GENERAL.**—For purposes of
13 determining whether an underlying crimi-
14 nal offense constitutes a ground of deport-
15 ability under this subsection, all statutes or
16 common law offenses are divisible so long
17 as any of the conduct encompassed by the
18 statute constitutes an offense that is a
19 ground of deportability.

20 “(ii) **OTHER EVIDENCE.**—If the con-
21 viction records do not conclusively establish
22 whether a crime constitutes a ground of
23 deportability, the Attorney General or the
24 Secretary of Homeland Security may con-
25 sider other evidence related to the convic-

1 tion that clearly establishes that the con-
 2 duct for which the alien was engaged con-
 3 stitutes a ground of deportability.”.

4 **TITLE IV—VISA SECURITY**

5 **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

6 (a) **IN GENERAL.**—Section 222(g) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “Attorney General” and in-
 10 serting “Secretary”; and

11 (B) by inserting “and any other non-
 12 immigrant visa issued by the United States that
 13 is in the possession of the alien” after “such
 14 visa”; and

15 (2) in paragraph (2)(A), by striking “(other
 16 than the visa described in paragraph (1)) issued in
 17 a consular office located in the country of the alien’s
 18 nationality” and inserting “(other than a visa de-
 19 scribed in paragraph (1)) issued in a consular office
 20 located in the country of the alien’s nationality or
 21 foreign residence”.

22 (b) **EFFECTIVE DATE.**—The amendment made by
 23 subsection (a) shall take effect on the date of the enact-
 24 ment of this Act and shall apply to a visa issued before,
 25 on, or after such date.

1 **SEC. 402. VISA INFORMATION SHARING.**

2 (a) **IN GENERAL.**—Section 222(f) of the Immigration
3 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

4 (1) by striking “issuance or refusal” and insert-
5 ing “issuance, refusal, or revocation”;

6 (2) in paragraph (2), in the matter preceding
7 subparagraph (A), by striking “and on the basis of
8 reciprocity”;

9 (3) in paragraph (2)(A)—

10 (A) by inserting “(i)” after “for the pur-
11 pose of”; and

12 (B) by striking “illicit weapons; or” and
13 inserting “illicit weapons, or (ii) determining a
14 person’s deportability or eligibility for a visa,
15 admission, or other immigration benefit;”;

16 (4) in paragraph (2)(B)—

17 (A) by striking “for the purposes” and in-
18 serting “for one of the purposes”; and

19 (B) by striking “or to deny visas to per-
20 sons who would be inadmissible to the United
21 States.” and inserting “; or”; and

22 (5) in paragraph (2), by adding at the end the
23 following:

24 “(C) with regard to any or all aliens in the
25 database specified data elements from each
26 record, if the Secretary of State determines that

1 it is in the national interest to provide such in-
2 formation to a foreign government.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect 60 days after the date of
5 the enactment of the Act.

6 **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

7 Section 222(h) of the Immigration and Nationality
8 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

9 (1) in paragraph (1)(C), by inserting “, in con-
10 sultation with the Secretary of Homeland Security,”
11 after “if the Secretary”;

12 (2) in paragraph (1)(C)(i), by inserting “,
13 where such national interest shall not include facili-
14 tation of travel of foreign nationals to the United
15 States, reduction of visa application processing
16 times, or the allocation of consular resources” before
17 the semicolon at the end; and

18 (3) in paragraph (2)—

19 (A) by striking “or” at the end of subpara-
20 graph (E);

21 (B) by striking the period at the end of
22 subparagraph (F) and inserting “; or”; and

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

24 “(G) is an individual—

1 “(i) determined to be in a class of
2 aliens determined by the Secretary of
3 Homeland Security to be threats to na-
4 tional security;

5 “(ii) identified by the Secretary of
6 Homeland Security as a person of concern;
7 or

8 “(iii) applying for a visa in a visa cat-
9 egory with respect to which the Secretary
10 of Homeland Security has determined that
11 a waiver of the visa interview would create
12 a high risk of degradation of visa program
13 integrity.”.

14 **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**
15 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
16 **APPLICANTS.**

17 (a) **IN GENERAL.**—Section 222(h)(1) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is
19 amended by inserting “the alien is determined by the Sec-
20 retary of State to be ineligible for a visa based upon review
21 of the application or” after “unless”.

22 (b) **GUIDANCE.**—Not later than 90 days after the
23 date of the enactment of this Act, the Secretary of State
24 shall issue guidance to consular officers on the standards
25 and processes for implementing the authority to deny visa

1 applications without interview in cases where the alien is
2 determined by the Secretary of State to be ineligible for
3 a visa based upon review of the application.

4 (c) **REPORTS.**—Not less frequently than once each
5 quarter, the Secretary of State shall submit to the Con-
6 gress a report on the denial of visa applications without
7 interview, including—

8 (1) the number of such denials; and

9 (2) a post-by-post breakdown of such denials.

10 **SEC. 405. VISA REFUSAL AND REVOCATION.**

11 (a) **AUTHORITY OF THE SECRETARY OF HOMELAND**
12 **SECURITY AND THE SECRETARY OF STATE.**—

13 (1) **IN GENERAL.**—Section 428 of the Home-
14 land Security Act of 2002 (6 U.S.C. 236) is amend-
15 ed by striking subsections (b) and (c) and inserting
16 the following:

17 “(b) **AUTHORITY OF THE SECRETARY OF HOMELAND**
18 **SECURITY.**—

19 “(1) **IN GENERAL.**—Notwithstanding section
20 104(a) of the Immigration and Nationality Act (8
21 U.S.C. 1104(a)) or any other provision of law, and
22 except as provided in subsection (c) and except for
23 the authority of the Secretary of State under sub-
24 paragraphs (A) and (G) of section 101(a)(15) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(15)), the Secretary—

3 “(A) shall have exclusive authority to issue
4 regulations, establish policy, and administer and
5 enforce the provisions of the Immigration and
6 Nationality Act (8 U.S.C. 1101 et seq.) and all
7 other immigration or nationality laws relating
8 to the functions of consular officers of the
9 United States in connection with the granting
10 and refusal of a visa; and

11 “(B) may refuse or revoke any visa to any
12 alien or class of aliens if the Secretary, or des-
13 ignee, determines that such refusal or revoca-
14 tion is necessary or advisable in the security or
15 foreign policy interests of the United States.

16 “(2) **EFFECT OF REVOCATION.**—The revocation
17 of any visa under paragraph (1)(B)—

18 “(A) shall take effect immediately; and

19 “(B) shall automatically cancel any other
20 valid visa that is in the alien’s possession.

21 “(3) **JUDICIAL REVIEW.**—Notwithstanding any
22 other provision of law, including section 2241 of title
23 28, United States Code, or any other habeas corpus
24 provision, and sections 1361 and 1651 of such title,
25 no court shall have jurisdiction to review a decision

1 by the Secretary of Homeland Security to refuse or
2 revoke a visa, and no court shall have jurisdiction to
3 hear any claim arising from, or any challenge to,
4 such a refusal or revocation.

5 “(c) **AUTHORITY OF THE SECRETARY OF STATE.**—

6 “(1) **IN GENERAL.**—The Secretary of State may
7 direct a consular officer to refuse a visa requested
8 by an alien if the Secretary of State determines such
9 refusal to be necessary or advisable in the security
10 or foreign policy interests of the United States.

11 “(2) **LIMITATION.**—No decision by the Sec-
12 retary of State to approve a visa may override a de-
13 cision by the Secretary of Homeland Security under
14 subsection (b).”.

15 (2) **CONFORMING AMENDMENT.**—Section
16 237(a)(1)(B) of the Immigration and Nationality
17 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-
18 ing “under section 221(i)”.

19 (3) **EFFECTIVE DATE.**—The amendment made
20 by paragraph (1) shall take effect on the date of the
21 enactment of this Act and shall apply to visa refus-
22 als and revocations occurring before, on, or after
23 such date.

1 (b) **TECHNICAL CORRECTIONS TO THE HOMELAND**
2 **SECURITY ACT.**—Section 428(a) of the Homeland Secu-
3 rity Act of 2002 (6 U.S.C. 236(a)) is amended by—

4 (1) striking “subsection” and inserting “sec-
5 tion”; and

6 (2) striking “consular office” and inserting
7 “consular officer”.

8 **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

9 (a) **IN GENERAL.**—The Department of State and Re-
10 lated Agency Appropriations Act, 2005 (title IV of division
11 B of Public Law 108–447) is amended, in the fourth para-
12 graph under the heading “Diplomatic and Consular Pro-
13 grams”, by striking “Beginning” and all that follows
14 through the period at the end and inserting the following:
15 “Beginning in fiscal year 2005 and thereafter, the Sec-
16 retary of State is authorized to charge surcharges related
17 to consular services in support of enhanced border security
18 that are in addition to the immigrant visa fees in effect
19 on January 1, 2004: *Provided*, That funds collected pursu-
20 ant to this authority shall be credited to the appropriation
21 for U.S. Immigration and Customs Enforcement for the
22 fiscal year in which the fees were collected, and shall be
23 available until expended for the funding of the Visa Secu-
24 rity Program established by the Secretary of Homeland
25 Security under section 428(e) of the Homeland Security

1 Act of 2002 (Public Law 107–296): *Provided further*, That
 2 such surcharges shall be 10 percent of the fee assessed
 3 on immigrant visa applications.”.

4 (b) **REPAYMENT OF APPROPRIATED FUNDS.**—Twen-
 5 ty percent of the funds collected each fiscal year under
 6 the heading “Diplomatic and Consular Programs” in the
 7 Department of State and Related Agency Appropriations
 8 Act, 2005 (title IV of division B of Public Law 108–447),
 9 as amended by subsection (a), shall be deposited into the
 10 general fund of the Treasury as repayment of funds ap-
 11 propriated pursuant to section 407(c) of this Act until the
 12 entire appropriated sum has been repaid.

13 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**
 14 **PROGRAM TO HIGH-RISK POSTS.**

15 (a) **IN GENERAL.**—Section 428(i) of the Homeland
 16 Security Act of 2002 (6 U.S.C. 236(i)) is amended to read
 17 as follows:

18 “(i) **VISA ISSUANCE AT DESIGNATED HIGH-RISK**
 19 **POSTS.**—Notwithstanding any other provision of law, the
 20 Secretary of Homeland Security shall conduct an on-site
 21 review of all visa applications and supporting documenta-
 22 tion before adjudication at the top 30 visa-issuing posts
 23 designated jointly by the Secretaries of State and Home-
 24 land Security as high-risk posts.”.

1 (b) **ASSIGNMENT OF PERSONNEL.**—Not later than
 2 one year after the date of enactment of this section, the
 3 Secretary of Homeland Security shall assign personnel to
 4 the visa-issuing posts referenced in section 428(i) of the
 5 Homeland Security Act of 2002 (6 U.S.C. 236(i)), as
 6 amended by this section, and communicate such assign-
 7 ments to the Secretary of State.

8 (c) **APPROPRIATIONS.**—There is authorized to be ap-
 9 propriated \$60,000,000 for each of the fiscal years 2014
 10 and 2015, which shall be used to expedite the implementa-
 11 tion of section 428(i) of the Homeland Security Act, as
 12 amended by this section.

13 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**
 14 **PARTMENT OF HOMELAND SECURITY PER-**
 15 **SONNEL AT OVERSEAS EMBASSIES AND CON-**
 16 **SULAR POSTS.**

17 Section 428 of the Homeland Security Act of 2002
 18 (6 U.S.C. 236) is amended by adding at the end the fol-
 19 lowing:

20 “(j) **EXPEDITED CLEARANCE AND PLACEMENT OF**
 21 **DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT**
 22 **OVERSEAS EMBASSIES AND CONSULAR POSTS.**—Notwith-
 23 standing any other provision of law, and the processes set
 24 forth in National Security Defense Directive 38 (dated
 25 June 2, 1982) or any successor Directive, the Chief of

1 Mission of a post to which the Secretary of Homeland Se-
 2 curity has assigned personnel under subsection (e) or (i)
 3 shall ensure, not later than one year after the date on
 4 which the Secretary of Homeland Security communicates
 5 such assignment to the Secretary of State, that such per-
 6 sonnel have been stationed and accommodated at post and
 7 are able to carry out their duties.”.

8 **SEC. 409. ACCREDITATION REQUIREMENTS.**

9 (a) **COLLEGES, UNIVERSITIES, AND LANGUAGE**
 10 **TRAINING PROGRAMS.**—Section 101(a) of the Immigra-
 11 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

12 (1) in paragraph (15)(F)(i)—

13 (A) by striking “section 214(l) at an estab-
 14 lished college, university, seminary, conserv-
 15 atory, academic high school, elementary school,
 16 or other academic institution or in an accred-
 17 ited language training program in the United
 18 States” and inserting “section 214(m) at an ac-
 19 credited college, university, or language training
 20 program, or at an established seminary, con-
 21 servatory, academic high school, elementary
 22 school, or other academic institution in the
 23 United States”;

1 (B) by striking “Attorney General” each
 2 place such term appears and inserting “Sec-
 3 retary of Homeland Security”; and

4 (C) by striking “and if any such institution
 5 of learning or place of study fails to make re-
 6 ports promptly the approval shall be with-
 7 drawn,” and inserting “and if any such institu-
 8 tion of learning of place of study fails to make
 9 reports promptly or fails to comply with any ac-
 10 creditation requirement (including deadlines for
 11 submitting accreditation applications or obtain-
 12 ing accreditation) the approval shall be with-
 13 drawn,”; and

14 (2) by amending paragraph (52) to read as fol-
 15 lows:

16 “(52) Except as provided in section 214(m)(4), the
 17 term ‘accredited college, university, or language training
 18 program’ means a college, university, or language training
 19 program that is accredited by an accrediting agency recog-
 20 nized by the Secretary of Education.”.

21 (b) **OTHER ACADEMIC INSTITUTIONS.**—Section
 22 214(m) of the Immigration and Nationality Act (8 U.S.C.
 23 1184(m)) is amended by adding at the end the following:

24 “(3) The Secretary of Homeland Security shall re-
 25 quire accreditation of an academic institution (except for

1 seminaries or other religious institutions) for purposes of
 2 section 101(a)(15)(F) if—

3 “(A) that institution is not already required to
 4 be accredited under section 101(a)(15)(F)(i); and

5 “(B) an appropriate accrediting agency recog-
 6 nized by the Secretary of Education is able to pro-
 7 vide such accreditation.

8 “(4) The Secretary of Homeland Security, in the Sec-
 9 retary’s discretion, may waive the accreditation require-
 10 ment in paragraph (3) or section 101(a)(15)(F)(i) with
 11 respect to an institution if such institution—

12 “(A) is otherwise in compliance with the re-
 13 quirements of section 101(a)(15)(F)(i); and

14 “(B) has been a candidate for accreditation for
 15 at least 1 year and continues to progress toward ac-
 16 creditation by an accrediting agency recognized by
 17 the Secretary of Education.”.

18 (c) **EFFECTIVE DATE.**—

19 (1) **IN GENERAL.**—Except as provided in para-
 20 graph (2), the amendments made by this section
 21 shall—

22 (A) take effect on the date that is 180
 23 days after the date of enactment of this Act;
 24 and

1 (B) apply with respect to applications for
 2 nonimmigrant visas that are filed on or after
 3 the effective date described in subparagraph
 4 (A).

5 (2) **TEMPORARY EXCEPTION.**—During the 3-
 6 year period beginning on the effective date described
 7 in paragraph (1)(A), an institution that is newly re-
 8 quired to be accredited under this section may con-
 9 tinue to participate in the Student and Exchange
 10 Visitor Program notwithstanding the institution’s
 11 lack of accreditation if the institution—

12 (A) was certified under the Student and
 13 Exchange Visitor Program on such date;

14 (B) submitted an application for accredita-
 15 tion to an accrediting agency recognized by the
 16 Secretary of Education during the 6-month pe-
 17 riod ending on such date; and

18 (C) continues to progress toward accredita-
 19 tion by such accrediting agency.

20 **SEC. 410. VISA FRAUD.**

21 (a) **TEMPORARY SUSPENSION OF SEVIS ACCESS.**—
 22 Section 641(d) of the Illegal Immigration Reform and Im-
 23 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is
 24 amended—

1 (1) in paragraph (1)(A), by striking “institu-
 2 tion,” and inserting “institution,”; and

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

4 “(3) **EFFECT OF REASONABLE SUSPICION OF**
 5 **FRAUD.**—If the Secretary of Homeland Security has
 6 reasonable suspicion that an owner of, or a des-
 7 ignated school official at, an approved institution of
 8 higher education, an other approved educational in-
 9 stitution, or a designated exchange visitor program
 10 has committed fraud or attempted to commit fraud
 11 relating to any aspect of the Student and Exchange
 12 Visitor Program, the Secretary may immediately
 13 suspend, without notice, such official’s or such
 14 school’s access to the Student and Exchange Visitor
 15 Information System (SEVIS), including the ability
 16 to issue Form I–20s, pending a final determination
 17 by the Secretary with respect to the institution’s cer-
 18 tification under the Student and Exchange Visitor
 19 Program.”.

20 (b) **EFFECT OF CONVICTION FOR VISA FRAUD.**—

21 Such section 641(d), as amended by subsection (a)(2), is
 22 further amended by adding at the end the following:

23 “(4) **PERMANENT DISQUALIFICATION FOR**
 24 **FRAUD.**—A designated school official at, or an owner
 25 of, an approved institution of higher education, an

1 other approved educational institution, or a des-
 2 ignated exchange visitor program who is convicted
 3 for fraud relating to any aspect of the Student and
 4 Exchange Visitor Program shall be permanently dis-
 5 qualified from filing future petitions and from hav-
 6 ing an ownership interest or a management role, in-
 7 cluding serving as a principal, owner, officer, board
 8 member, general partner, designated school official,
 9 or any other position of substantive authority for the
 10 operations or management of the institution, in any
 11 United States educational institution that enrolls
 12 nonimmigrant alien students described in subpara-
 13 graph (F) or (M) of section 101(a)(15) the Immi-
 14 gration and Nationality Act (8 U.S.C.
 15 1101(a)(15)).”.

16 **SEC. 411. BACKGROUND CHECKS.**

17 (a) **IN GENERAL.**—Section 641(d) of the Illegal Im-
 18 migration Reform and Immigrant Responsibility Act of
 19 1996 (8 U.S.C. 1372(d)), as amended by section 411(b)
 20 of this Act, is further amended by adding at the end the
 21 following:

22 “(5) **BACKGROUND CHECK REQUIREMENT.**—

23 “(A) **IN GENERAL.**—An individual may not
 24 serve as a designated school official or be grant-
 25 ed access to SEVIS unless the individual is a

1 national of the United States or an alien law-
2 fully admitted for permanent residence and dur-
3 ing the most recent 3-year period—

4 “(i) the Secretary of Homeland Secu-
5 rity has—

6 “(I) conducted a thorough back-
7 ground check on the individual, in-
8 cluding a review of the individual’s
9 criminal and sex offender history and
10 the verification of the individual’s im-
11 migration status; and

12 “(II) determined that the indi-
13 vidual has not been convicted of any
14 violation of United States immigration
15 law and is not a risk to national secu-
16 rity of the United States; and

17 “(ii) the individual has successfully
18 completed an on-line training course on
19 SEVP and SEVIS, which has been devel-
20 oped by the Secretary.

21 “(B) **INTERIM DESIGNATED SCHOOL OFFI-**
22 **CIAL.**—

23 “(i) **IN GENERAL.**—An individual may
24 serve as an interim designated school offi-
25 cial during the period that the Secretary is

1 conducting the background check required
2 by subparagraph (A)(i)(I).

3 “(ii) **REVIEWS BY THE SECRETARY.**—

4 If an individual serving as an interim des-
5 ignated school official under clause (i) does
6 not successfully complete the background
7 check required by subparagraph (A)(i)(I),
8 the Secretary shall review each Form I-20
9 issued by such interim designated school
10 official.

11 “(6) **FEE.**—The Secretary is authorized to col-
12 lect a fee from an approved school for each back-
13 ground check conducted under paragraph (6)(A)(i).
14 The amount of such fee shall be equal to the average
15 amount expended by the Secretary to conduct such
16 background checks.”.

17 (b) **EFFECTIVE DATE.**—The amendment made by
18 subsection (a) shall take effect on the date that is 1 year
19 after the date of the enactment of this Act.

20 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

21 Section 641(d) of the Illegal Immigration Reform and
22 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)),
23 as amended by section 412(a) of this Act, is further
24 amended by adding at the end the following:

1 “(7) **NUMBER OF DESIGNATED SCHOOL OFFI-**
2 **CIALS.**—School officials may nominate as many Des-
3 ignated School Officials (DSOs) in addition to the
4 school’s Principal Designated School Official
5 (PDSO) as they determine necessary to adequately
6 provide recommendations to students enrolled at the
7 school regarding maintenance of nonimmigrant sta-
8 tus under subparagraph (F) or (M) of section
9 101(a)(15) and to support timely and complete rec-
10 ordkeeping and reporting to the Secretary of Home-
11 land Security, as required by this section, except
12 that a school may not have less than one DSO per
13 every 200 students who have nonimmigrant status
14 pursuant to subparagraph (F), (J), or (M) of such
15 section. School officials shall not permit a DSO or
16 PDSO nominee access to SEVIS until the Secretary
17 approves the nomination.”.

18 **SEC. 413. REPORTING REQUIREMENT.**

19 Section 442(a) of the Homeland Security Act of 2002
20 (6 U.S.C. 252(a)) is amended—

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) **STUDENT AND EXCHANGE VISITOR PRO-**
 2 **GRAM.**—In administering the program under para-
 3 graph (4), the Secretary shall, not later than one
 4 year after the date of the enactment of this para-
 5 graph, prescribe regulations to require an institution
 6 or exchange visitor program sponsor participating in
 7 the Student Exchange Visitor Program to ensure
 8 that each student or exchange visitor who has non-
 9 immigrant status pursuant to subparagraph (F),
 10 (J), or (M) of section 101(a)(15) of the Immigration
 11 and Nationality Act (8 U.S.C. 1101(a)(15)) enrolled
 12 at the institution or attending the exchange visitor
 13 program is reported to the Department within 10
 14 days of—

15 “(A) transferring to another institution or
 16 program;

17 “(B) changing academic majors; or

18 “(C) any other changes to information re-
 19 quired to be maintained in the system described
 20 in paragraph (4).”.

21 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

22 (a) **IN GENERAL.**—Except as provided in subsection
 23 (b), the Secretary of Homeland Security shall prohibit any
 24 flight school in the United States from accessing SEVIS
 25 or issuing a Form I–20 to an alien seeking a student visa

1 pursuant to subparagraph (F)(i) or (M)(i) of section
 2 101(a)(15) of the Immigration and Nationality Act (8
 3 U.S.C. 1101(a)(15)) if the flight school has not been cer-
 4 tified to the satisfaction of the Secretary and by the Fed-
 5 eral Aviation Administration pursuant to part 141 or part
 6 142 of title 14, Code of Federal Regulations (or similar
 7 successor regulations).

8 (b) **TEMPORARY EXCEPTION.**—During the 5-year pe-
 9 riod beginning on the date of the enactment of this Act,
 10 the Secretary may waive the requirement under subsection
 11 (a) that a flight school be certified by the Federal Aviation
 12 Administration if such flight school—

13 (1) was certified under the Student and Ex-
 14 change Visitor Program on the date of the enact-
 15 ment of this Act;

16 (2) submitted an application for certification
 17 with the Federal Aviation Administration during the
 18 1-year period beginning on such date; and

19 (3) continues to progress toward certification by
 20 the Federal Aviation Administration.

21 **SEC. 415. REVOCATION OF ACCREDITATION.**

22 At the time an accrediting agency or association is
 23 required to notify the Secretary of Education and the ap-
 24 propriate State licensing or authorizing agency of the final
 25 denial, withdrawal, suspension, or termination of accredi-

1 tation of an institution pursuant to section 496 of the
2 Higher Education Act of 1965 (20 U.S.C. 1099b), such
3 accrediting agency or association shall notify the Secretary
4 of Homeland Security of such determination and the Sec-
5 retary of Homeland Security shall immediately withdraw
6 the school from the SEVP and prohibit the school from
7 accessing SEVIS.

8 **SEC. 416. REPORT ON RISK ASSESSMENT.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Secretary of Homeland Security shall
11 submit to the Committee on the Judiciary of the Senate
12 and the Committee on the Judiciary of the House of Rep-
13 resentatives a report that contains the risk assessment
14 strategy that will be employed by the Secretary to identify,
15 investigate, and take appropriate action against schools
16 and school officials that are facilitating the issuance of
17 Form I-20 and the maintenance of student visa status
18 in violation of the immigration laws of the United States.

19 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

20 Not later than 180 days after the date of the enact-
21 ment of this act, the Secretary of Homeland Security shall
22 submit to the Committee on the Judiciary of the Senate
23 and the Committee on the Judiciary of the House of Rep-
24 resentatives a report that describes—

1 (1) the process in place to identify and assess
2 risks in the SEVP;

3 (2) a risk assessment process to allocate
4 SEVP's resources based on risk;

5 (3) the procedures in place for consistently en-
6 suring a school's eligibility, including consistently
7 verifying in lieu of letters;

8 (4) how SEVP identified and addressed missing
9 school case files;

10 (5) a plan to develop and implement a process
11 to monitor State licensing and accreditation status
12 of all SEVP-certified schools;

13 (6) whether all flight schools that have not been
14 certified to the satisfaction of the Secretary and by
15 the Federal Aviation Administration have been re-
16 moved from the program and have been restricted
17 from accessing SEVIS;

18 (7) the standard operating procedures that gov-
19 ern coordination among SEVP, Counterterrorism
20 and Criminal Exploitation Unit, and U.S. Immigra-
21 tion and Customs Enforcement field offices; and

22 (8) the established criteria for referring cases of
23 a potentially criminal nature from SEVP to the
24 counterterrorism and intelligence community.

1 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

2 Not later than 2 years after the date of the enact-
3 ment of this Act, the Secretary of Homeland Security shall
4 complete the deployment of both phases of the 2nd genera-
5 tion Student and Exchange Visitor Information System
6 (commonly known as “SEVIS II”).

7 **SEC. 419. DEFINITIONS.**

8 (a) **DEFINITIONS.**—For purposes of this title:

9 (1) **SEVIS.**—The term “SEVIS” means the
10 Student and Exchange Visitor Information System
11 of the Department of Homeland Security.

12 (2) **SEVP.**—The term “SEVP” means the Stu-
13 dent and Exchange Visitor Program of the Depart-
14 ment of Homeland Security.

15 **TITLE V—AID TO U.S. IMMIGRA-**
16 **TION AND CUSTOMS EN-**
17 **FORCEMENT OFFICERS**

18 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

19 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
20 rity shall authorize all immigration enforcement agents
21 and deportation officers of the Department of Homeland
22 Security who have successfully completed basic immigra-
23 tion law enforcement training to exercise the powers con-
24 ferred by—

1 (1) section 287(a)(5)(A) of the Immigration
2 and Nationality Act to arrest for any offense against
3 the United States;

4 (2) section 287(a)(5)(B) of such Act to arrest
5 for any felony;

6 (3) section 274(a) of such Act to arrest for
7 bringing in, transporting, or harboring certain
8 aliens, or inducing them to enter;

9 (4) section 287(a) of such Act to execute war-
10 rants of arrest for administrative immigration viola-
11 tions issued under section 236 of the Act or to exe-
12 cute warrants of criminal arrest issued under the
13 authority of the United States; and

14 (5) section 287(a) of such Act to carry fire-
15 arms, provided that they are individually qualified by
16 training and experience to handle and safely operate
17 the firearms they are permitted to carry, maintain
18 proficiency in the use of such firearms, and adhere
19 to the provisions of the enforcement standard gov-
20 erning the use of force.

21 (b) **ARREST POWERS.**—Section 287(a)(2) of the Im-
22 migration and Nationality Act (8 U.S.C. 1357(a)(2)) is
23 amended by striking “regulation and is likely to escape
24 before a warrant can be obtained for his arrest,” and in-
25 serting “regulation,”.

1 (c) **PAY.**—Immigration enforcement agents shall be
2 paid on the same scale as Immigration and Customs En-
3 forcement deportation officers and shall receive the same
4 benefits.

5 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

6 (a) **AUTHORIZATION.**—The Secretary of Homeland
7 Security is authorized to hire 2,500 Immigration and Cus-
8 toms Enforcement detention enforcement officers.

9 (b) **DUTIES.**—Immigration and Customs Enforce-
10 ment detention enforcement officers who have successfully
11 completed detention enforcement officers' basic training
12 shall be responsible for—

13 (1) taking and maintaining custody of any per-
14 son who has been arrested by an immigration offi-
15 cer;

16 (2) transporting and guarding immigration de-
17 tainees;

18 (3) securing Department of Homeland Security
19 detention facilities; and

20 (4) assisting in the processing of detainees.

21 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**
22 **AGENTS.**

23 (a) **BODY ARMOR.**—The Secretary of Homeland Se-
24 curity shall ensure that every Immigration and Customs
25 Enforcement deportation officer and immigration enforce-

1 ment agent on duty is issued high-quality body armor that
2 is appropriate for the climate and risks faced by the agent.
3 Enough body armor must be purchased to cover every
4 agent in the field.

5 (b) **WEAPONS.**—Such Secretary shall ensure that Im-
6 migration and Customs Enforcement deportation officers
7 and immigration enforcement agents are equipped with
8 weapons that are reliable and effective to protect them-
9 selves, their fellow agents, and innocent third parties from
10 the threats posed by armed criminals. Such weapons shall
11 include, at a minimum, standard-issue handguns, M–4 (or
12 equivalent) rifles, and Tasers.

13 (c) **EFFECTIVE DATE.**—This section shall take effect
14 90 days after the date of the enactment of this Act.

15 **SEC. 504. ICE ADVISORY COUNCIL.**

16 (a) **ESTABLISHMENT.**—An ICE Advisory Council
17 shall be established not later than 3 months after the date
18 of the enactment of this Act.

19 (b) **MEMBERSHIP.**—The ICE Advisor Council shall
20 be comprised of 7 members.

21 (c) **APPOINTMENT.**—Members shall to be appointed
22 in the following manner:

23 (1) One member shall be appointed by the
24 President.

1 (2) One member shall be appointed by the
2 Chairman of the Judiciary Committee of the House
3 of Representatives.

4 (3) One member shall be appointed by the
5 Chairman of the Judiciary Committee of the Senate.

6 (4) One member shall be appointed by the
7 Local 511, the ICE prosecutor's union.

8 (5) Three members shall be appointed by the
9 National Immigration and Customs Enforcement
10 Council.

11 (d) **TERM.**—Members shall serve renewable, 2-year
12 terms.

13 (e) **VOLUNTARY.**—Membership shall be voluntary and
14 non-remunerated, except that members will receive reim-
15 bursement from the Secretary of Homeland Security for
16 travel and other related expenses.

17 (f) **RETALIATION PROTECTION.**—Members who are
18 employed by the Secretary of Homeland Security shall be
19 protected from retaliation by their supervisors, managers,
20 and other Department of Homeland Security employees
21 for their participation on the Council.

22 (g) **PURPOSE.**—The purpose of the Council is to ad-
23 vise the Congress and the Secretary of Homeland Security
24 on issues including the following:

1 (1) The current status of immigration enforce-
2 ment efforts, including prosecutions and removals,
3 the effectiveness of such efforts, and how enforce-
4 ment could be improved.

5 (2) The effectiveness of cooperative efforts be-
6 tween the Secretary of Homeland Security and other
7 law enforcement agencies, including additional types
8 of enforcement activities that the Secretary should
9 be engaged in, such as State and local criminal task
10 forces.

11 (3) Personnel, equipment, and other resource
12 needs of field personnel.

13 (4) Improvements that should be made to the
14 organizational structure of the Department of
15 Homeland Security, including whether the position
16 of immigration enforcement agent should be merged
17 into the deportation officer position.

18 (5) The effectiveness of specific enforcement
19 policies and regulations promulgated by the Sec-
20 retary of Homeland Security, and whether other en-
21 forcement priorities should be considered.

22 (h) **REPORTS.**—The Council shall provide quarterly
23 reports to the Chairmen and Ranking Members of the Ju-
24 diciary Committees of the Senate and the House of Rep-
25 resentatives and to the Secretary of Homeland Security.

1 The Council members shall meet directly with the Chair-
2 men and Ranking Members (or their designated represent-
3 atives) and with the Secretary to discuss their reports
4 every 6 months.

5 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
6 **ESSING.**

7 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
8 rity shall establish a pilot program in at least five of the
9 ten Immigration and Customs Enforcement field offices
10 with the largest removal caseloads to allow Immigration
11 and Customs deportation officers and immigration en-
12 forcement agents to—

13 (1) electronically process and serve charging
14 documents, including Notices to Appear, while in the
15 field; and

16 (2) electronically process and place detainers
17 while in the field.

18 (b) **DUTIES.**—The pilot program described in sub-
19 section (a) shall be designed to allow deportation officers
20 and immigration enforcement agents to use handheld or
21 vehicle-mounted computers to—

22 (1) enter any required data, including personal
23 information about the alien subject and the reason
24 for issuing the document;

1 (2) apply the electronic signature of the issuing
2 officer or agent;

3 (3) set the date the alien is required to appear
4 before an immigration judge, in the case of Notices
5 to Appear;

6 (4) print any documents the alien subject may
7 be required to sign, along with additional copies of
8 documents to be served on the alien; and

9 (5) interface with the ENFORCE database so
10 that all data is stored and retrievable.

11 (c) **CONSTRUCTION.**—The pilot program described in
12 subsection (a) shall be designed to replace, to the extent
13 possible, the current paperwork and data-entry process
14 used for issuing such charging documents and detainers.

15 (d) **DEADLINE.**—The Secretary shall initiate the pilot
16 program described in subsection (a) within 6 months of
17 the date of enactment of this Act.

18 (e) **REPORT.**—The Government Accountability Office
19 shall report to the Judiciary Committee of the Senate and
20 the House of Representatives no later than 18 months
21 after the date of enactment of this Act on the effectiveness
22 of the pilot program and provide recommendations for im-
23 proving it.

24 (f) **ADVISORY COUNCIL.**—The ICE Advisory Council
25 established by section 504 shall include recommendations

1 on how the pilot program should work in the first quar-
2 terly report of the Council, and shall include assessments
3 of the program and recommendations for improvement in
4 each subsequent report.

5 (g) **EFFECTIVE DATE.**—This section shall take effect
6 180 days after the date of the enactment of this Act.

7 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
8 **SUPPORT STAFF.**

9 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
10 rity shall, subject to the availability of appropriations for
11 such purpose, increase the number of positions for full-
12 time active-duty Immigration and Customs Enforcement
13 deportation officers by 5,000 above the number of full-
14 time positions for which funds were appropriated for fiscal
15 year 2013. The Secretary will determine the rate at which
16 the additional officers will be added with due regard to
17 filling the positions as expeditiously as possible without
18 making any compromises in the selection or the training
19 of the additional officers.

20 (b) **SUPPORT STAFF.**—The Secretary shall, subject
21 to the availability of appropriations for such purpose, in-
22 crease the number of positions for full-time support staff
23 for Immigration and Customs Enforcement deportation
24 officers by 700 above the number of full-time positions for
25 which funds were appropriated for fiscal year 2013.

1 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

2 The Secretary of Homeland Security shall increase
3 by 60 the number of full-time trial attorneys working for
4 the Immigration and Customs Enforcement Office of the
5 Principal Legal Advisor.

6 **TITLE VI—MISCELLANEOUS**
7 **ENFORCEMENT PROVISIONS**

8 **SEC. 601. TIMELY REPATRIATION.**

9 (a) **LISTING OF COUNTRIES.**—Beginning on the date
10 that is 6 months after the date of enactment of this Act,
11 and every 6 months thereafter, the Secretary of Homeland
12 Security shall publish a report including the following:

13 (1) A list of the following:

14 (A) Countries that have refused or unrea-
15 sonably delayed repatriation of an alien who is
16 a national of that country since the date of en-
17 actment of this Act and the total number of
18 such aliens, disaggregated by nationality.

19 (B) Countries that have an excessive repa-
20 triation failure rate.

21 (2) A list of each country that was included
22 under subparagraph (B) or (C) of paragraph (1) in
23 both the report preceding the current report and the
24 current report.

25 (b) **SANCTIONS.**—Beginning on the date that a coun-
26 try is included in a list under subsection (a)(2) and ending

1 on the date that that country is not included in such list,
2 that country shall be subject to the following:

3 (1) The Secretary of State may not issue visas
4 under section 101(a)(15)(A)(iii) of the Immigration
5 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))
6 to attendants, servants, personal employees, and
7 members of their immediate families, of the officials
8 and employees of that country who receive non-
9 immigrant status under clause (i) or (ii) of section
10 101(a)(15)(A) of such Act.

11 (2) Each 6 months thereafter that the country
12 is included in that list, the Secretary of State shall
13 reduce the number of visas available under clause (i)
14 or (ii) of section 101(a)(15)(A) of the Immigration
15 and Nationality Act in a fiscal year to nationals of
16 that country by an amount equal to 10 percent of
17 the baseline visa number for that country. Except as
18 provided under section 243(d) of the Immigration
19 and Nationality Act (8 U.S.C. 1253), the Secretary
20 may not reduce the number to a level below 20 per-
21 cent of the baseline visa number.

22 (c) **WAIVERS.**—

23 (1) **NATIONAL SECURITY WAIVER.**—If the Sec-
24 retary of State submits to Congress a written deter-
25 mination that significant national security interests

1 of the United States require a waiver of the sanc-
2 tions under subsection (b), the Secretary may waive
3 any reduction below 80 percent of the baseline visa
4 number. The Secretary of Homeland Security may
5 not delegate the authority under this subsection.

6 (2) **TEMPORARY EXIGENT CIRCUMSTANCES.**—If
7 the Secretary of State submits to Congress a written
8 determination that temporary exigent circumstances
9 require a waiver of the sanctions under subsection
10 (b), the Secretary may waive any reduction below 80
11 percent of the baseline visa number during 6-month
12 renewable periods. The Secretary of Homeland Secu-
13 rity may not delegate the authority under this sub-
14 section.

15 (d) **EXEMPTION.**—The Secretary of Homeland Secu-
16 rity, in consultation with the Secretary of State, may ex-
17 empt a country from inclusion in a list under subsection
18 (a)(2) if the total number of nonrepatriations outstanding
19 is less than 10 for the preceding 3-year period.

20 (e) **UNAUTHORIZED VISA ISSUANCE.**—Any visa
21 issued in violation of this section shall be void.

22 (f) **NOTICE.**—If an alien who has been convicted of
23 a criminal offense before a Federal or State court whose
24 repatriation was refused or unreasonably delayed is to be
25 released from detention by the Secretary of Homeland Se-

1 curity, the Secretary shall provide notice to the State and
2 local law enforcement agency for the jurisdictions in which
3 the alien is required to report or is to be released. When
4 possible, and particularly in the case of violent crime, the
5 Secretary shall make a reasonable effort to provide notice
6 of such release to any crime victims and their immediate
7 family members.

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

9 (1) **REFUSED OR UNREASONABLY DELAYED.**—

10 A country is deemed to have refused or unreasonably
11 delayed the acceptance of an alien who is a citizen,
12 subject, national, or resident of that country if, not
13 later than 90 days after receiving a request to repa-
14 triate such alien from an official of the United
15 States who is authorized to make such a request, the
16 country does not accept the alien or issue valid trav-
17 el documents.

18 (2) **FAILURE RATE.**—The term “failure rate”
19 for a period means the percentage determined by di-
20 viding the total number of repatriation requests for
21 aliens who are citizens, subjects, nationals, or resi-
22 dents of a country that that country refused or un-
23 reasonably delayed during that period by the total
24 number of such requests during that period.

1 (3) **EXCESSIVE REPATRIATION FAILURE**
2 **RATE.**—The term “excessive repatriation failure
3 rate” means, with respect to a report under sub-
4 section (a), a failure rate greater than 10 percent
5 for any of the following:

6 (A) The period of the 3 full fiscal years
7 preceding the date of publication of the report.

8 (B) The period of 1 year preceding the
9 date of publication of the report.

10 (4) **NUMBER OF NON-REPATRIATIONS OUT-**
11 **STANDING.**—The term “number of non-repatriations
12 outstanding” means, for a period, the number of
13 unique aliens whose repatriation a country has re-
14 fused or unreasonably delayed and whose repatri-
15 ation has not occurred during that period.

16 (5) **BASELINE VISA NUMBER.**—The term “base-
17 line visa number” means, with respect to a country,
18 the average number of visas issued each fiscal year
19 to nationals of that country under clauses (i) and
20 (ii) of section 101(a)(15)(A) of the Immigration and
21 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3
22 full fiscal years immediately preceding the first re-
23 port under subsection (a) in which that country is
24 included in the list under subsection (a)(2).

1 (h) **GAO REPORT.**—On the date that is 1 day after
 2 the date that the President submits a budget under sec-
 3 tion 1105(a) of title 31, United States Code, for fiscal year
 4 2016, the Comptroller General of the United States shall
 5 submit a report to Congress regarding the progress of the
 6 Secretary of Homeland Security and the Secretary of
 7 State in implementation of this section and in making re-
 8 quests to repatriate aliens as appropriate.

9 **SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-**
 10 **TARILY.**

11 (a) **IN GENERAL.**—Section 240B of the Immigration
 12 and Nationality Act (8 U.S.C. 1229c) is amended—

13 (1) in subsection (a)—

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

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

23 (B) by striking paragraph (3);

24 (C) by redesignating paragraph (2) as
 25 paragraph (3);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(c) **CONDITIONS ON VOLUNTARY DEPARTURE.**—

22 “(1) **VOLUNTARY DEPARTURE AGREEMENT.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(e) **ELIGIBILITY.**—

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

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

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

1 (b) **RULEMAKING.**—The Secretary shall within one
2 year of the date of enactment of this Act promulgate regu-
3 lations to provide for the imposition and collection of pen-
4 alties for failure to depart under section 240B(d) of the
5 Immigration and Nationality Act (8 U.S.C. 1229c(d)).

6 (c) **EFFECTIVE DATES.**—

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

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

19 **SEC. 603. DETERRING ALIENS ORDERED REMOVED FROM**
20 **REMAINING IN THE UNITED STATES UNLAW-**
21 **FULLY.**

22 (a) **INADMISSIBLE ALIENS.**—Section 212(a)(9)(A) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1182(a)(9)(A)) is amended—

1 (1) in clause (i), by striking “seeks admission
 2 within 5 years of the date of such removal (or within
 3 20 years” and inserting “seeks admission not later
 4 than 5 years after the date of the alien’s removal (or
 5 not later than 20 years after the alien’s removal”;
 6 and

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

13 (b) **BAR ON DISCRETIONARY RELIEF.**—Section 274D
 14 of such Act (8 U.S.C. 324d) is amended—

15 (1) in subsection (a), by striking “Commis-
 16 sioner” and inserting “Secretary of Homeland Secu-
 17 rity”; and

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

19 “(c) **INELIGIBILITY FOR RELIEF.**—

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

1 a period of 10 years after the alien's departure from
 2 the United States.

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

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

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

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

18 **SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.**

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

22 “(5) **REINSTATEMENT OF REMOVAL ORDERS**
 23 **AGAINST ALIENS ILLEGALLY REENTERING.**—If the
 24 Secretary of Homeland Security finds that an alien
 25 has entered the United States illegally after having

1 been removed, deported, or excluded or having de-
2 parted voluntarily, under an order of removal, depor-
3 tation, or exclusion, regardless of the date of the
4 original order or the date of the illegal entry—

5 “(A) the order of removal, deportation, or
6 exclusion is reinstated from its original date
7 and is not subject to being reopened or reviewed
8 notwithstanding section 242(a)(2)(D);

9 “(B) the alien is not eligible and may not
10 apply for any relief under this Act, regardless
11 of the date that an application or request for
12 such relief may have been filed or made; and

13 “(C) the alien shall be removed under the
14 order of removal, deportation, or exclusion at
15 any time after the illegal entry.

16 Reinstatement under this paragraph shall not re-
17 quire proceedings under section 240 or other pro-
18 ceedings before an immigration judge.”.

19 (b) **JUDICIAL REVIEW.**—Section 242 of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1252) is amended by
21 adding at the end the following:

22 “(h) **JUDICIAL REVIEW OF REINSTATEMENT UNDER**
23 **SECTION 241(a)(5).**—

1 “(1) **REVIEW OF REINSTATEMENT.**—Judicial
2 review of determinations under section 241(a)(5) is
3 available in an action under subsection (a).

4 “(2) **NO REVIEW OF ORIGINAL ORDER.**—Not-
5 withstanding any other provision of law (statutory or
6 nonstatutory), including section 2241 of title 28,
7 United States Code, any other habeas corpus provi-
8 sion, or sections 1361 and 1651 of such title, no
9 court shall have jurisdiction to review any cause or
10 claim, arising from, or relating to, any challenge to
11 the original order.”.

12 (c) **EFFECTIVE DATE.**—The amendments made by
13 subsections (a) and (b) shall take effect as if enacted on
14 April 1, 1997, and shall apply to all orders reinstated or
15 after that date by the Secretary of Homeland Security (or
16 by the Attorney General prior to March 1, 2003), regard-
17 less of the date of the original order.

18 **SEC. 605. CLARIFICATION WITH RESPECT TO DEFINITION**
19 **OF ADMISSION.**

20 Section 101(a)(13)(A) of the Immigration and Na-
21 tionality Act (8 U.S.C. 1101(a)(13)(A)) is amended by
22 adding at the end the following: “An alien’s adjustment
23 of status to that of lawful permanent resident status under
24 any provision of this Act, or under any other provision
25 of law, shall be considered an ‘admission’ for any purpose

1 under this Act, even if the adjustment of status occurred
2 while the alien was present in the United States.”.

3 **SEC. 606. REPORTS TO CONGRESS ON THE EXERCISE AND**
4 **ABUSE OF PROSECUTORIAL DISCRETION.**

5 (a) **IN GENERAL.**—Not later than 180 days after the
6 end of each fiscal year, the Secretary of Homeland Secu-
7 rity and the Attorney General shall each provide to the
8 Committees on the Judiciary of the House of Representa-
9 tives and of the Senate a report on the following:

10 (1) Aliens apprehended or arrested by State or
11 local law enforcement agencies who were identified
12 by the Department of Homeland Security in the pre-
13 vious fiscal year and for whom the Department of
14 Homeland Security did not issue detainers and did
15 not take into custody despite the Department of
16 Homeland Security’s findings that the aliens were
17 inadmissible or deportable.

18 (2) Aliens who were applicants for admission in
19 the previous fiscal year but not clearly and beyond
20 a doubt entitled to be admitted by an immigration
21 officer and who were not detained as required pursu-
22 ant to section 235(b)(2)(A) of the Immigration and
23 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

24 (3) Aliens who in the previous fiscal year were
25 found by Department of Homeland Security officials

1 performing duties related to the adjudication of ap-
2 plications for immigration benefits or the enforce-
3 ment of the immigration laws to be inadmissible or
4 deportable who were not issued notices to appear
5 pursuant to section 239 of such Act (8 U.S.C. 1229)
6 or placed into removal proceedings pursuant to sec-
7 tion 240 (8 U.S.C. 1229a), unless the aliens were
8 placed into expedited removal proceedings pursuant
9 to section 235(b)(1)(A)(i) (8 U.S.C.
10 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),
11 were granted voluntary departure pursuant to sec-
12 tion 240B, were granted relief from removal pursu-
13 ant to statute, were granted legal nonimmigrant or
14 immigrant status pursuant to statute, or were deter-
15 mined not to be inadmissible or deportable.

16 (4) Aliens issued notices to appear that were
17 cancelled in the previous fiscal year despite the De-
18 partment of Homeland Security's findings that the
19 aliens were inadmissible or deportable, unless the
20 aliens were granted relief from removal pursuant to
21 statute, were granted voluntary departure pursuant
22 to section 240B of such Act (8 U.S.C. 1229c), or
23 were granted legal nonimmigrant or immigrant sta-
24 tus pursuant to statute.

1 (5) Aliens who were placed into removal pro-
2 ceedings, whose removal proceedings were termi-
3 nated in the previous fiscal year prior to their con-
4 clusion, unless the aliens were granted relief from
5 removal pursuant to statute, were granted voluntary
6 departure pursuant to section 240B, were granted
7 legal nonimmigrant or immigrant status pursuant to
8 statute, or were determined not to be inadmissible or
9 deportable.

10 (6) Aliens granted parole pursuant to section
11 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

12 (7) Aliens granted deferred action, extended
13 voluntary departure or any other type of relief from
14 removal not specified in the Immigration and Na-
15 tionality Act or where determined not to be inadmis-
16 sible or deportable.

17 (b) **CONTENTS OF REPORT.**—The report shall include
18 a listing of each alien described in each paragraph of sub-
19 section (a), including when in the possession of the De-
20 partment of Homeland Security their names, fingerprint
21 identification numbers, alien registration numbers, and
22 reason why each was granted the type of prosecutorial dis-
23 cretion received. The report shall also include current
24 criminal histories on each alien from the Federal Bureau
25 of Investigation.

1 **SEC. 607. CERTAIN ACTIVITIES RESTRICTED.**

2 (a) **IN GENERAL.**—

3 (1) No funds, resources, or fees made available
4 to the Secretary of Homeland Security, or to any
5 other official of a Federal agency, by this Act or any
6 other Act for any fiscal year, including any deposits
7 into the “Immigration Examinations Fee Account”
8 established under section 286(m) of the Immigration
9 and Nationality Act (8 U.S.C. 1356(m)), may be
10 used to implement, administer, enforce, or carry out
11 (including through the issuance of any regulations)
12 any of the policy changes set forth in the following
13 memoranda (or any substantially similar policy
14 changes issued or taken on or after January 9,
15 2015, whether set forth in memorandum, Executive
16 order, regulation, directive, or by other action):

17 (A) The memorandum from the Director of
18 United States Immigration and Customs En-
19 forcement entitled “Civil Immigration Enforce-
20 ment: Priorities for the Apprehension, Deten-
21 tion, and Removal of Aliens” dated March 2,
22 2011.

23 (B) The memorandum from the Director
24 of United States Immigration and Customs En-
25 forcement entitled “Exercising Prosecutorial
26 Discretion Consistent with the Civil Immigra-

1 tion Enforcement Priorities of the Agency for
2 the Apprehension, Detention, and Removal of
3 Aliens” dated June 17, 2011.

4 (C) The memorandum from the Principal
5 Legal Advisor of United States Immigration
6 and Customs Enforcement entitled “Case-by-
7 Case Review of Incoming and Certain Pending
8 Cases” dated November 17, 2011.

9 (D) The memorandum from the Director
10 of United States Immigration and Customs En-
11 forcement entitled “Civil Immigration Enforce-
12 ment: Guidance on the Use of Detainers in the
13 Federal, State, Local, and Tribal Criminal Jus-
14 tice Systems” dated December 21, 2012.

15 (E) The memorandum from the Secretary
16 of Homeland Security entitled “Southern Bor-
17 der and Approaches Campaign” dated Novem-
18 ber 20, 2014.

19 (F) The memorandum from the Secretary
20 of Homeland Security entitled “Policies for the
21 Apprehension, Detention and Removal of Un-
22 documented Immigrants” dated November 20,
23 2014.

1 (G) The memorandum from the Secretary
2 of Homeland Security entitled “Secure Commu-
3 nities” dated November 20, 2014.

4 (H) The memorandum from the Secretary
5 of Homeland Security entitled “Exercising
6 Prosecutorial Discretion with Respect to Indi-
7 viduals Who Came to the United States as Chil-
8 dren and with Respect to Certain Individuals
9 Who Are the Parents of U.S. Citizens or Per-
10 manent Residents” dated November 20, 2014.

11 (I) The memorandum from the Secretary
12 of Homeland Security entitled “Expansion of
13 the Provisional Waiver Program” dated Novem-
14 ber 20, 2014.

15 (J) The memorandum from the Secretary
16 of Homeland Security entitled “Policies Sup-
17 porting U.S. High-Skilled Businesses and
18 Workers” dated November 20, 2014.

19 (K) The memorandum from the Secretary
20 of Homeland Security entitled “Families of
21 U.S. Armed Forces Members and Enlistees”
22 dated November 20, 2014.

23 (L) The memorandum from the Secretary
24 of Homeland Security entitled “Directive to

1 Provide Consistency Regarding Advance Pa-
2 role” dated November 20, 2014.

3 (M) The memorandum from the Secretary
4 of Homeland Security entitled “Policies to Pro-
5 mote and Increase Access to U.S. Citizenship”
6 dated November 20, 2014.

7 (N) The memorandum from the President
8 entitled “Modernizing and Streamlining the
9 U.S. Immigrant Visa System for the 21st Cen-
10 tury” dated November 21, 2014.

11 (O) The memorandum from the President
12 entitled “Creating Welcoming Communities and
13 Fully Integrating Immigrants and Refugees”
14 dated November 21, 2014.

15 (2) The memoranda referred to in subsection
16 (a) (or any substantially similar policy changes
17 issued or taken on or after January 9, 2015, wheth-
18 er set forth in memorandum, Executive order, regu-
19 lation, directive, or by other action) have no statu-
20 tory or constitutional basis and therefore have no
21 legal effect.

22 (3) No funds or fees made available to the Sec-
23 retary of Homeland Security, or to any other official
24 of a Federal agency, by this Act or any other Act
25 for any fiscal year, including any deposits into the

1 “Immigration Examinations Fee Account” estab-
2 lished under section 286(m) of the Immigration and
3 Nationality Act (8 U.S.C. 1356(m)), may be used to
4 grant any Federal benefit to any alien pursuant to
5 any of the policy changes set forth in the memo-
6 randa referred to in subsection (a) (or any substan-
7 tially similar policy changes issued or taken on or
8 after January 9, 2015, whether set forth in memo-
9 randum, Executive order, regulation, directive, or by
10 other action).

11 (b) **DEFERRED ACTION FOR CHILDHOOD ARRIV-**
12 **ALS.**—No funds, resources or fees made available to the
13 Secretary of Homeland Security, or to any other official
14 of a Federal agency, by this Act or any other Act for any
15 fiscal year, including any deposits into the “Immigration
16 Examinations Fee Account” established under section
17 286(m) of the Immigration and Nationality Act (8 U.S.C.
18 1356(m)), may be used to consider or adjudicate any new,
19 renewal or previously denied application for any alien re-
20 questing consideration of deferred action for childhood ar-
21 rivals, as authorized by the Executive memorandum dated
22 June 15, 2012, and effective on August 15, 2012 (or any
23 substantially similar policy changes issued or taken on or
24 after January 9, 2015, whether set forth in memorandum,
25 Executive order, regulation, directive, or by other action).

1 **SEC. 608. GAO STUDY ON DEATHS IN CUSTODY.**

2 The Comptroller General of the United States shall
3 submit to Congress within 6 months after the date of the
4 enactment of this Act, a report on the deaths in custody
5 of detainees held by the Department of Homeland Secu-
6 rity. The report shall include the following information
7 with respect to any such deaths and in connection there-
8 with:

9 (1) Whether any such deaths could have been
10 prevented by the delivery of medical treatment ad-
11 ministered while the detainee is in the custody of the
12 Department of Homeland Security.

13 (2) Whether Department practice and proce-
14 dures were properly followed and obeyed.

15 (3) Whether such practice and procedures are
16 sufficient to protect the health and safety of such
17 detainees.

18 (4) Whether reports of such deaths were made
19 to the Deaths in Custody Reporting Program.

20 **SEC. 609. REMOVAL PROCEEDINGS.**

21 Subsection (b) of section 240 of the Immigration and
22 Nationality Act (8 U.S.C. 1229a) is amended by adding
23 at the end the following new paragraph (8):

24 “(8) **ORDER OF CONSIDERATION OF PRO-**
25 **CEEDINGS.**—Whenever possible, proceedings shall

177

1 take place in the order in which aliens are placed in
2 proceedings.”.

○

II

Calendar No. 120

114TH CONGRESS
1ST SESSION

H. R. 2578

[Report No. 114–66]

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2015

Received; read twice and referred to the Committee on Appropriations

JUNE 16, 2015

Reported by Mr. **SHELBY**, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

Making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2016, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That the following sums are appropriated, out of any
2 money in the Treasury not otherwise appropriated, for the
3 fiscal year ending September 30, 2016, and for other pur-
4 poses, namely:

5 TITLE I

6 DEPARTMENT OF COMMERCE

7 INTERNATIONAL TRADE ADMINISTRATION

8 OPERATIONS AND ADMINISTRATION

9 For necessary expenses for international trade activi-
10 ties of the Department of Commerce provided for by law,
11 and for engaging in trade promotional activities abroad,
12 including expenses of grants and cooperative agreements
13 for the purpose of promoting exports of United States
14 firms, without regard to sections 3702 and 3703 of title
15 44, United States Code; full medical coverage for depend-
16 ent members of immediate families of employees stationed
17 overseas and employees temporarily posted overseas; travel
18 and transportation of employees of the International
19 Trade Administration between two points abroad, without
20 regard to section 40118 of title 49, United States Code;
21 employment of citizens of the United States and aliens by
22 contract for services; rental of space abroad for periods
23 not exceeding 10 years; and expenses of alteration, repair,
24 or improvement; purchase or construction of temporary
25 demountable exhibition structures for use abroad; pay-

1 ment of tort claims; in the manner authorized in the first
2 paragraph of section 2672 of title 28, United States Code;
3 when such claims arise in foreign countries; not to exceed
4 \$294,300 for official representation expenses abroad; pur-
5 chase of passenger motor vehicles for official use abroad;
6 not to exceed \$45,000 per vehicle; obtaining insurance on
7 official motor vehicles; and rental of tie lines;
8 \$472,000,000 (reduced by \$5,000,000) (reduced by \$1),
9 to remain available until September 30, 2017, of which
10 \$10,000,000 is to be derived from fees to be retained and
11 used by the International Trade Administration, notwith-
12 standing section 3302 of title 31, United States Code: *Pro-*
13 *vided*, That, of amounts provided under this heading, not
14 less than \$16,400,000 shall be for China antidumping and
15 countervailing duty enforcement and compliance activities:
16 *Provided further*, That the provisions of the first sentence
17 of section 105(f) and all of section 108(c) of the Mutual
18 Educational and Cultural Exchange Act of 1961 (22
19 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out
20 these activities; and that for the purpose of this Act, con-
21 tributions under the provisions of the Mutual Educational
22 and Cultural Exchange Act of 1961 shall include payment
23 for assessments for services provided as part of these ac-
24 tivities.

BUREAU OF INDUSTRY AND SECURITY
OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of citizens of the United States and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, United States Code, when such claims arise in foreign countries; not to exceed \$13,500 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by section 1(b) of the Act of June 15, 1917 (40 Stat. 223; 22 U.S.C. 401(b)); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, \$110,000,000 (increased by \$1), to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(e) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)

1 and 2458(c)) shall apply in carrying out these activities:
 2 *Provided further*, That payments and contributions col-
 3 lected and accepted for materials or services provided as
 4 part of such activities may be retained for use in covering
 5 the cost of such activities, and for providing information
 6 to the public with respect to the export administration and
 7 national security activities of the Department of Com-
 8 merce and other export control programs of the United
 9 States and other governments.

10 **ECONOMIC DEVELOPMENT ADMINISTRATION**

11 **ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS**

12 For grants for economic development assistance as
 13 provided by the Public Works and Economic Development
 14 Act of 1965, for trade adjustment assistance, for grants
 15 authorized by section 27 of the Stevenson-Wydler Tech-
 16 nology Innovation Act of 1980 (15 U.S.C. 3722),
 17 \$213,000,000, to remain available until expended.

18 **~~SALARIES AND EXPENSES~~**

19 For necessary expenses of administering the eco-
 20 nomic development assistance programs as provided for by
 21 law, \$37,000,000: *Provided*, That these funds may be used
 22 to monitor projects approved pursuant to title I of the
 23 Public Works Employment Act of 1976, title II of the
 24 Trade Act of 1974, section 27 of the Stevenson-Wydler

1 Technology Innovation Act of 1980 (15 U.S.C. 3722), and
 2 the Community Emergency Drought Relief Act of 1977.

3 ~~MINORITY BUSINESS DEVELOPMENT AGENCY~~

4 ~~MINORITY BUSINESS DEVELOPMENT~~

5 For necessary expenses of the Department of Com-
 6 merce in fostering, promoting, and developing minority
 7 business enterprise, including expenses of grants, con-
 8 tracts, and other agreements with public or private organi-
 9 zations, ~~\$32,000,000.~~

10 ~~ECONOMICS AND STATISTICS ANALYSIS~~

11 ~~SALARIES AND EXPENSES~~

12 For necessary expenses, as authorized by law, of eco-
 13 nomic and statistical analysis programs of the Department
 14 of Commerce, ~~\$100,000,000~~, to remain available until
 15 September 30, 2017.

16 ~~BUREAU OF THE CENSUS~~

17 ~~CURRENT SURVEYS AND PROGRAMS~~

18 For necessary expenses for collecting, compiling, ana-
 19 lyzing, preparing and publishing statistics, provided for by
 20 law, ~~\$265,000,000 (reduced by \$4,000,000):~~ *Provided,*
 21 *That, from amounts provided herein, funds may be used*
 22 *for promotion, outreach, and marketing activities: Pro-*
 23 *vided further, That the Bureau of the Census shall collect*
 24 *data for the Annual Social and Economic Supplement to*
 25 *the Current Population Survey using the same health in-*

1 surance questions included in previous years, in addition
 2 to the revised questions implemented in the Current Popu-
 3 lation Survey beginning in February 2014.

4 **PERIODIC CENSUSES AND PROGRAMS**
 5 **(INCLUDING TRANSFER OF FUNDS)**

6 For necessary expenses for collecting, compiling, ana-
 7 lyzing, preparing and publishing statistics for periodic cen-
 8 suses and programs provided for by law, \$848,000,000
 9 (reduced by \$100,000,000) (reduced by \$17,300,000), to
 10 remain available until September 30, 2017: *Provided,*
 11 That, from amounts provided herein, funds may be used
 12 for promotion, outreach, and marketing activities: *Pro-*
 13 *vided further,* That within the amounts appropriated,
 14 \$1,551,000 shall be transferred to the “Office of Inspector
 15 General” account for activities associated with carrying
 16 out investigations and audits related to the Bureau of the
 17 Census: *Provided further,* That not more than 50 percent
 18 of the amounts made available under this heading for in-
 19 formation technology related to 2020 census delivery, in-
 20 cluding the Census Enterprise Data Collection and Proc-
 21 essing (CEDCaP) program, may be obligated until the
 22 Secretary submits to the Committees on Appropriations
 23 of the House of Representatives and the Senate a plan
 24 for expenditure that: (1) identifies for each CEDCaP
 25 project/investment over \$25,000: (A) the functional and

1 performance capabilities to be delivered and the mission
 2 benefits to be realized; (B) the estimated lifecycle cost, in-
 3 cluding estimates for development as well as maintenance
 4 and operations; and (C) key milestones to be met; (2) de-
 5 tails for each project/investment: (A) reasons for any cost
 6 and schedule variances; and (B) top risks and mitigation
 7 strategies; and (3) has been submitted to the Government
 8 Accountability Office.

9 NATIONAL TELECOMMUNICATIONS AND INFORMATION

10 ADMINISTRATION

11 SALARIES AND EXPENSES

12 For necessary expenses, as provided for by law, of
 13 the National Telecommunications and Information Ad-
 14 ministration (NTIA), \$35,200,000, to remain available
 15 until September 30, 2017: *Provided, That,* notwith-
 16 standing 31 U.S.C. 1535(d), the Secretary of Commerce
 17 shall charge Federal agencies for costs incurred in spec-
 18 trum management, analysis, operations, and related serv-
 19 ices; and such fees shall be retained and used as offsetting
 20 collections for costs of such spectrum services, to remain
 21 available until expended: *Provided further,* That the Sec-
 22 retary of Commerce is authorized to retain and use as off-
 23 setting collections all funds transferred, or previously
 24 transferred, from other Government agencies for all costs
 25 incurred in telecommunications research, engineering, and

1 related activities by the Institute for Telecommunication
 2 Sciences of NTIA, in furtherance of its assigned functions
 3 under this paragraph, and such funds received from other
 4 Government agencies shall remain available until ex-
 5 pended.

6 **PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING**
 7 **AND CONSTRUCTION**

8 For the administration of prior-year grants, recov-
 9 eries and unobligated balances of funds previously appro-
 10 priated are available for the administration of all open
 11 grants until their expiration.

12 **UNITED STATES PATENT AND TRADEMARK OFFICE**
 13 **SALARIES AND EXPENSES**
 14 **(INCLUDING TRANSFERS OF FUNDS)**

15 For necessary expenses of the United States Patent
 16 and Trademark Office (USPTO) provided for by law, in-
 17 cluding defense of suits instituted against the Under Sec-
 18 retary of Commerce for Intellectual Property and Director
 19 of the USPTO, \$3,272,000,000, to remain available until
 20 expended: *Provided*, That the sum herein appropriated
 21 from the general fund shall be reduced as offsetting collec-
 22 tions of fees and surcharges assessed and collected by the
 23 USPTO under any law are received during fiscal year
 24 2016, so as to result in a fiscal year 2016 appropriation
 25 from the general fund estimated at \$0: *Provided further*,

1 That during fiscal year 2016, should the total amount of
2 such offsetting collections be less than \$3,272,000,000
3 this amount shall be reduced accordingly: *Provided fur-*
4 *ther*, That any amount received in excess of
5 \$3,272,000,000 in fiscal year 2016 and deposited in the
6 Patent and Trademark Fee Reserve Fund shall remain
7 available until expended: *Provided further*, That the Direc-
8 tor of USPTO shall submit a spending plan to the Com-
9 mittees on Appropriations of the House of Representatives
10 and the Senate for any amounts made available by the
11 preceding proviso and such spending plan shall be treated
12 as a reprogramming under section 505 of this Act and
13 shall not be available for obligation or expenditure except
14 in compliance with the procedures set forth in that section:
15 *Provided further*, That any amounts reprogrammed in ac-
16 cordance with the preceding proviso shall be transferred
17 to the United States Patent and Trademark Office “Sala-
18 ries and Expenses” account: *Provided further*, That from
19 amounts provided herein, not to exceed \$900 shall be
20 made available in fiscal year 2016 for official reception
21 and representation expenses: *Provided further*, That in fis-
22 cal year 2016 from the amounts made available for “Sala-
23 ries and Expenses” for the USPTO, the amounts nec-
24 essary to pay: (1) the difference between the percentage
25 of basic pay contributed by the USPTO and employees

1 under section 8334(a) of title 5, United States Code, and
2 the normal cost percentage (as defined by section
3 8331(17) of that title) as provided by the Office of Per-
4 sonnel Management (OPM) for USPTO's specific use, of
5 basic pay, of employees subject to subchapter III of chap-
6 ter 83 of that title; and (2) the present value of the other-
7 wise unfunded accruing costs, as determined by OPM for
8 USPTO's specific use of post-retirement life insurance
9 and post-retirement health benefits coverage for all
10 USPTO employees who are enrolled in Federal Employees
11 Health Benefits (FEHB) and Federal Employees Group
12 Life Insurance (FELI), shall be transferred to the Civil
13 Service Retirement and Disability Fund, the FELI
14 Fund, and the FEHB Fund, as appropriate, and shall be
15 available for the authorized purposes of those accounts:
16 *Provided further*, That any differences between the present
17 value factors published in OPM's yearly 300 series benefit
18 letters and the factors that OPM provides for USPTO's
19 specific use shall be recognized as an imputed cost on
20 USPTO's financial statements, where applicable: *Provided*
21 *further*, That, notwithstanding any other provision of law,
22 all fees and surcharges assessed and collected by USPTO
23 are available for USPTO only pursuant to section 42(e)
24 of title 35, United States Code, as amended by section
25 22 of the Leahy-Smith America Invents Act (Public Law

1 ~~112-29): *Provided further,* That within the amounts ap-~~
 2 ~~propriated, \$2,000,000 shall be transferred to the “Office~~
 3 ~~of Inspector General” account for activities associated~~
 4 ~~with carrying out investigations and audits related to the~~
 5 ~~USPTO.~~

6 ~~NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY~~
 7 ~~SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES~~
 8 ~~(INCLUDING TRANSFER OF FUNDS)~~

9 ~~For necessary expenses of the National Institute of~~
 10 ~~Standards and Technology (NIST), \$675,000,000, to re-~~
 11 ~~main available until expended, of which not to exceed~~
 12 ~~\$9,000,000 may be transferred to the “Working Capital~~
 13 ~~Fund”: *Provided,* That not to exceed \$5,000 shall be for~~
 14 ~~official reception and representation expenses: *Provided*~~
 15 ~~*further,* That NIST may provide local transportation for~~
 16 ~~summer undergraduate research fellowship program par-~~
 17 ~~ticipants.~~

18 ~~INDUSTRIAL TECHNOLOGY SERVICES~~

19 ~~For necessary expenses of the Hollings Manufac-~~
 20 ~~turing Extension Partnership of the National Institute of~~
 21 ~~Standards and Technology, \$130,000,000, to remain~~
 22 ~~available until expended.~~

23 ~~CONSTRUCTION OF RESEARCH FACILITIES~~

24 ~~For construction of new research facilities, including~~
 25 ~~architectural and engineering design, and for renovation~~

1 and maintenance of existing facilities, not otherwise pro-
 2 vided for the National Institute of Standards and Tech-
 3 nology, as authorized by sections ~~13~~ through ~~15~~ of the
 4 National Institute of Standards and Technology Act (~~15~~
 5 U.S.C. ~~278e–278e~~), \$50,000,000, to remain available until
 6 expended: *Provided*, That the Secretary of Commerce shall
 7 include in the budget justification materials that the Sec-
 8 retary submits to Congress in support of the Department
 9 of Commerce budget (as submitted with the budget of the
 10 President under section ~~1105~~(a) of title ~~31~~, United States
 11 Code) an estimate for each National Institute of Stand-
 12 ards and Technology construction project having a total
 13 multi-year program cost of more than \$5,000,000, and si-
 14 multaneously the budget justification materials shall in-
 15 clude an estimate of the budgetary requirements for each
 16 such project for each of the ~~5~~ subsequent fiscal years.

17 **NATIONAL OCEANIC AND ATMOSPHERIC**

18 **ADMINISTRATION**

19 **OPERATIONS, RESEARCH, AND FACILITIES**

20 **(INCLUDING TRANSFER OF FUNDS)**

21 For necessary expenses of activities authorized by law
 22 for the National Oceanic and Atmospheric Administration;
 23 including maintenance, operation, and hire of aircraft and
 24 vessels; grants, contracts, or other payments to nonprofit
 25 organizations for the purposes of conducting activities

1 pursuant to cooperative agreements; and relocation of fa-
2 cilities, \$3,147,877,000 (reduced by \$21,000,000) (in-
3 creased by \$21,000,000) (increased by \$2,000,000), to re-
4 main available until September 30, 2017, except that
5 funds provided for cooperative enforcement shall remain
6 available until September 30, 2018: *Provided*, That fees
7 and donations received by the National Ocean Service for
8 the management of national marine sanctuaries may be
9 retained and used for the salaries and expenses associated
10 with those activities, notwithstanding section 3302 of title
11 31, United States Code: *Provided further*, That in addi-
12 tion, \$130,164,000 shall be derived by transfer from the
13 fund entitled “Promote and Develop Fishery Products and
14 Research Pertaining to American Fisheries”, which shall
15 only be used for fishery activities related to the
16 Saltonstall-Kennedy Grant Program, Cooperative Re-
17 search, Annual Stock Assessments, Survey and Moni-
18 toring Projects, Interjurisdictional Fisheries Grants, and
19 Fish Information Networks: *Provided further*, That of the
20 \$3,295,541,000 provided for in direct obligations under
21 this heading \$3,147,877,000 is appropriated from the gen-
22 eral fund, \$130,164,000 is provided by transfer, and
23 \$17,500,000 is derived from recoveries of prior year obli-
24 gations: *Provided further*, That the total amount available
25 for National Oceanic and Atmospheric Administration cor-

1 porate services administrative support costs shall not ex-
 2 ceed \$208,100,000 (reduced by \$21,000,000): *Provided*
 3 *further*, That any deviation from the amounts designated
 4 for specific activities in the report accompanying this Act,
 5 or any use of deobligated balances of funds provided under
 6 this heading in previous years, shall be subject to the pro-
 7 cedures set forth in section 505 of this Act: *Provided fur-*
 8 *ther*, That in addition, for necessary retired pay expenses
 9 under the Retired Serviceman's Family Protection and
 10 Survivor Benefits Plan, and for payments for the medical
 11 care of retired personnel and their dependents under the
 12 Dependents Medical Care Act (10 U.S.C. 55), such sums
 13 as may be necessary.

14 **PROCUREMENT, ACQUISITION AND CONSTRUCTION**

15 **(INCLUDING TRANSFER OF FUNDS)**

16 For procurement, acquisition and construction of
 17 capital assets, including alteration and modification costs,
 18 of the National Oceanic and Atmospheric Administration,
 19 \$1,960,034,000, to remain available until September 30,
 20 2018, except that funds provided for construction of facili-
 21 ties shall remain available until expended: *Provided*, That
 22 of the \$1,973,034,000 provided for in direct obligations
 23 under this heading, \$1,960,034,000 is appropriated from
 24 the general fund and \$13,000,000 is provided from recov-
 25 eries of prior year obligations: *Provided further*, That any

1 deviation from the amounts designated for specific activi-
 2 ties in the report accompanying this Act, or any use of
 3 deobligated balances of funds provided under this heading
 4 in previous years, shall be subject to the procedures set
 5 forth in section 505 of this Act: *Provided further*, That
 6 the Secretary of Commerce shall include in budget jus-
 7 tification materials that the Secretary submits to Congress
 8 in support of the Department of Commerce budget (as
 9 submitted with the budget of the President under section
 10 1105(a) of title 31, United States Code) an estimate for
 11 each National Oceanic and Atmospheric Administration
 12 procurement, acquisition or construction project having a
 13 total of more than \$5,000,000 and simultaneously the
 14 budget justification shall include an estimate of the budg-
 15 etary requirements for each such project for each of the
 16 5 subsequent fiscal years: *Provided further*, That, within
 17 the amounts appropriated, \$1,302,000 shall be transferred
 18 to the "Office of Inspector General" account for activities
 19 associated with carrying out investigations and audits re-
 20 lated to satellite procurement, acquisition and construc-
 21 tion.

22 **PACIFIC COASTAL SALMON RECOVERY**

23 For necessary expenses associated with the restora-
 24 tion of Pacific salmon populations, \$65,000,000, to re-
 25 main available until September 30, 2017: *Provided*, That,

1 of the funds provided herein, the Secretary of Commerce
2 may issue grants to the States of Washington, Oregon,
3 Idaho, Nevada, California, and Alaska, and to the Feder-
4 ally recognized tribes of the Columbia River and Pacific
5 Coast (including Alaska), for projects necessary for con-
6 servation of salmon and steelhead populations that are
7 listed as threatened or endangered, or that are identified
8 by a State as at-risk to be so listed, for maintaining popu-
9 lations necessary for exercise of tribal treaty fishing rights
10 or native subsistence fishing, or for conservation of Pacific
11 coastal salmon and steelhead habitat, based on guidelines
12 to be developed by the Secretary of Commerce: *Provided*
13 *further*, That all funds shall be allocated based on sci-
14 entific and other merit principles and shall not be available
15 for marketing activities: *Provided further*, That funds dis-
16 bursed to States shall be subject to a matching require-
17 ment of funds or documented in-kind contributions of at
18 least 33 percent of the Federal funds.

19 **FISHERMEN'S CONTINGENCY FUND**

20 For carrying out the provisions of title IV of Public
21 Law 95-372, not to exceed \$350,000, to be derived from
22 receipts collected pursuant to that Act, to remain available
23 until expended.

1 **FISHERIES FINANCE PROGRAM ACCOUNT**

2 Subject to section 502 of the Congressional Budget
3 Act of 1974, during fiscal year 2016, obligations of direct
4 loans may not exceed \$24,000,000 for Individual Fishing
5 Quota loans and not to exceed \$100,000,000 for tradi-
6 tional direct loans as authorized by the Merchant Marine
7 Act of 1936.

8 **DEPARTMENTAL MANAGEMENT**

9 **SALARIES AND EXPENSES**

10 For necessary expenses for the management of the
11 Department of Commerce provided for by law, including
12 not to exceed \$4,500 for official reception and representa-
13 tion, \$50,000,000.

14 **RENOVATION AND MODERNIZATION**

15 For necessary expenses for the renovation and mod-
16 ernization of the Herbert C. Hoover Building, \$3,989,000,
17 to remain available until expended, of which \$1,082,000
18 shall be for security systems and \$2,907,000 shall be for
19 blast-resistant windows.

20 **OFFICE OF INSPECTOR GENERAL**

21 For necessary expenses of the Office of Inspector
22 General in carrying out the provisions of the Inspector
23 General Act of 1978 (5 U.S.C. App.), \$32,000,000.

1 ~~GENERAL PROVISIONS—DEPARTMENT OF COMMERCE~~
 2 ~~(INCLUDING TRANSFER OF FUNDS)~~

3 ~~SEC. 101.~~ During the current fiscal year, applicable
 4 appropriations and funds made available to the Depart-
 5 ment of Commerce by this Act shall be available for the
 6 activities specified in the Act of October 26, 1949 (15
 7 U.S.C. 1514), to the extent and in the manner prescribed
 8 by the Act, and, notwithstanding 31 U.S.C. 3324, may
 9 be used for advanced payments not otherwise authorized
 10 only upon the certification of officials designated by the
 11 Secretary of Commerce that such payments are in the
 12 public interest.

13 ~~SEC. 102.~~ During the current fiscal year, appropria-
 14 tions made available to the Department of Commerce by
 15 this Act for salaries and expenses shall be available for
 16 hire of passenger motor vehicles as authorized by 31
 17 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C.
 18 3109; and uniforms or allowances therefor, as authorized
 19 by law (5 U.S.C. 5901–5902).

20 ~~SEC. 103.~~ Not to exceed 5 percent of any appropria-
 21 tion made available for the current fiscal year for the De-
 22 partment of Commerce in this Act may be transferred be-
 23 tween such appropriations, but no such appropriation shall
 24 be increased by more than 10 percent by any such trans-
 25 fers: *Provided*, That any transfer pursuant to this section

1 shall be treated as a reprogramming of funds under sec-
2 tion 505 of this Act and shall not be available for obliga-
3 tion or expenditure except in compliance with the proce-
4 dures set forth in that section: *Provided further*, That the
5 Secretary of Commerce shall notify the Committees on Ap-
6 propriations at least 15 days in advance of the acquisition
7 or disposal of any capital asset (including land, structures,
8 and equipment) not specifically provided for in this Act
9 or any other law appropriating funds for the Department
10 of Commerce.

11 ~~SEC. 104.~~ The requirements set forth by section 105
12 of the Commerce, Justice, Science, and Related Agencies
13 Appropriations Act, 2012 (Public Law 112-55), as
14 amended by section 105 of title I of division B of Public
15 Law 113-6, are hereby adopted by reference and made
16 applicable with respect to fiscal year 2016: *Provided*, That
17 the life cycle cost for the Joint Polar Satellite System is
18 \$11,322,125,000 and the life cycle cost for the Geo-
19 stationary Operational Environmental Satellite R-Series
20 Program is \$10,828,059,000.

21 ~~SEC. 105.~~ Notwithstanding any other provision of
22 law, the Secretary may furnish services (including but not
23 limited to utilities, telecommunications, and security serv-
24 ices) necessary to support the operation, maintenance, and
25 improvement of space that persons, firms, or organizations

1 are authorized, pursuant to the Public Buildings Coopera-
2 tive Use Act of 1976 or other authority, to use or occupy
3 in the Herbert C. Hoover Building, Washington, DC, or
4 other buildings, the maintenance, operation, and protec-
5 tion of which has been delegated to the Secretary from
6 the Administrator of General Services pursuant to the
7 Federal Property and Administrative Services Act of 1949
8 on a reimbursable or non-reimbursable basis. Amounts re-
9 ceived as reimbursement for services provided under this
10 section or the authority under which the use or occupancy
11 of the space is authorized, up to \$200,000, shall be cred-
12 ited to the appropriation or fund which initially bears the
13 costs of such services.

14 SEC. 106. Nothing in this title shall be construed to
15 prevent a grant recipient from deterring child pornog-
16 raphy, copyright infringement, or any other unlawful ac-
17 tivity over its networks.

18 SEC. 107. The Administrator of the National Oceanic
19 and Atmospheric Administration is authorized to use, with
20 their consent, with reimbursement and subject to the lim-
21 its of available appropriations, the land, services, equip-
22 ment, personnel, and facilities of any department, agency,
23 or instrumentality of the United States, or of any State,
24 local government, Indian tribal government, Territory, or
25 possession, or of any political subdivision thereof, or of

1 any foreign government or international organization, for
 2 purposes related to carrying out the responsibilities of any
 3 statute administered by the National Oceanic and Atmos-
 4 pheric Administration.

5 SEC. 108. The National Technical Information Serv-
 6 ice shall not charge any customer for a copy of any report
 7 or document generated by the Legislative Branch unless
 8 the Service has provided information to the customer on
 9 how an electronic copy of such report or document may
 10 be accessed and downloaded for free online. Should a cus-
 11 tomer still require the Service to provide a printed or dig-
 12 ital copy of the report or document, the charge shall be
 13 limited to recovering the Service's cost of processing, re-
 14 producing, and delivering such report or document.

15 SEC. 109. The Secretary of Commerce may waive the
 16 requirement for bonds under 40 U.S.C. 3131 with respect
 17 to contracts for the construction, alteration, or repair of
 18 vessels, regardless of the terms of the contracts as to pay-
 19 ment or title, when the contract is made under the Coast
 20 and Geodetic Survey Act of 1947 (33 U.S.C. 883a et seq.).

21 SEC. 110. In fiscal year 2016, the National Institute
 22 of Standards and Technology may use unobligated bal-
 23 ances from the "National Institute of Standards and
 24 Technology—Industrial Technology Services" account for
 25 the purposes of and subject to the limitations in section

1 34(e)(2) of the National Institute of Standards and Tech-
 2 nology Act (15 U.S.C. 278s(e)(2)).

3 This title may be cited as the “Department of Com-
 4 merce Appropriations Act, 2016”.

5 TITLE II

6 DEPARTMENT OF JUSTICE

7 GENERAL ADMINISTRATION

8 SALARIES AND EXPENSES

9 For expenses necessary for the administration of the
 10 Department of Justice, \$105,000,000 (reduced by
 11 \$2,000,000) (reduced by \$2,209,500) (reduced by
 12 \$2,500,000) (reduced by \$750,000) (reduced by
 13 \$2,000,000), of which not to exceed \$4,000,000 for secu-
 14 rity and construction of Department of Justice facilities
 15 shall remain available until expended.

16 JUSTICE INFORMATION SHARING TECHNOLOGY

17 (INCLUDING TRANSFER OF FUNDS)

18 For necessary expenses for information sharing tech-
 19 nology, including planning, development, deployment and
 20 departmental direction, \$25,842,000, to remain available
 21 until expended: *Provided*, That the Attorney General may
 22 transfer up to \$35,400,000 to this account, from funds
 23 available to the Department of Justice for information
 24 technology, to remain available until expended, for enter-
 25 prise-wide information technology initiatives: *Provided fur-*

1 ~~ther~~, That the transfer authority in the preceding proviso
 2 is in addition to any other transfer authority contained
 3 in this Act.

4 **ADMINISTRATIVE REVIEW AND APPEALS**
 5 **(INCLUDING TRANSFER OF FUNDS)**

6 For expenses necessary for the administration of par-
 7 don and clemency petitions and immigration-related activi-
 8 ties, ~~\$426,791,000~~, of which ~~\$4,000,000~~ shall be derived
 9 by transfer from the Executive Office for Immigration Re-
 10 view fees deposited in the “Immigration Examinations
 11 Fee” account: *Provided*, That under this heading of the
 12 amount available for the Executive Office for Immigration
 13 Review, not to exceed ~~\$15,000,000~~ shall remain available
 14 until expended.

15 **OFFICE OF INSPECTOR GENERAL**

16 For necessary expenses of the Office of Inspector
 17 General, ~~\$92,000,000~~ (increased by ~~\$1,709,000~~), includ-
 18 ing not to exceed ~~\$10,000~~ to meet unforeseen emergencies
 19 of a confidential character.

20 **UNITED STATES PAROLE COMMISSION**

21 **SALARIES AND EXPENSES**

22 For necessary expenses of the United States Parole
 23 Commission as authorized, ~~\$13,308,000~~.

~~LEGAL ACTIVITIES~~

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

3 For expenses necessary for the legal activities of the
4 Department of Justice, not otherwise provided for, includ-
5 ing not to exceed \$20,000 for expenses of collecting evi-
6 dence, to be expended under the direction of, and to be
7 accounted for solely under the certificate of, the Attorney
8 General; and rent of private or Government-owned space
9 in the District of Columbia, \$885,000,000 (reduced by
10 \$2,000,000) (reduced by \$1,000,000), of which not to ex-
11 ceed \$20,000,000 for litigation support contracts shall re-
12 main available until expended: *Provided*, That of the
13 amount provided for INTERPOL Washington dues pay-
14 ments, not to exceed \$685,000 shall remain available until
15 expended: *Provided further*, That of the total amount ap-
16 propriated, not to exceed \$9,000 shall be available to
17 INTERPOL Washington for official reception and rep-
18 resentation expenses: *Provided further*, That of the
19 amount appropriated, such sums as may be necessary
20 shall be available to the Civil Rights Division for salaries
21 and expenses associated with the election monitoring pro-
22 gram under section 8 of the Voting Rights Act of 1965
23 (52 U.S.C. 10305) and to reimburse the Office of Per-
24 sonnel Management for such salaries and expenses: *Pro-*
25 *vided further*, That of the amounts provided under this

1 heading for the election monitoring program, \$3,390,000
 2 shall remain available until expended.

3 In addition, for reimbursement of expenses of the De-
 4 partment of Justice associated with processing cases
 5 under the National Childhood Vaccine Injury Act of 1986,
 6 not to exceed \$8,000,000, to be appropriated from the
 7 Vaccine Injury Compensation Trust Fund.

8 SALARIES AND EXPENSES, ANTITRUST DIVISION

9 For expenses necessary for the enforcement of anti-
 10 trust and kindred laws, \$162,246,000, to remain available
 11 until expended: *Provided*, That notwithstanding any other
 12 provision of law, fees collected for premerger notification
 13 filings under the Hart-Scott-Rodino Antitrust Improve-
 14 ments Act of 1976 (15 U.S.C. 18a), regardless of the year
 15 of collection (and estimated to be \$124,000,000 in fiscal
 16 year 2016), shall be retained and used for necessary ex-
 17 penses in this appropriation, and shall remain available
 18 until expended: *Provided further*, That the sum herein ap-
 19 propriated from the general fund shall be reduced as such
 20 offsetting collections are received during fiscal year 2016,
 21 so as to result in a final fiscal year 2016 appropriation
 22 from the general fund estimated at \$38,246,000.

23 SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

24 For necessary expenses of the Offices of the United
 25 States Attorneys, including inter-governmental and coop-

1 erative agreements, \$1,995,000,000: *Provided*, That of the
 2 total amount appropriated, not to exceed \$7,200 shall be
 3 available for official reception and representation ex-
 4 penses: *Provided further*, That not to exceed \$25,000,000
 5 shall remain available until expended: *Provided further*,
 6 That each United States Attorney shall establish or par-
 7 ticipate in a task force on human trafficking.

8 **UNITED STATES TRUSTEE SYSTEM FUND**

9 For necessary expenses of the United States Trustee
 10 Program, as authorized, \$225,908,000, to remain avail-
 11 able until expended and to be derived from the United
 12 States Trustee System Fund: *Provided*, That, notwith-
 13 standing any other provision of law, deposits to the Fund
 14 shall be available in such amounts as may be necessary
 15 to pay refunds due depositors: *Provided further*, That, not-
 16 withstanding any other provision of law, \$162,000,000 of
 17 offsetting collections pursuant to section 589a(b) of title
 18 28, United States Code, shall be retained and used for
 19 necessary expenses in this appropriation and shall remain
 20 available until expended: *Provided further*, That the sum
 21 herein appropriated from the Fund shall be reduced as
 22 such offsetting collections are received during fiscal year
 23 2016, so as to result in a final fiscal year 2016 appropria-
 24 tion from the Fund estimated at \$63,908,000.

1 **SALARIES AND EXPENSES, FOREIGN CLAIMS**

2 **SETTLEMENT COMMISSION**

3 For expenses necessary to carry out the activities of
4 the Foreign Claims Settlement Commission, including
5 services as authorized by section 3109 of title 5, United
6 States Code, \$2,326,000.

7 **FEES AND EXPENSES OF WITNESSES**

8 For fees and expenses of witnesses, for expenses of
9 contracts for the procurement and supervision of expert
10 witnesses, for private counsel expenses, including ad-
11 vances, and for expenses of foreign counsel, \$270,000,000,
12 to remain available until expended, of which not to exceed
13 \$16,000,000 is for construction of buildings for protected
14 witness safesites; not to exceed \$3,000,000 is for the pur-
15 chase and maintenance of armored and other vehicles for
16 witness security caravans; and not to exceed \$13,000,000
17 is for the purchase, installation, maintenance, and up-
18 grade of secure telecommunications equipment and a se-
19 cure automated information network to store and retrieve
20 the identities and locations of protected witnesses: *Pro-*
21 *vided,* That amounts made available under this heading
22 may not be transferred pursuant to section 205 of this
23 Act.

1 **CONSTRUCTION**

2 For construction in space controlled, occupied or uti-
 3 lized by the United States Marshals Service for prisoner
 4 holding and related support, \$11,000,000, to remain avail-
 5 able until expended.

6 **FEDERAL PRISONER DETENTION**

7 **(INCLUDING TRANSFER OF FUNDS)**

8 For necessary expenses related to United States pris-
 9 oners in the custody of the United States Marshals Service
 10 as authorized by section 4013 of title 18, United States
 11 Code, \$1,058,081,000, to remain available until expended:
 12 *Provided*, That not to exceed \$20,000,000 shall be consid-
 13 ered “funds appropriated for State and local law enforce-
 14 ment assistance” pursuant to section 4013(b) of title 18,
 15 United States Code: *Provided further*, That the United
 16 States Marshals Service shall be responsible for managing
 17 the Justice Prisoner and Alien Transportation System:
 18 *Provided further*, That any unobligated balances available
 19 from funds appropriated under the heading “General Ad-
 20 ministration, Detention Trustee” shall be transferred to
 21 and merged with the appropriation under this heading.

1 NATIONAL SECURITY DIVISION

2 SALARIES AND EXPENSES

3 (INCLUDING TRANSFER OF FUNDS)

4 For expenses necessary to carry out the activities of
 5 the National Security Division, \$95,000,000, of which not
 6 to exceed \$5,000,000 for information technology systems
 7 shall remain available until expended: *Provided*, That not-
 8 withstanding section 205 of this Act, upon a determina-
 9 tion by the Attorney General that emergent circumstances
 10 require additional funding for the activities of the National
 11 Security Division, the Attorney General may transfer such
 12 amounts to this heading from available appropriations for
 13 the current fiscal year for the Department of Justice, as
 14 may be necessary to respond to such circumstances: *Pro-*
 15 *vided further*, That any transfer pursuant to the preceding
 16 proviso shall be treated as a reprogramming under section
 17 505 of this Act and shall not be available for obligation
 18 or expenditure except in compliance with the procedures
 19 set forth in that section.

20 INTERAGENCY LAW ENFORCEMENT

21 INTERAGENCY CRIME AND DRUG ENFORCEMENT

22 For necessary expenses for the identification, inves-
 23 tigation, and prosecution of individuals associated with the
 24 most significant drug trafficking and affiliated money
 25 laundering organizations not otherwise provided for, to in-

1 elude inter-governmental agreements with State and local
2 law enforcement agencies engaged in the investigation and
3 prosecution of individuals involved in organized crime drug
4 trafficking, \$510,000,000, of which \$50,000,000 shall re-
5 main available until expended: *Provided*, That any
6 amounts obligated from appropriations under this heading
7 may be used under authorities available to the organiza-
8 tions reimbursed from this appropriation.

9 **FEDERAL BUREAU OF INVESTIGATION**

10 **SALARIES AND EXPENSES**

11 For necessary expenses of the Federal Bureau of In-
12 vestigation for detection, investigation, and prosecution of
13 crimes against the United States, \$8,489,786,000, of
14 which not to exceed \$216,900,000 shall remain available
15 until expended: *Provided*, That not to exceed \$184,500
16 shall be available for official reception and representation
17 expenses.

18 **CONSTRUCTION**

19 For necessary expenses, to include the cost of equip-
20 ment, furniture, and information technology requirements,
21 related to construction or acquisition of buildings, facili-
22 ties and sites by purchase, or as otherwise authorized by
23 law; conversion, modification and extension of federally
24 owned buildings; preliminary planning and design of
25 projects; and operation and maintenance of secure work

1 environment facilities and secure networking capabilities;
 2 \$57,982,000, to remain available until expended.

3 ~~DRUG ENFORCEMENT ADMINISTRATION~~

4 ~~SALARIES AND EXPENSES~~

5 For necessary expenses of the Drug Enforcement Ad-
 6 ministration, including not to exceed \$70,000 to meet un-
 7 foreseen emergencies of a confidential character pursuant
 8 to section 530C of title 28, United States Code; and ex-
 9 penses for conducting drug education and training pro-
 10 grams, including travel and related expenses for partici-
 11 pants in such programs and the distribution of items of
 12 token value that promote the goals of such programs;
 13 \$2,073,945,000 (reduced by \$4,000,000) (reduced by
 14 \$9,000,000) (reduced by \$10,000,000), of which not to
 15 exceed \$75,000,000 shall remain available until expended
 16 and not to exceed \$90,000 shall be available for official
 17 reception and representation expenses.

18 ~~BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND~~

19 ~~EXPLOSIVES~~

20 ~~SALARIES AND EXPENSES~~

21 For necessary expenses of the Bureau of Alcohol, To-
 22 bacco, Firearms and Explosives, for training of State and
 23 local law enforcement agencies with or without reimburse-
 24 ment, including training in connection with the training
 25 and acquisition of canines for explosives and fire

1 accelerants detection; and for provision of laboratory as-
2 sistance to State and local law enforcement agencies; with
3 or without reimbursement, ~~\$1,250,000,000~~ (reduced by
4 ~~\$5,000,000~~) (reduced by ~~\$5,000,000~~), of which not to ex-
5 ceed ~~\$36,000~~ shall be for official reception and representa-
6 tion expenses; not to exceed ~~\$1,000,000~~ shall be available
7 for the payment of attorneys' fees as provided by section
8 924(d)(2) of title 18, United States Code; and not to ex-
9 ceed ~~\$20,000,000~~ shall remain available until expended:
10 *Provided*, That such funds appropriated herein shall be
11 available to investigate or act upon applications for relief
12 from Federal firearms disabilities under section 925(c) of
13 title 18, United States Code: *Provided further*, That such
14 funds shall be available to investigate and act upon appli-
15 cations filed by corporations for relief from Federal fire-
16 arms disabilities under section 925(c) of title 18, United
17 States Code: *Provided further*, That no funds made avail-
18 able by this or any other Act may be used to transfer the
19 functions, missions, or activities of the Bureau of Alcohol,
20 Tobacco, Firearms and Explosives to other agencies or
21 Departments.

1 FEDERAL PRISON SYSTEM

2 SALARIES AND EXPENSES

3 (INCLUDING TRANSFER OF FUNDS)

4 For necessary expenses of the Federal Prison System
5 for the administration, operation, and maintenance of
6 Federal penal and correctional institutions, and for the
7 provision of technical assistance and advice on corrections
8 related issues to foreign governments, \$6,951,500,000 (re-
9 duced by \$2,000,000) (reduced by \$1,000,000): *Provided,*
10 That the Attorney General may transfer to the Depart-
11 ment of Health and Human Services such amounts as may
12 be necessary for direct expenditures by that Department
13 for medical relief for inmates of Federal penal and correc-
14 tional institutions: *Provided further,* That the Director of
15 the Federal Prison System, where necessary, may enter
16 into contracts with a fiscal agent or fiscal intermediary
17 claims processor to determine the amounts payable to per-
18 sons who, on behalf of the Federal Prison System, furnish
19 health services to individuals committed to the custody of
20 the Federal Prison System: *Provided further,* That not to
21 exceed \$5,400 shall be available for official reception and
22 representation expenses: *Provided further,* That not to ex-
23 ceed \$50,000,000 shall remain available for necessary op-
24 erations until September 30, 2017: *Provided further,* That,
25 of the amounts provided for contract confinement, not to

1 exceed \$20,000,000 shall remain available until expended
2 to make payments in advance for grants, contracts and
3 reimbursable agreements, and other expenses: *Provided*
4 *further*, That the Director of the Federal Prison System
5 may accept donated property and services relating to the
6 operation of the prison card program from a not-for-profit
7 entity which has operated such program in the past, not-
8 withstanding the fact that such not-for-profit entity fur-
9 nishes services under contracts to the Federal Prison Sys-
10 tem relating to the operation of pre-release services, half-
11 way houses, or other custodial facilities.

12 **BUILDINGS AND FACILITIES**

13 For planning, acquisition of sites and construction of
14 new facilities; purchase and acquisition of facilities and re-
15 modeling; and equipping of such facilities for penal and
16 correctional use, including all necessary expenses incident
17 thereto, by contract or force account; and constructing,
18 remodeling, and equipping necessary buildings and facili-
19 ties at existing penal and correctional institutions, includ-
20 ing all necessary expenses incident thereto, by contract or
21 force account, \$230,000,000, to remain available until ex-
22 pended, of which \$145,000,000 shall be available only for
23 costs related to construction of new facilities: *Provided*,
24 That labor of United States prisoners may be used for
25 work performed under this appropriation.

1 FEDERAL PRISON INDUSTRIES, INCORPORATED

2 The Federal Prison Industries, Incorporated, is here-
3 by authorized to make such expenditures within the limits
4 of funds and borrowing authority available, and in accord
5 with the law, and to make such contracts and commit-
6 ments without regard to fiscal year limitations as provided
7 by section 9104 of title 31, United States Code, as may
8 be necessary in carrying out the program set forth in the
9 budget for the current fiscal year for such corporation.

10 LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL
11 PRISON INDUSTRIES, INCORPORATED

Not to exceed \$2,700,000 of the funds of the Federal Prison Industries, Incorporated, shall be available for its administrative expenses, and for services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

1 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES
2 OFFICE ON VIOLENCE AGAINST WOMEN
3 VIOLENCE AGAINST WOMEN PREVENTION AND
4 PROSECUTION PROGRAMS

5 For grants, contracts, cooperative agreements, and
6 other assistance for the prevention and prosecution of vio-
7 lence against women, as authorized by the Omnibus Crime
8 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
9 et seq.) (“the 1968 Act”); the Violent Crime Control and
10 Law Enforcement Act of 1994 (Public Law 103–322)
11 (“the 1994 Act”); the Victims of Child Abuse Act of 1990
12 (Public Law 101–647) (“the 1990 Act”); the Prosecu-
13 torial Remedies and Other Tools to end the Exploitation
14 of Children Today Act of 2003 (Public Law 108–21); the
15 Juvenile Justice and Delinquency Prevention Act of 1974
16 (42 U.S.C. 5601 et seq.) (“the 1974 Act”); the Victims
17 of Trafficking and Violence Protection Act of 2000 (Public
18 Law 106–386) (“the 2000 Act”); the Violence Against
19 Women and Department of Justice Reauthorization Act
20 of 2005 (Public Law 109–162) (“the 2005 Act”); and the
21 Violence Against Women Reauthorization Act of 2013
22 (Public Law 113–4) (“the 2013 Act”); and for related vic-
23 tims services, \$479,000,000 (increased by \$17,300,000)
24 (increased by \$750,000) (increased by \$4,000,000), to re-

1 main available until expended: *Provided*, That of the
2 amount provided—

3 ~~(1) \$196,000,000 is for grants to combat vio-~~
4 ~~lence against women, as authorized by part T of the~~
5 ~~1968 Act;~~

6 ~~(2) \$28,000,000 is for transitional housing as-~~
7 ~~sistance grants for victims of domestic violence, dat-~~
8 ~~ing violence, stalking, or sexual assault as authorized~~
9 ~~by section 40299 of the 1994 Act;~~

10 ~~(3) \$8,000,000 is for the National Institute of~~
11 ~~Justice for research and evaluation of violence~~
12 ~~against women and related issues addressed by~~
13 ~~grant programs of the Office on Violence Against~~
14 ~~Women, which shall be transferred to and adminis-~~
15 ~~tered by the Office of Justice Programs;~~

16 ~~(4) \$11,000,000 (increased by \$4,000,000) is~~
17 ~~for a grant program to provide services to advocate~~
18 ~~for and respond to youth victims of domestic vio-~~
19 ~~lence, dating violence, sexual assault, and stalking;~~
20 ~~assistance to children and youth exposed to such vio-~~
21 ~~lence; programs to engage men and youth in pre-~~
22 ~~venting such violence; and assistance to middle and~~
23 ~~high school students through education and other~~
24 ~~services related to such violence: *Provided*, That un-~~
25 ~~obligated balances available for the programs au-~~

1 thorized by sections ~~41201, 41204, 41303, and~~
2 ~~41305~~ of the 1994 Act, prior to its amendment by
3 the 2013 Act, shall be available for this program:
4 *Provided further,* That 10 percent of the total
5 amount available for this grant program shall be
6 available for grants under the program authorized
7 by section ~~2015~~ of the 1968 Act: *Provided further,*
8 That the definitions and grant conditions in section
9 ~~40002~~ of the 1994 Act shall apply to this program;

10 (5) ~~\$51,000,000~~ is for grants to encourage ar-
11 rest policies as authorized by part U of the 1968
12 Act, of which ~~\$4,000,000~~ is for a homicide reduction
13 initiative;

14 (6) ~~\$35,000,000~~ is for sexual assault victims
15 assistance, as authorized by section ~~41601~~ of the
16 1994 Act;

17 (7) ~~\$33,000,000~~ is for rural domestic violence
18 and child abuse enforcement assistance grants, in-
19 cluding as authorized by section ~~40295~~ of the 1994
20 Act;

21 (8) ~~\$16,000,000~~ is for grants to reduce violent
22 crimes against women on campus, as authorized by
23 section ~~304~~ of the 2005 Act;

24 (9) ~~\$42,500,000~~ is for legal assistance for vic-
25 tims, as authorized by section ~~1201~~ of the 2000 Act;

1 ~~(10)~~ \$4,500,000 (increased by \$750,000) is for
2 enhanced training and services to end violence
3 against and abuse of women in later life, as author-
4 ized by section 40802 of the 1994 Act;

5 ~~(11)~~ \$16,000,000 is for grants to support fami-
6 lies in the justice system, as authorized by section
7 ~~1301~~ of the 2000 Act: *Provided*, That unobligated
8 balances available for the programs authorized by
9 section ~~1301~~ of the 2000 Act and section 41002 of
10 the 1994 Act, prior to their amendment by the 2013
11 Act, shall be available for this program;

12 ~~(12)~~ \$6,000,000 is for education and training
13 to end violence against and abuse of women with
14 disabilities, as authorized by section ~~1402~~ of the
15 2000 Act;

16 ~~(13)~~ \$500,000 is for the National Resource
17 Center on Workplace Responses to assist victims of
18 domestic violence, as authorized by section ~~41501~~ of
19 the 1994 Act;

20 ~~(14)~~ \$1,000,000 is for analysis and research on
21 violence against Indian women, including as author-
22 ized by section 904 of the 2005 Act: *Provided*, That
23 such funds may be transferred to and administered
24 by the Office of Justice Programs;

1 (15) \$500,000 is for a national clearinghouse
 2 that provides training and technical assistance on
 3 issues relating to sexual assault of American Indian
 4 and Alaska Native women;

5 (16) \$25,000,000 (increased by \$17,300,000)
 6 for victim services programs for victims of traf-
 7 ficking, as authorized by section 107(b)(2) of Public
 8 Law 106–386, for programs authorized under Public
 9 Law 109–164, or programs authorized under Public
 10 Law 113–4; and

11 (17) \$5,000,000 for the purposes authorized
 12 under the Rape Survivor Child Custody Act.

13 OFFICE OF JUSTICE PROGRAMS

14 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

15 For grants, contracts, cooperative agreements, and
 16 other assistance authorized by the Violent Crime Control
 17 and Law Enforcement Act of 1994 (Public Law 103–322)
 18 (“the 1994 Act”); the Omnibus Crime Control and Safe
 19 Streets Act of 1968 (“the 1968 Act”); the Justice for All
 20 Act of 2004 (Public Law 108–405); the Victims of Child
 21 Abuse Act of 1990 (Public Law 101–647) (“the 1990
 22 Act”); the Trafficking Victims Protection Reauthorization
 23 Act of 2005 (Public Law 109–164); the Violence Against
 24 Women and Department of Justice Reauthorization Act
 25 of 2005 (Public Law 109–162) (“the 2005 Act”); the

1 Adam Walsh Child Protection and Safety Act of 2006
 2 (Public Law 109–248) (“the Adam Walsh Act”); the Vie-
 3 tims of Trafficking and Violence Protection Act of 2000
 4 (Public Law 106–386); the NICS Improvement Amend-
 5 ments Act of 2007 (Public Law 110–180); subtitle D of
 6 title II of the Homeland Security Act of 2002 (Public Law
 7 107–296) (“the 2002 Act”); the Second Chance Act of
 8 2007 (Public Law 110–199); the Prioritizing Resources
 9 and Organization for Intellectual Property Act of 2008
 10 (Public Law 110–403); the Victims of Crime Act of 1984
 11 (Public Law 98–473); the Mentally Ill Offender Treat-
 12 ment and Crime Reduction Reauthorization and Improve-
 13 ment Act of 2008 (Public Law 110–416); the Violence
 14 Against Women Reauthorization Act of 2013 (Public Law
 15 113–4) (“the 2013 Act”); and other programs;
 16 \$1,015,400,000 (increased by \$5,000,000) (increased by
 17 \$100,000,000) (increased by \$4,000,000) (increased by
 18 \$2,500,000) (increased by \$2,000,000) (increased by
 19 \$5,000,000) (increased by \$5,000,000) (increased by
 20 \$2,000,000) (increased by \$1,000,000); to remain avail-
 21 able until expended as follows—

22 (1) \$409,000,000 (increased by \$100,000,000)
 23 for the Edward Byrne Memorial Justice Assistance
 24 Grant program as authorized by subpart 1 of part
 25 E of title I of the 1968 Act (except that section

1 ~~1001(c), and the special rules for Puerto Rico under~~
2 ~~section 505(g) of title I of the 1968 Act shall not~~
3 ~~apply for purposes of this Act), of which, notwith-~~
4 ~~standing such subpart 1, \$20,000,000 is for grants~~
5 ~~for law enforcement activities associated with the~~
6 ~~presidential nominating conventions, \$15,000,000 is~~
7 ~~for an Officer Robert Wilson III memorial initiative~~
8 ~~on Preventing Violence Against Law Enforcement~~
9 ~~Officer Resilience and Survivability (VALOR),~~
10 ~~\$4,000,000 is for use by the National Institute of~~
11 ~~Justice for research targeted toward developing a~~
12 ~~better understanding of the domestic radicalization~~
13 ~~phenomenon, and advancing evidence-based strate-~~
14 ~~gies for effective intervention and prevention,~~
15 ~~\$22,500,000 is for the matching grant program for~~
16 ~~law enforcement armor vests, as authorized by sec-~~
17 ~~tion 2501 of title I of the 1968 Act, and \$2,500,000~~
18 ~~is for a program to improve juvenile indigent de-~~
19 ~~fense;~~

20 ~~(2) \$220,000,000 for the State Criminal Alien~~
21 ~~Assistance Program, as authorized by section~~
22 ~~241(i)(5) of the Immigration and Nationality Act (8~~
23 ~~U.S.C. 1231(i)(5)): *Provided*, That no jurisdiction~~
24 ~~shall request compensation for any cost greater than~~
25 ~~the actual cost for Federal immigration and other~~

1 detainees housed in State and local detention facili-
 2 ties;

3 ~~(3) \$41,000,000 (increased by \$5,000,000) for~~
 4 ~~Drug Courts, as authorized by section~~
 5 ~~1001(a)(25)(A) of title I of the 1968 Act;~~

6 ~~(4) \$7,000,000 (increased by \$2,000,000) (in-~~
 7 ~~creased by \$2,000,000) (increased by \$2,000,000)~~
 8 ~~for mental health courts and adult and juvenile col-~~
 9 ~~laboration program grants, as authorized by parts V~~
 10 ~~and HH of title I of the 1968 Act, and the Mentally~~
 11 ~~Ill Offender Treatment and Crime Reduction Reau-~~
 12 ~~thorization and Improvement Act of 2008 (Public~~
 13 ~~Law 110–416);~~

14 ~~(5) \$2,000,000 for the Capital Litigation Im-~~
 15 ~~provement Grant Program, as authorized by section~~
 16 ~~426 of Public Law 108–405, and for grants for~~
 17 ~~wrongful conviction review;~~

18 ~~(6) \$5,000,000 for economic, high technology~~
 19 ~~and Internet crime prevention grants, including as~~
 20 ~~authorized by section 401 of Public Law 110–403;~~

21 ~~(7) \$20,000,000 for sex offender management~~
 22 ~~assistance, as authorized by the Adam Walsh Act,~~
 23 ~~and related activities;~~

24 ~~(8) \$1,000,000 for the National Sex Offender~~
 25 ~~Public Website;~~

1 ~~(9) \$73,000,000 for grants to States to up-~~
 2 ~~grade criminal and mental health records for the~~
 3 ~~National Instant Criminal Background Check Sys-~~
 4 ~~tem, including as authorized by the NICS Improve-~~
 5 ~~ment Amendments Act of 2007 (Public Law 110-~~
 6 ~~180);~~

7 ~~(10) \$125,000,000 for DNA-related and foren-~~
 8 ~~sic programs and activities, of which—~~

9 ~~(A) \$117,000,000 is for a DNA analysis~~
 10 ~~and capacity enhancement program and for~~
 11 ~~other local, State, and Federal forensic activi-~~
 12 ~~ties, including the purposes authorized under~~
 13 ~~section 2 of the DNA Analysis Backlog Elimini-~~
 14 ~~ation Act of 2000 (Public Law 106–546) (the~~
 15 ~~Debbie Smith DNA Backlog Grant Program):~~
 16 ~~*Provided*, That up to 4 percent of funds made~~
 17 ~~available under this paragraph may be used for~~
 18 ~~the purposes described in the DNA Training~~
 19 ~~and Education for Law Enforcement, Correc-~~
 20 ~~tional Personnel, and Court Officers program~~
 21 ~~(Public Law 108–405, section 303);~~

22 ~~(B) \$4,000,000 is for the purposes de-~~
 23 ~~scribed in the Kirk Bloodsworth Post-Convic-~~
 24 ~~tion DNA Testing Program (Public Law 108–~~
 25 ~~405, section 412); and~~

1 (C) \$4,000,000 is for Sexual Assault Fo-
 2 rensic Exam Program grants, including as au-
 3 thorized by section 304 of Public Law 108-405;

4 (11) \$6,000,000 for the court-appointed special
 5 advocate program, as authorized by section 217 of
 6 the 1990 Act;

7 (12) \$5,000,000 (increased by \$2,000,000) (in-
 8 creased by \$2,500,000) (increased by \$5,000,000)
 9 (increased by \$1,000,000) for a veterans treatment
 10 courts program;

11 (13) \$11,000,000 (increased by \$5,000,000) for
 12 a program to monitor prescription drugs and sched-
 13 uled listed chemical products;

14 (14) \$13,000,000 for prison rape prevention
 15 and prosecution grants to States and units of local
 16 government, and other programs, as authorized by
 17 the Prison Rape Elimination Act of 2003 (Public
 18 Law 108-79);

19 (15) \$75,000,000 is for the Comprehensive
 20 School Safety Initiative; and

21 (16) \$2,400,000 for the operationalization,
 22 maintenance and expansion of the National Missing
 23 and Unidentified Persons System:

24 *Provided*, That, if a unit of local government uses any of
 25 the funds made available under this heading to increase

1 the number of law enforcement officers, the unit of local
 2 government will achieve a net gain in the number of law
 3 enforcement officers who perform non-administrative pub-
 4 lic sector safety service.

5 **JUVENILE JUSTICE PROGRAMS**

6 For grants, contracts, cooperative agreements, and
 7 other assistance, the following amounts are made available
 8 until expended—

9 (1) \$95,000,000 for youth mentoring grants;

10 (2) \$19,000,000 (increased by \$3,000,000) for
 11 programs authorized by the Victims of Child Abuse
 12 Act of 1990;

13 (3) \$68,000,000 for missing and exploited chil-
 14 dren programs, including as authorized by sections
 15 404(b) and 405(a) of the 1974 Act (except that sec-
 16 tion 102(b)(4)(B) of the PROTECT Our Children
 17 Act of 2008 (Public Law 110–401) shall not apply
 18 for purposes of this Act); and

19 (4) \$1,500,000 for child abuse training pro-
 20 grams for judicial personnel and practitioners, as
 21 authorized by section 222 of the Victims of Child
 22 Abuse Act of 1990.

1 PUBLIC SAFETY OFFICER BENEFITS
2 (INCLUDING TRANSFER OF FUNDS)

3 For payments and expenses authorized under section
4 1001(a)(4) of title I of the Omnibus Crime Control and
5 Safe Streets Act of 1968, such sums as are necessary (in-
6 cluding amounts for administrative costs), to remain avail-
7 able until expended; and \$16,300,000 for payments au-
8 thorized by section 1201(b) of such Act and for edu-
9 cational assistance authorized by section 1218 of such Act,
10 to remain available until expended: *Provided*, That not-
11 withstanding section 205 of this Act, upon a determina-
12 tion by the Attorney General that emergent circumstances
13 require additional funding for such disability and edu-
14 cation payments, the Attorney General may transfer such
15 amounts to “Public Safety Officer Benefits” from avail-
16 able appropriations for the Department of Justice as may
17 be necessary to respond to such circumstances: *Provided*
18 *further*, That any transfer pursuant to the preceding pro-
19 viso shall be treated as a reprogramming under section
20 505 of this Act and shall not be available for obligation
21 or expenditure except in compliance with the procedures
22 set forth in that section.

1 COMMUNITY ORIENTED POLICING SERVICES
 2 COMMUNITY ORIENTED POLICING SERVICES PROGRAMS
 3 (INCLUDING TRANSFER OF FUNDS)

4 For grants, contracts, cooperative agreements, and
 5 other assistance, the following amounts are made available
 6 until expended: *Provided*, That any balances made avail-
 7 able through prior year deobligations shall only be avail-
 8 able in accordance with section 505 of this Act—

9 (1) \$11,000,000 for anti-methamphetamine-re-
 10 lated activities, which shall be transferred to the
 11 Drug Enforcement Administration upon enactment
 12 of this Act;

13 (2) \$30,000,000 for assistance to Indian tribes;

14 (3) \$52,500,000 (increased by \$10,000,000) for
 15 initiatives to improve police-community relations, as
 16 described in the report accompanying this Act;

17 (4) \$41,000,000 (increased by \$4,000,000) for
 18 a grant program for community-based sexual assault
 19 response reform;

20 (5) \$68,000,000 for offender reentry programs
 21 and research, as authorized by the Second Chance
 22 Act of 2007 (Public Law 110–199), without regard
 23 to the time limitations specified at section 6(1) of
 24 such Act; and

1 (6) \$25,000,000 is for regional information
 2 sharing activities, as authorized by part M of title I
 3 of the Omnibus Crime Control and Safe Streets Act
 4 of 1968.

5 GENERAL PROVISIONS—DEPARTMENT OF JUSTICE
 6 (INCLUDING TRANSFER OF FUNDS)

7 SEC. 201. In addition to amounts otherwise made
 8 available in this title for official reception and representa-
 9 tion expenses, a total of not to exceed \$50,000 from funds
 10 appropriated to the Department of Justice in this title
 11 shall be available to the Attorney General for official re-
 12 ception and representation expenses.

13 SEC. 202. None of the funds appropriated by this
 14 title shall be available to pay for an abortion, except where
 15 the life of the mother would be endangered if the fetus
 16 were carried to term, or in the case of rape or incest: *Pro-*
 17 *vided,* That should this prohibition be declared unconstitu-
 18 tional by a court of competent jurisdiction, this section
 19 shall be null and void.

20 SEC. 203. None of the funds appropriated under this
 21 title shall be used to require any person to perform, or
 22 facilitate in any way the performance of, any abortion.

23 SEC. 204. Nothing in the preceding section shall re-
 24 move the obligation of the Director of the Bureau of Pris-
 25 ons to provide escort services necessary for a female in-

1 mate to receive such service outside the Federal facility:
2 *Provided*, That nothing in this section in any way dimin-
3 ishes the effect of section 203 intended to address the phil-
4 osophical beliefs of individual employees of the Bureau of
5 Prisons.

6 ~~SEC. 205.~~ Not to exceed 5 percent of any appropria-
7 tion made available for the current fiscal year for the De-
8 partment of Justice in this Act may be transferred be-
9 tween such appropriations; but no such appropriation, ex-
10 cept as otherwise specifically provided, shall be increased
11 by more than 10 percent by any such transfers: *Provided*,
12 That any transfer pursuant to this section shall be treated
13 as a reprogramming of funds under section 505 of this
14 Act and shall not be available for obligation except in com-
15 pliance with the procedures set forth in that section.

16 ~~SEC. 206.~~ The Attorney General is authorized to ex-
17 tend through September 30, 2016, the Personnel Manage-
18 ment Demonstration Project transferred to the Attorney
19 General pursuant to section 1115 of the Homeland Secu-
20 rity Act of 2002 (Public Law 107–296; 28 U.S.C. 599B)
21 without limitation on the number of employees or the posi-
22 tions covered.

23 ~~SEC. 207.~~ None of the funds made available under
24 this title may be used by the Federal Bureau of Prisons
25 or the United States Marshals Service for the purpose of

1 transporting an individual who is a prisoner pursuant to
2 conviction for crime under State or Federal law and is
3 classified as a maximum or high security prisoner; other
4 than to a prison or other facility certified by the Federal
5 Bureau of Prisons as appropriately secure for housing
6 such a prisoner.

7 ~~SEC. 208.~~ (a) None of the funds appropriated by this
8 Act may be used by Federal prisons to purchase cable tele-
9 vision services; or to rent or purchase audiovisual or elec-
10 tronic media or equipment used primarily for recreational
11 purposes.

12 ~~(b)~~ Subsection (a) does not preclude the rental, main-
13 tenance, or purchase of audiovisual or electronic media or
14 equipment for inmate training, religious, or educational
15 programs.

16 ~~SEC. 209.~~ None of the funds made available under
17 this title shall be obligated or expended for any new or
18 enhanced information technology program having total es-
19 timated development costs in excess of \$100,000,000; un-
20 less the Deputy Attorney General and the investment re-
21 view board certify to the Committees on Appropriations
22 of the House of Representatives and the Senate that the
23 information technology program has appropriate program
24 management controls and contractor oversight mecha-

1 nisms in place, and that the program is compatible with
2 the enterprise architecture of the Department of Justice.

3 ~~SEC. 210.~~ The notification thresholds and procedures
4 set forth in section 505 of this Act shall apply to devi-
5 ations from the amounts designated for specific activities
6 in this Act and in the report accompanying this Act, and
7 to any use of deobligated balances of funds provided under
8 this title in previous years.

9 ~~SEC. 211.~~ None of the funds appropriated by this Act
10 may be used to plan for, begin, continue, finish, process,
11 or approve a public-private competition under the Office
12 of Management and Budget Circular A-76 or any suc-
13 cessor administrative regulation, directive, or policy for
14 work performed by employees of Federal Prison Indus-
15 tries, Incorporated.

16 ~~SEC. 212.~~ Notwithstanding any other provision of
17 law, no funds shall be available for the salary, benefits,
18 or expenses of any United States Attorney assigned dual
19 or additional responsibilities by the Attorney General or
20 his designee that exempt that United States Attorney
21 from the residency requirements of section 545 of title 28,
22 United States Code.

23 ~~SEC. 213.~~ At the discretion of the Attorney General,
24 and in addition to any amounts that otherwise may be
25 available (or authorized to be made available) by law, with

1 respect to funds appropriated by this title under the head-
 2 ings “Violence Against Women Prevention and Prosecu-
 3 tion Programs”, “State and Local Law Enforcement As-
 4 sistance”, “Juvenile Justice Programs”, and “Community
 5 Oriented Policing Services Programs”—

6 (1) up to 3 percent of funds made available to
 7 the Office of Justice Programs for grant or reim-
 8 bursement programs may be used by such Office to
 9 provide training and technical assistance; and

10 (2) funds made available for grant or reim-
 11 bursement programs under such headings, except for
 12 amounts appropriated specifically for research, eval-
 13 uation, or statistical programs administered by the
 14 National Institute of Justice and the Bureau of Jus-
 15 tice Statistics, may be transferred to and merged
 16 with funds provided to the National Institute of Jus-
 17 tice and the Bureau of Justice Statistics, to be used
 18 by them for research, evaluation, or statistical pur-
 19 poses, without regard to the authorizations for such
 20 grant or reimbursement programs: *Provided*, That
 21 the transfer authority in this paragraph is in addi-
 22 tion to any other transfer authority contained in this
 23 Act: *Provided further*, That any transfer pursuant to
 24 this subsection shall be subject to the notification

1 procedures applicable to a reprogramming of funds
2 under section 505 of this Act.

3 ~~SEC. 214.~~ Notwithstanding any other provision of
4 law, section 20109(a) of subtitle A of title II of the Violent
5 Crime Control and Law Enforcement Act of 1994 (42
6 U.S.C. 13709(a)) shall not apply to amounts made avail-
7 able by this or any other Act.

8 ~~SEC. 215.~~ None of the funds made available under
9 this or any other Act, for fiscal year 2016 and each fiscal
10 year thereafter, other than for the national instant crimi-
11 nal background check system established under section
12 103 of the Brady Handgun Violence Prevention Act (18
13 U.S.C. 922 note), may be used by a Federal law enforce-
14 ment officer to facilitate the transfer of an operable fire-
15 arm to an individual if the Federal law enforcement officer
16 knows or suspects that the individual is an agent of a drug
17 cartel, unless law enforcement personnel of the United
18 States continuously monitor or control the firearm at all
19 times.

20 ~~SEC. 216.~~ (a) None of the income retained in the De-
21 partment of Justice Working Capital Fund pursuant to
22 title I of Public Law 102-140 (105 Stat. 784; 28 U.S.C.
23 527 note) shall be available for obligation during fiscal
24 year 2016, except up to \$40,000,000 may be obligated for

1 implementation of a unified Department of Justice finan-
2 cial management system.

3 (b) Not to exceed \$30,000,000 of the unobligated bal-
4 ances transferred to the capital account of the Department
5 of Justice Working Capital Fund pursuant to title I of
6 Public Law 102–140 (105 Stat. 784; 28 U.S.C. 527 note)
7 shall be available for obligation in fiscal year 2016; and
8 any use, obligation, transfer or allocation of such funds
9 shall be treated as a reprogramming of funds under sec-
10 tion 505 of this Act.

11 (c) Any use, obligation, transfer or allocation of ex-
12 cess unobligated balances available under section
13 524(c)(8)(E) of title 28, United States Code, shall be
14 treated as a reprogramming of funds under section 505
15 of this Act.

16 (d) Of amounts available in the Assets Forfeiture
17 Fund in fiscal year 2016, \$154,700,000 shall be for pay-
18 ments associated with joint law enforcement operations as
19 authorized by section 524(c)(1)(I) of title 28, United
20 States Code, and \$20,514,000 shall be for payments asso-
21 ciated with subparagraphs (B), (F), and (G) of section
22 524(c)(1) of title 28, United States Code.

23 (e) The Attorney General shall submit a spending
24 plan to the Committees on Appropriations of the House
25 of Representatives and the Senate not later than 30 days

1 after the date of enactment of this Act detailing the
2 planned distribution of Assets Forfeiture Fund joint law
3 enforcement operations funding during fiscal year 2016.

4 SEC. 217. (a) Of the funds appropriated by this Act
5 under each of the headings “General Administration—Sal-
6 aries and Expenses”, “United States Marshals Service—
7 Salaries and Expenses”, “Federal Bureau of Investiga-
8 tion—Salaries and Expenses”, “Drug Enforcement Ad-
9 ministration—Salaries and Expenses”, and “Bureau of
10 Alcohol, Tobacco, Firearms and Explosives—Salaries and
11 Expenses”, \$20,000,000 shall not be available for obliga-
12 tion until the Attorney General demonstrates to the Com-
13 mittees on Appropriations of the House of Representatives
14 and the Senate that all recommendations included in the
15 Office of Inspector General of the Department of Justice,
16 Evaluation and Inspections Division Report 15–04 enti-
17 tled “The Handling of Sexual Harassment and Mis-
18 conduct Allegations by the Department’s Law Enforce-
19 ment Components”, dated March, 2015, have been imple-
20 mented or are in the process of being implemented.

21 (b) The Inspector General of the Department of Jus-
22 tice shall report to the Committees on Appropriations of
23 the House of Representatives and the Senate not later
24 than 90 days after the date of enactment of this Act on
25 the status of the Department’s implementation of rec-

1 ommendations included in the report specified in sub-
 2 section (a).

3 This title may be cited as the “Department of Justice
 4 Appropriations Act, 2016”.

5 TITLE III

6 SCIENCE

7 OFFICE OF SCIENCE AND TECHNOLOGY POLICY

8 For necessary expenses of the Office of Science and
 9 Technology Policy, in carrying out the purposes of the Na-
 10 tional Science and Technology Policy, Organization, and
 11 Priorities Act of 1976 (42 U.S.C. 6601 et seq.), hire of
 12 passenger motor vehicles, and services as authorized by
 13 section 3109 of title 5, United States Code, not to exceed
 14 \$2,250 for official reception and representation expenses,
 15 and rental of conference rooms in the District of Colum-
 16 bia, \$5,555,000.

17 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

18 SCIENCE

19 For necessary expenses, not otherwise provided for,
 20 in the conduct and support of science research and devel-
 21 opment activities, including research, development, oper-
 22 ations, support, and services; maintenance and repair, fa-
 23 cility planning and design; space flight, spacecraft control,
 24 and communications activities; program management; per-
 25 sonnel and related costs, including uniforms or allowances

1 therefor, as authorized by sections 5901 and 5902 of title
2 5, United States Code; travel expenses; purchase and hire
3 of passenger motor vehicles; and purchase, lease, charter,
4 maintenance, and operation of mission and administrative
5 aircraft, \$5,237,500,000, to remain available until Sep-
6 tember 30, 2017: *Provided*, That the formulation and de-
7 velopment costs (with development cost as defined under
8 section 30104 of title 51, United States Code) for the
9 James Webb Space Telescope shall not exceed
10 \$8,000,000,000: *Provided further*, That should the indi-
11 vidual identified under subsection (e)(2)(E) of section
12 30104 of title 51, United States Code, as responsible for
13 the James Webb Space Telescope determine that the de-
14 velopment cost of the program is likely to exceed that limi-
15 tation, the individual shall immediately notify the Admin-
16 istrator and the increase shall be treated as if it meets
17 the 30 percent threshold described in subsection (f) of sec-
18 tion 30104: *Provided further*, That, \$140,000,000 shall be
19 for a Jupiter Europa mission to assure progress on a mis-
20 sion which meets the Planetary Science decadal objectives,
21 consisting of an orbiter and studies of both a surface ele-
22 ment as well as sample analysis of plumes emanating from
23 the surface: *Provided further*, That NASA shall use the
24 Space Launch System as the launch vehicle for a Jupiter
25 Europa mission, plan for a launch no later than 2022,

1 and include in the fiscal year 2017 budget the 5 year fund-
2 ing profile necessary to achieve those goals.

3 **AERONAUTICS**

4 For necessary expenses, not otherwise provided for,
5 in the conduct and support of aeronautics research and
6 development activities, including research, development,
7 operations, support, and services; maintenance and repair;
8 facility planning and design; space flight, spacecraft con-
9 trol, and communications activities; program manage-
10 ment; personnel and related costs, including uniforms or
11 allowances therefor, as authorized by sections 5901 and
12 5902 of title 5, United States Code; travel expenses; pur-
13 chase and hire of passenger motor vehicles; and purchase,
14 lease, charter, maintenance, and operation of mission and
15 administrative aircraft, \$600,000,000, to remain available
16 until September 30, 2017.

17 **SPACE TECHNOLOGY**

18 For necessary expenses, not otherwise provided for,
19 in the conduct and support of space technology research
20 and development activities, including research, develop-
21 ment, operations, support, and services; maintenance and
22 repair; facility planning and design; space flight, space-
23 craft control, and communications activities; program
24 management; personnel and related costs, including uni-
25 forms or allowances therefor, as authorized by sections

1 5901 and 5902 of title 5, United States Code; travel ex-
 2 penses; purchase and hire of passenger motor vehicles; and
 3 purchase, lease, charter, maintenance, and operation of
 4 mission and administrative aircraft, \$625,000,000, to re-
 5 main available until September 30, 2017, of which
 6 \$25,000,000 shall be for icy satellites surface technology
 7 and test beds.

8 **EXPLORATION**

9 For necessary expenses, not otherwise provided for,
 10 in the conduct and support of exploration research and
 11 development activities, including research, development,
 12 operations, support, and services; maintenance and repair;
 13 facility planning and design; space flight, spacecraft con-
 14 trol, and communications activities; program manage-
 15 ment; personnel and related costs, including uniforms or
 16 allowances therefor, as authorized by sections 5901 and
 17 5902 of title 5, United States Code; travel expenses; pur-
 18 chase and hire of passenger motor vehicles; and purchase,
 19 lease, charter, maintenance, and operation of mission and
 20 administrative aircraft, \$4,759,300,000, to remain avail-
 21 able until September 30, 2017: *Provided*, That not less
 22 than \$1,096,300,000 shall be for the Orion Multi-Purpose
 23 Crew Vehicle: *Provided further*, That not less than
 24 \$2,313,000,000 shall be for the Space Launch System, in-
 25 cluding no less than \$1,850,000,000 for launch vehicle de-

1 velopment, which shall have a lift capability not less than
 2 130 metric tons and which shall have core elements and
 3 an enhanced upper stage developed simultaneously: *Pro-*
 4 *vided further,* That of the amounts provided for launch
 5 vehicle development, no less than \$50,000,000 shall be for
 6 enhanced upper stage development: *Provided further,* That
 7 of the funds made available for the Space Launch System,
 8 \$410,000,000 shall be for exploration ground systems and
 9 \$53,000,000 shall be for program integration: *Provided*
 10 *further,* That \$1,000,000,000 shall be for commercial
 11 spaceflight activities: *Provided further,* That \$350,000,000
 12 shall be for exploration research and development.

13 SPACE OPERATIONS

14 For necessary expenses, not otherwise provided for,
 15 in the conduct and support of space operations research
 16 and development activities, including research, develop-
 17 ment, operations, support and services; space flight, space-
 18 craft control and communications activities, including op-
 19 erations, production, and services; maintenance and re-
 20 pair, facility planning and design; program management;
 21 personnel and related costs, including uniforms or allow-
 22 ances therefor, as authorized by sections 5901 and 5902
 23 of title 5, United States Code; travel expenses; purchase
 24 and hire of passenger motor vehicles; and purchase, lease,
 25 charter, maintenance and operation of mission and admin-

1 istrative aircraft, \$2,957,300,000, to remain available
 2 until September 30, 2017.

3 **EDUCATION**

4 For necessary expenses, not otherwise provided for,
 5 in the conduct and support of aerospace and aeronautical
 6 education research and development activities, including
 7 research, development, operations, support, and services;
 8 program management; personnel and related costs, includ-
 9 ing uniforms or allowances therefor, as authorized by sec-
 10 tions 5901 and 5902 of title 5, United States Code; travel
 11 expenses; purchase and hire of passenger motor vehicles;
 12 and purchase, lease, charter, maintenance, and operation
 13 of mission and administrative aircraft, \$119,000,000, to
 14 remain available until September 30, 2017, of which
 15 \$18,000,000 shall be for the Experimental Program to
 16 Stimulate Competitive Research and \$40,000,000 shall be
 17 for the National Space Grant College program.

18 **SAFETY, SECURITY AND MISSION SERVICES**

19 For necessary expenses, not otherwise provided for,
 20 in the conduct and support of science, aeronautics, space
 21 technology, exploration, space operations and education
 22 research and development activities, including research,
 23 development, operations, support, and services; mainte-
 24 nance and repair, facility planning and design; space
 25 flight, spacecraft control, and communications activities;

1 program management; personnel and related costs; includ-
 2 ing uniforms or allowances therefor, as authorized by sec-
 3 tions 5901 and 5902 of title 5, United States Code; travel
 4 expenses; purchase and hire of passenger motor vehicles;
 5 not to exceed \$63,000 for official reception and represen-
 6 tation expenses; and purchase, lease, charter, mainte-
 7 nance, and operation of mission and administrative air-
 8 craft, \$2,768,600,000, to remain available until Sep-
 9 tember 30, 2017.

10 **CONSTRUCTION AND ENVIRONMENTAL COMPLIANCE AND**
 11 **RESTORATION**

12 For necessary expenses for construction of facilities
 13 including repair, rehabilitation, revitalization, and modi-
 14 fication of facilities; construction of new facilities and ad-
 15 ditions to existing facilities; facility planning and design,
 16 and restoration; and acquisition or condemnation of real
 17 property, as authorized by law, and environmental compli-
 18 ance and restoration, \$425,000,000, to remain available
 19 until September 30, 2021: *Provided*, That proceeds from
 20 leases deposited into this account shall be available for a
 21 period of 5 years to the extent and in amounts as provided
 22 in annual appropriations Acts: *Provided further*, That not-
 23 withstanding section 20145(b)(2)(A) of title 51, United
 24 States Code, such proceeds referred to in the preceding
 25 proviso shall be available for obligation for fiscal year

1 2016 in an amount not to exceed \$9,470,300: *Provided*
 2 *further*, That each annual budget request shall include an
 3 annual estimate of gross receipts and collections and pro-
 4 posed use of all funds collected pursuant to section 20145
 5 of title 51, United States Code.

6 **OFFICE OF INSPECTOR GENERAL**

7 For necessary expenses of the Office of Inspector
 8 General in carrying out the Inspector General Act of 1978,
 9 \$37,400,000, of which \$500,000 shall remain available
 10 until September 30, 2017.

11 **ADMINISTRATIVE PROVISIONS**

12 **(INCLUDING TRANSFERS OF FUNDS)**

13 Funds for any announced prize otherwise authorized
 14 shall remain available, without fiscal year limitation, until
 15 the prize is claimed or the offer is withdrawn.

16 Not to exceed 5 percent of any appropriation made
 17 available for the current fiscal year for the National Aero-
 18 nautics and Space Administration in this Act may be
 19 transferred between such appropriations, but no such ap-
 20 propriation, except as otherwise specifically provided, shall
 21 be increased by more than 10 percent by any such trans-
 22 fers. Balances so transferred shall be merged with and
 23 available for the same purposes and the same time period
 24 as the appropriations to which transferred. Any transfer
 25 pursuant to this provision shall be treated as a reprogram-

1 ming of funds under section 505 of this Act and shall not
 2 be available for obligation except in compliance with the
 3 procedures set forth in that section.

4 The spending plan required by this Act shall be pro-
 5 vided by NASA at the theme, program, project and activ-
 6 ity level. The spending plan, as well as any subsequent
 7 change of an amount established in that spending plan
 8 that meets the notification requirements of section 505 of
 9 this Act, shall be treated as a reprogramming under sec-
 10 tion 505 of this Act and shall not be available for obliga-
 11 tion or expenditure except in compliance with the proce-
 12 dures set forth in that section.

13 The unexpired balances of a previous account, for ac-
 14 tivities for which funds are provided in this Act, may be
 15 transferred to the new account established in this Act that
 16 provides for such activities. Balances so transferred shall
 17 be merged with the funds in the newly established account,
 18 but shall be available under the same terms, conditions
 19 and period of time as previously appropriated.

20 NATIONAL SCIENCE FOUNDATION

21 RESEARCH AND RELATED ACTIVITIES

22 For necessary expenses in carrying out the National
 23 Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.);
 24 and Public Law 86-209 (42 U.S.C. 1880 et seq.); services
 25 as authorized by section 3109 of title 5, United States

1 Code; maintenance and operation of aircraft and purchase
 2 of flight services for research support; acquisition of air-
 3 craft; and authorized travel; \$5,983,645,000; to remain
 4 available until September 30, 2017; of which not to exceed
 5 \$520,000,000 shall remain available until expended for
 6 polar research and operations support, and for reimburse-
 7 ment to other Federal agencies for operational and science
 8 support and logistical and other related activities for the
 9 United States Antarctic program: *Provided*, That receipts
 10 for scientific support services and materials furnished by
 11 the National Research Centers and other National Science
 12 Foundation supported research facilities may be credited
 13 to this appropriation.

14 **MAJOR RESEARCH EQUIPMENT AND FACILITIES**

15 **CONSTRUCTION**

16 For necessary expenses for the acquisition, construc-
 17 tion, commissioning, and upgrading of major research
 18 equipment, facilities, and other such capital assets pursu-
 19 ant to the National Science Foundation Act of 1950 (42
 20 U.S.C. 1861 et seq.); including authorized travel;
 21 \$200,030,000; to remain available until expended.

22 **EDUCATION AND HUMAN RESOURCES**

23 For necessary expenses in carrying out science, math-
 24 ematics and engineering education and human resources
 25 programs and activities pursuant to the National Science

1 Foundation Act of 1950 (42 U.S.C. 1861 et seq.); includ-
 2 ing services as authorized by section 3109 of title 5,
 3 United States Code; authorized travel, and rental of con-
 4 ference rooms in the District of Columbia, \$866,000,000;
 5 to remain available until September 30, 2017.

6 **AGENCY OPERATIONS AND AWARD MANAGEMENT**

7 For agency operations and award management nec-
 8 essary in carrying out the National Science Foundation
 9 Act of 1950 (42 U.S.C. 1861 et seq.); services authorized
 10 by section 3109 of title 5, United States Code; hire of pas-
 11 senger motor vehicles; uniforms or allowances therefor, as
 12 authorized by sections 5901 and 5902 of title 5, United
 13 States Code; rental of conference rooms in the District of
 14 Columbia; and reimbursement of the Department of
 15 Homeland Security for security guard services;
 16 \$325,000,000: *Provided*, That not to exceed \$8,280 is for
 17 official reception and representation expenses: *Provided*
 18 *further*, That contracts may be entered into under this
 19 heading in fiscal year 2016 for maintenance and operation
 20 of facilities and for other services to be provided during
 21 the next fiscal year: *Provided further*, That of the amount
 22 provided for costs associated with the acquisition, occu-
 23 pancy, and related costs of new headquarters space, not
 24 more than \$27,370,000 shall remain available until ex-
 25 pended.

1 **OFFICE OF THE NATIONAL SCIENCE BOARD**

2 For necessary expenses (including payment of sala-
3 ries; authorized travel; hire of passenger motor vehicles;
4 the rental of conference rooms in the District of Columbia;
5 and the employment of experts and consultants under sec-
6 tion 3109 of title 5, United States Code) involved in ear-
7 nying out section 4 of the National Science Foundation
8 Act of 1950 (42 U.S.C. 1863) and Public Law 86–209
9 (42 U.S.C. 1880 et seq.), \$4,370,000: *Provided*, That not
10 to exceed \$2,500 shall be available for official reception
11 and representation expenses.

12 **OFFICE OF INSPECTOR GENERAL**

13 For necessary expenses of the Office of Inspector
14 General as authorized by the Inspector General Act of
15 1978, \$15,160,000, of which \$400,000 shall remain avail-
16 able until September 30, 2017.

17 **ADMINISTRATIVE PROVISION**

18 Not to exceed 5 percent of any appropriation made
19 available for the current fiscal year for the National
20 Science Foundation in this Act may be transferred be-
21 tween such appropriations, but no such appropriation shall
22 be increased by more than 10 percent by any such trans-
23 fers. Any transfer pursuant to this section shall be treated
24 as a reprogramming of funds under section 505 of this

1 Act and shall not be available for obligation except in com-
 2 pliance with the procedures set forth in that section.

3 This title may be cited as the “Science Appropria-
 4 tions Act, 2016”.

5 TITLE IV

6 RELATED AGENCIES

7 COMMISSION ON CIVIL RIGHTS

8 SALARIES AND EXPENSES

9 For necessary expenses of the Commission on Civil
 10 Rights, including hire of passenger motor vehicles,
 11 \$9,200,000: *Provided*, That none of the funds appro-
 12 priated in this paragraph shall be used to employ in excess
 13 of four full-time individuals under Schedule C of the Ex-
 14 cepted Service exclusive of one special assistant for each
 15 Commissioner: *Provided further*, That none of the funds
 16 appropriated in this paragraph shall be used to reimburse
 17 Commissioners for more than 75 billable days, with the
 18 exception of the chairperson, who is permitted 125 billable
 19 days: *Provided further*, That none of the funds appro-
 20 priated in this paragraph shall be used for any activity
 21 or expense that is not explicitly authorized by section 3
 22 of the Civil Rights Commission Act of 1983 (42 U.S.C.
 23 1975a).

1 **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**2 **SALARIES AND EXPENSES**

3 For necessary expenses of the Equal Employment
4 Opportunity Commission as authorized by title VII of the
5 Civil Rights Act of 1964, the Age Discrimination in Em-
6 ployment Act of 1967, the Equal Pay Act of 1963, the
7 Americans with Disabilities Act of 1990, section 501 of
8 the Rehabilitation Act of 1973, the Civil Rights Act of
9 1991, the Genetic Information Non-Discrimination Act
10 (GINA) of 2008 (Public Law 110-233), the ADA Amend-
11 ments Act of 2008 (Public Law 110-325), and the Lilly
12 Ledbetter Fair Pay Act of 2009 (Public Law 111-2), in-
13 cluding services as authorized by section 3109 of title 5,
14 United States Code; hire of passenger motor vehicles as
15 authorized by section 1343(b) of title 31, United States
16 Code; nonmonetary awards to private citizens; and up to
17 \$29,500,000 for payments to State and local enforcement
18 agencies for authorized services to the Commission;
19 ~~\$364,500,000: *Provided*, That the Commission is author-~~
20 ~~ized to make available for official reception and represen-~~
21 ~~tation expenses not to exceed \$2,250 from available funds:~~
22 ~~*Provided further*, That the Chair is authorized to accept~~
23 ~~and use any gift or donation to carry out the work of the~~
24 ~~Commission.~~

1 INTERNATIONAL TRADE COMMISSION

2 SALARIES AND EXPENSES

3 For necessary expenses of the International Trade
 4 Commission, including hire of passenger motor vehicles
 5 and services as authorized by section 3109 of title 5,
 6 United States Code, and not to exceed \$2,250 for official
 7 reception and representation expenses, \$84,500,000 (in-
 8 creased by \$2,000,000), to remain available until ex-
 9 pended.

10 LEGAL SERVICES CORPORATION

11 PAYMENT TO THE LEGAL SERVICES CORPORATION

12 For payment to the Legal Services Corporation to
 13 carry out the purposes of the Legal Services Corporation
 14 Act of 1974, \$300,000,000, of which \$266,900,000 is for
 15 basic field programs and required independent audits;
 16 \$5,100,000 is for the Office of Inspector General, of which
 17 such amounts as may be necessary may be used to conduct
 18 additional audits of recipients; \$19,000,000 is for manage-
 19 ment and grants oversight; \$4,000,000 is for client self-
 20 help and information technology; \$4,000,000 is for a Pro
 21 Bono Innovation Fund; and \$1,000,000 is for loan repay-
 22 ment assistance: *Provided*, That the Legal Services Cor-
 23 poration may continue to provide locality pay to officers
 24 and employees at a rate no greater than that provided by
 25 the Federal Government to Washington, DC-based em-

1 ployees as authorized by section 5304 of title 5, United
 2 States Code, notwithstanding section 1005(d) of the Legal
 3 Services Corporation Act (42 U.S.C. 2996(d)): *Provided*
 4 *further*, That the authorities provided in section 205 of
 5 this Act shall be applicable to the Legal Services Corpora-
 6 tion: *Provided further*, That, for the purposes of section
 7 505 of this Act, the Legal Services Corporation shall be
 8 considered an agency of the United States Government.

9 **ADMINISTRATIVE PROVISION—LEGAL SERVICES**

10 **CORPORATION**

11 None of the funds appropriated in this Act to the
 12 Legal Services Corporation shall be expended for any pur-
 13 pose prohibited or limited by, or contrary to any of the
 14 provisions of, sections 501, 502, 503, 504, 505, and 506
 15 of Public Law 105–119, and all funds appropriated in this
 16 Act to the Legal Services Corporation shall be subject to
 17 the same terms and conditions set forth in such sections,
 18 except that all references in sections 502 and 503 to 1997
 19 and 1998 shall be deemed to refer instead to 2015 and
 20 2016, respectively.

21 **MARINE MAMMAL COMMISSION**

22 **SALARIES AND EXPENSES**

23 For necessary expenses of the Marine Mammal Com-
 24 mission as authorized by title II of the Marine Mammal

1 Protection Act of 1972 (16 U.S.C. 1361 et seq.);
 2 \$3,340,000.

3 OFFICE OF THE UNITED STATES TRADE

4 REPRESENTATIVE

5 SALARIES AND EXPENSES

6 For necessary expenses of the Office of the United
 7 States Trade Representative, including the hire of pas-
 8 senger motor vehicles and the employment of experts and
 9 consultants as authorized by section 3109 of title 5,
 10 United States Code, \$54,250,000, of which \$1,000,000
 11 shall remain available until expended: *Provided*, That not
 12 to exceed \$124,000 shall be available for official reception
 13 and representation expenses.

14 STATE JUSTICE INSTITUTE

15 SALARIES AND EXPENSES

16 For necessary expenses of the State Justice Institute,
 17 as authorized by the State Justice Institute Authorization
 18 Act of 1984 (42 U.S.C. 10701 et seq.) \$5,121,000, of
 19 which \$500,000 shall remain available until September 30,
 20 2017: *Provided*, That not to exceed \$2,250 shall be avail-
 21 able for official reception and representation expenses:
 22 *Provided further*, That, for the purposes of section 505
 23 of this Act, the State Justice Institute shall be considered
 24 an agency of the United States Government.

1 TITLE V
2 GENERAL PROVISIONS
3 ~~(INCLUDING RESCISSIONS)~~
4 ~~(INCLUDING TRANSFER OF FUNDS)~~

5 SEC. 501. No part of any appropriation contained in
6 this Act shall be used for publicity or propaganda purposes
7 not authorized by the Congress.

8 SEC. 502. No part of any appropriation contained in
9 this Act shall remain available for obligation beyond the
10 current fiscal year unless expressly so provided herein.

11 SEC. 503. The expenditure of any appropriation
12 under this Act for any consulting service through procure-
13 ment contract, pursuant to section 3109 of title 5, United
14 States Code, shall be limited to those contracts where such
15 expenditures are a matter of public record and available
16 for public inspection, except where otherwise provided
17 under existing law, or under existing Executive order
18 issued pursuant to existing law.

19 SEC. 504. If any provision of this Act or the applica-
20 tion of such provision to any person or circumstances shall
21 be held invalid, the remainder of the Act and the applica-
22 tion of each provision to persons or circumstances other
23 than those as to which it is held invalid shall not be af-
24 fected thereby.

1 ~~SEC. 505.~~ None of the funds provided under this Act,
2 or provided under previous appropriations Acts to the
3 agencies funded by this Act that remain available for obli-
4 gation or expenditure in fiscal year 2016, or provided from
5 any accounts in the Treasury of the United States derived
6 by the collection of fees available to the agencies funded
7 by this Act, shall be available for obligation or expenditure
8 through a reprogramming of funds that: (1) creates or ini-
9 tiates a new program, project or activity; (2) eliminates
10 a program, project or activity; (3) increases funds or per-
11 sonnel by any means for any project or activity for which
12 funds have been denied or restricted; (4) relocates an of-
13 fice or employees; (5) reorganizes or renames offices, pro-
14 grams or activities; (6) contracts out or privatizes any
15 functions or activities presently performed by Federal em-
16 ployees; (7) augments existing programs, projects or ac-
17 tivities in excess of \$500,000 or 10 percent, whichever is
18 less, or reduces by 10 percent funding for any program,
19 project or activity, or numbers of personnel by 10 percent;
20 or (8) results from any general savings, including savings
21 from a reduction in personnel, which would result in a
22 change in existing programs, projects or activities as ap-
23 proved by Congress; unless the House and Senate Com-
24 mittees on Appropriations are notified 15 days in advance
25 of such reprogramming of funds by agencies (excluding

1 agencies of the Department of Justice) funded by this Act
 2 and 45 days in advance of such reprogramming of funds
 3 by agencies of the Department of Justice funded by this
 4 Act.

5 ~~SEC. 506.~~ (a) If it has been finally determined by
 6 a court or Federal agency that any person intentionally
 7 affixed a label bearing a “Made in America” inscription,
 8 or any inscription with the same meaning, to any product
 9 sold in or shipped to the United States that is not made
 10 in the United States, the person shall be ineligible to re-
 11 ceive any contract or subcontract made with funds made
 12 available in this Act, pursuant to the debarment, suspen-
 13 sion, and ineligibility procedures described in sections
 14 9.400 through 9.409 of title 48, Code of Federal Regula-
 15 tions.

16 ~~(b)(1)~~ To the extent practicable, with respect to au-
 17 thorized purchases of promotional items, funds made
 18 available by this Act shall be used to purchase items that
 19 are manufactured, produced, or assembled in the United
 20 States, its territories or possessions.

21 ~~(2)~~ The term “promotional items” has the meaning
 22 given the term in OMB Circular A-87, Attachment B,
 23 Item (1)(f)(3).

24 ~~SEC. 507.~~ (a) The Departments of Commerce and
 25 Justice, the National Science Foundation, and the Na-

1 tional Aeronautics and Space Administration shall provide
2 to the Committees on Appropriations of the House of Rep-
3 resentatives and the Senate a quarterly report on the sta-
4 tus of balances of appropriations at the account level. For
5 unobligated, uncommitted balances and unobligated, com-
6 mitted balances the quarterly reports shall separately
7 identify the amounts attributable to each source year of
8 appropriation from which the balances were derived. For
9 balances that are obligated, but unexpended, the quarterly
10 reports shall separately identify amounts by the year of
11 obligation.

12 (b) The report described in subsection (a) shall be
13 submitted within 30 days of the end of each quarter.

14 (c) If a department or agency is unable to fulfill any
15 aspect of a reporting requirement described in subsection
16 (a) due to a limitation of a current accounting system,
17 the department or agency shall fulfill such aspect to the
18 maximum extent practicable under such accounting sys-
19 tem and shall identify and describe in each quarterly re-
20 port the extent to which such aspect is not fulfilled.

21 ~~SEC. 508.~~ Any costs incurred by a department or
22 agency funded under this Act resulting from, or to pre-
23 vent, personnel actions taken in response to funding re-
24 ductions included in this Act shall be absorbed within the
25 total budgetary resources available to such department or

1 agency: *Provided*, That the authority to transfer funds be-
2 tween appropriations accounts as may be necessary to
3 carry out this section is provided in addition to authorities
4 included elsewhere in this Act: *Provided further*, That use
5 of funds to carry out this section shall be treated as a
6 reprogramming of funds under section 505 of this Act and
7 shall not be available for obligation or expenditure except
8 in compliance with the procedures set forth in that section:
9 *Provided further*, That for the Department of Commerce,
10 this section shall also apply to actions taken for the care
11 and protection of loan collateral or grant property.

12 ~~SEC. 509.~~ None of the funds provided by this Act
13 shall be available to promote the sale or export of tobacco
14 or tobacco products, or to seek the reduction or removal
15 by any foreign country of restrictions on the marketing
16 of tobacco or tobacco products, except for restrictions
17 which are not applied equally to all tobacco or tobacco
18 products of the same type.

19 ~~SEC. 510.~~ None of the funds made available in this
20 Act may be used to pay the salaries and expenses of per-
21 sonnel of the Department of Justice to obligate more than
22 \$2,705,164,000 during fiscal year 2016 from the fund es-
23 tablished by section 1402 of Public Law 98-473 (42
24 U.S.C. 10601).

1 ~~SEC. 511.~~ None of the funds made available to the
2 Department of Justice in this Act may be used to discrimi-
3 nate against or denigrate the religious or moral beliefs of
4 students who participate in programs for which financial
5 assistance is provided from those funds, or of the parents
6 or legal guardians of such students.

7 ~~SEC. 512.~~ None of the funds made available in this
8 Act may be transferred to any department, agency, or in-
9 strumentality of the United States Government, except
10 pursuant to a transfer made by, or transfer authority pro-
11 vided in, this Act or any other appropriations Act.

12 ~~SEC. 513.~~ Any funds provided in this Act used to im-
13 plement E-Government Initiatives shall be subject to the
14 procedures set forth in section 505 of this Act.

15 ~~SEC. 514.~~ (a) The Inspectors General of the Depart-
16 ment of Commerce, the Department of Justice, the Na-
17 tional Aeronautics and Space Administration, the Na-
18 tional Science Foundation, and the Legal Services Cor-
19 poration shall conduct audits, pursuant to the Inspector
20 General Act (5 U.S.C. App.), of grants or contracts for
21 which funds are appropriated by this Act, and shall submit
22 reports to Congress on the progress of such audits, which
23 may include preliminary findings and a description of
24 areas of particular interest, within 180 days after initi-

1 ating such an audit and every 180 days thereafter until
2 any such audit is completed.

3 (b) Within 60 days after the date on which an audit
4 described in subsection (a) by an Inspector General is
5 completed, the Secretary, Attorney General, Adminis-
6 trator, Director, or President, as appropriate, shall make
7 the results of the audit available to the public on the Inter-
8 net website maintained by the Department, Administra-
9 tion, Foundation, or Corporation, respectively. The results
10 shall be made available in redacted form to exclude—

11 (1) any matter described in section 552(b) of
12 title 5, United States Code; and

13 (2) sensitive personal information for any indi-
14 vidual, the public access to which could be used to
15 commit identity theft or for other inappropriate or
16 unlawful purposes.

17 (c) Any person awarded a grant or contract funded
18 by amounts appropriated by this Act shall submit a state-
19 ment to the Secretary of Commerce, the Attorney General,
20 the Administrator, Director, or President, as appropriate,
21 certifying that no funds derived from the grant or contract
22 will be made available through a subcontract or in any
23 other manner to another person who has a financial inter-
24 est in the person awarded the grant or contract.

1 (d) The provisions of the preceding subsections of
2 this section shall take effect 30 days after the date on
3 which the Director of the Office of Management and
4 Budget, in consultation with the Director of the Office of
5 Government Ethics, determines that a uniform set of rules
6 and requirements, substantially similar to the require-
7 ments in such subsections, consistently apply under the
8 executive branch ethics program to all Federal depart-
9 ments, agencies, and entities.

10 ~~SEC. 515.~~ (a) None of the funds appropriated or oth-
11 erwise made available under this Act may be used by the
12 Departments of Commerce and Justice, the National Aer-
13 onautics and Space Administration, or the National
14 Science Foundation to acquire or renew a high-impact or
15 moderate-impact information system, as defined for secu-
16 rity categorization in the National Institute of Standards
17 and Technology's (NIST) Federal Information Processing
18 Standard Publication 199, "Standards for Security Cat-
19 egorization of Federal Information and Information Sys-
20 tems" unless the agency has—

21 (1) reviewed the supply chain risk for the infor-
22 mation systems against criteria developed by NIST
23 and the Federal Bureau of Investigation (FBI) to
24 inform acquisition decisions for high-impact and

1 moderate-impact information systems within the
2 Federal Government;

3 ~~(2)~~ reviewed the supply chain risk from the pre-
4 sumptive awardee against available and relevant
5 threat information provided by the FBI and other
6 appropriate agencies; and

7 ~~(3)~~ in consultation with the FBI or other ap-
8 propriate Federal entity, conducted an assessment of
9 any risk of cyber-espionage or sabotage associated
10 with the acquisition of such system, including any
11 risk associated with such system being produced,
12 manufactured, or assembled by one or more entities
13 identified by the United States Government as pos-
14 ing a cyber threat, including but not limited to,
15 those that may be owned, directed, or subsidized by
16 the People's Republic of China.

17 (b) None of the funds appropriated or otherwise
18 made available under this Act may be used to acquire a
19 high-impact or moderate-impact information system re-
20 viewed and assessed under subsection (a) unless the head
21 of the assessing entity described in subsection (a) has—

22 ~~(1)~~ developed, in consultation with NIST, the
23 FBI and supply chain risk management experts, a
24 mitigation strategy for any identified risks;

1 (2) determined, in consultation with NIST and
2 the FBI, that the acquisition of such system is in
3 the national interest of the United States; and

4 (3) reported that determination to the Commit-
5 tees on Appropriations of the House of Representa-
6 tives and the Senate and the agency Inspector Gen-
7 eral.

8 ~~SEC. 516.~~ None of the funds made available in this
9 Act shall be used in any way whatsoever to support or
10 justify the use of torture by any official or contract em-
11 ployee of the United States Government.

12 ~~SEC. 517.~~ (a) Notwithstanding any other provision
13 of law or treaty, in fiscal year 2016 and each fiscal year
14 thereafter, none of the funds appropriated or otherwise
15 made available under this Act or any other Act may be
16 expended or obligated by a department, agency, or instru-
17 mentality of the United States to pay administrative ex-
18 penses or to compensate an officer or employee of the
19 United States in connection with requiring an export li-
20 cense for the export to Canada of components, parts, ac-
21 cessories or attachments for firearms listed in Category
22 I, section 121.1 of title 22, Code of Federal Regulations
23 (International Trafficking in Arms Regulations (ITAR),
24 part 121, as it existed on April 1, 2005) with a total value
25 not exceeding \$500 wholesale in any transaction, provided

1 that the conditions of subsection (b) of this section are
2 met by the exporting party for such articles.

3 (b) The foregoing exemption from obtaining an ex-
4 port license—

5 (1) does not exempt an exporter from filing any
6 Shipper's Export Declaration or notification letter
7 required by law, or from being otherwise eligible
8 under the laws of the United States to possess, ship,
9 transport, or export the articles enumerated in sub-
10 section (a); and

11 (2) does not permit the export without a license
12 of—

13 (A) fully automatic firearms and compo-
14 nents and parts for such firearms, other than
15 for end use by the Federal Government, or a
16 Provincial or Municipal Government of Canada;

17 (B) barrels, cylinders, receivers (frames) or
18 complete breech mechanisms for any firearm
19 listed in Category I, other than for end use by
20 the Federal Government, or a Provincial or Mu-
21 nicipal Government of Canada; or

22 (C) articles for export from Canada to an-
23 other foreign destination.

24 (c) In accordance with this section, the District Di-
25 rectors of Customs and postmasters shall permit the per-

1 manent or temporary export without a license of any un-
2 classified articles specified in subsection (a) to Canada for
3 end use in Canada or return to the United States; or tem-
4 porary import of Canadian-origin items from Canada for
5 end use in the United States or return to Canada for a
6 Canadian citizen.

7 (d) The President may require export licenses under
8 this section on a temporary basis if the President deter-
9 mines, upon publication first in the Federal Register, that
10 the Government of Canada has implemented or main-
11 tained inadequate import controls for the articles specified
12 in subsection (a), such that a significant diversion of such
13 articles has and continues to take place for use in inter-
14 national terrorism or in the escalation of a conflict in an-
15 other nation. The President shall terminate the require-
16 ments of a license when reasons for the temporary require-
17 ments have ceased.

18 ~~SEC. 518.~~ Notwithstanding any other provision of
19 law, in fiscal year 2016 and each fiscal year thereafter,
20 no department, agency, or instrumentality of the United
21 States receiving appropriated funds under this Act or any
22 other Act shall obligate or expend in any way such funds
23 to pay administrative expenses or the compensation of any
24 officer or employee of the United States to deny any appli-
25 cation submitted pursuant to 22 U.S.C. 2778(b)(1)(B)

1 and qualified pursuant to 27 CFR section 478.112 or
 2 .113, for a permit to import United States origin “curios
 3 or relics” firearms, parts, or ammunition.

4 ~~SEC. 519.~~ None of the funds made available in this
 5 Act may be used to include in any new bilateral or multi-
 6 lateral trade agreement the text of—

7 (1) paragraph 2 of article 16.7 of the United
 8 States-Singapore Free Trade Agreement;

9 (2) paragraph 4 of article 17.9 of the United
 10 States-Australia Free Trade Agreement; or

11 (3) paragraph 4 of article 15.9 of the United
 12 States-Morocco Free Trade Agreement.

13 ~~SEC. 520.~~ None of the funds made available in this
 14 Act may be used to authorize or issue a national security
 15 letter in contravention of any of the following laws author-
 16 izing the Federal Bureau of Investigation to issue national
 17 security letters: The Right to Financial Privacy Act; The
 18 Electronic Communications Privacy Act; The Fair Credit
 19 Reporting Act; The National Security Act of 1947; USA
 20 PATRIOT Act; and the laws amended by these Acts.

21 ~~SEC. 521.~~ If at any time during any quarter, the pro-
 22 gram manager of a project within the jurisdiction of the
 23 Departments of Commerce or Justice, the National Aero-
 24 nautics and Space Administration, or the National Science
 25 Foundation totaling more than \$75,000,000 has reason-

1 able cause to believe that the total program cost has in-
2 creased by 10 percent or more; the program manager shall
3 immediately inform the respective Secretary, Adminis-
4 trator, or Director. The Secretary, Administrator, or Di-
5 rector shall notify the House and Senate Committees on
6 Appropriations within 30 days in writing of such increase;
7 and shall include in such notice: the date on which such
8 determination was made; a statement of the reasons for
9 such increases; the action taken and proposed to be taken
10 to control future cost growth of the project; changes made
11 in the performance or schedule milestones and the degree
12 to which such changes have contributed to the increase
13 in total program costs or procurement costs; new esti-
14 mates of the total project or procurement costs; and a
15 statement validating that the project's management struc-
16 ture is adequate to control total project or procurement
17 costs.

18 ~~SEC. 522.~~ Funds appropriated by this Act, or made
19 available by the transfer of funds in this Act, for intel-
20 ligence or intelligence related activities are deemed to be
21 specifically authorized by the Congress for purposes of sec-
22 tion 504 of the National Security Act of 1947 (50 U.S.C.
23 414) during fiscal year 2016 until the enactment of the
24 Intelligence Authorization Act for fiscal year 2016.

1 SEC. 523. None of the funds appropriated or other-
2 wise made available by this Act may be used to enter into
3 a contract in an amount greater than \$5,000,000 or to
4 award a grant in excess of such amount unless the pro-
5 spective contractor or grantee certifies in writing to the
6 agency awarding the contract or grant that, to the best
7 of its knowledge and belief, the contractor or grantee has
8 filed all Federal tax returns required during the three
9 years preceding the certification, has not been convicted
10 of a criminal offense under the Internal Revenue Code of
11 1986, and has not, more than 90 days prior to certifi-
12 cation, been notified of any unpaid Federal tax assessment
13 for which the liability remains unsatisfied, unless the as-
14 sessment is the subject of an installment agreement or
15 offer in compromise that has been approved by the Inter-
16 nal Revenue Service and is not in default, or the assess-
17 ment is the subject of a non-frivolous administrative or
18 judicial proceeding.

~~(RESCISSIONS)~~

SEC. 524. (a) Of the unobligated balances from prior
year appropriations available to the Department of Com-
merce's National Technical Information Service,
\$10,000,000 are rescinded.

(b) Of the unobligated balances available to the Department of Justice, the following funds are hereby re-

1 scinded, not later than September 30, 2016, from the fol-
 2 lowing accounts in the specified amounts—

3 (1) “Working Capital Fund”, \$100,000,000;

4 (2) “United States Marshals Service, Federal
 5 Prisoner Detention”, \$69,500,000;

6 (3) “Federal Bureau of Investigation, Salaries
 7 and Expenses”, \$120,000,000 from fines collected to
 8 defray expenses for the automation of fingerprint
 9 identification and criminal justice information serv-
 10 ices and associated costs;

11 (4) “State and Local Law Enforcement Activi-
 12 ties, Office on Violence Against Women, Violence
 13 Against Women Prevention and Prosecution Pro-
 14 grams”, \$15,000,000;

15 (5) “State and Local Law Enforcement Activi-
 16 ties, Office of Justice Programs”, \$40,000,000; and

17 (6) “State and Local Law Enforcement Activi-
 18 ties, Community Oriented Policing Services”,
 19 \$20,000,000.

20 (c) The Department of Justice shall submit to the
 21 Committees on Appropriations of the House of Represent-
 22 atives and the Senate a report no later than September
 23 1, 2016, specifying the amount of each rescission made
 24 pursuant to subsection (b).

1 ~~SEC. 525.~~ None of the funds made available in this
 2 Act may be used to purchase first class or premium airline
 3 travel in contravention of sections ~~301–10.122~~ through
 4 ~~301–10.124~~ of title 41 of the Code of Federal Regulations.

5 ~~SEC. 526.~~ None of the funds made available in this
 6 Act may be used to send or otherwise pay for the attend-
 7 ance of more than 50 employees from a Federal depart-
 8 ment or agency at any single conference occurring outside
 9 the United States unless such conference is a law enforce-
 10 ment training or operational conference for law enforce-
 11 ment personnel and the majority of Federal employees in
 12 attendance are law enforcement personnel stationed out-
 13 side the United States.

14 ~~SEC. 527.~~ None of the funds appropriated or other-
 15 wise made available in this or any other Act may be used
 16 to transfer, release, or assist in the transfer or release to
 17 or within the United States, its territories, or possessions
 18 Khalid Sheikh Mohammed or any other detainee who—

19 (1) is not a United States citizen or a member
 20 of the Armed Forces of the United States; and

21 (2) is or was held on or after June 24, 2009,
 22 at the United States Naval Station, Guantanamo
 23 Bay, Cuba, by the Department of Defense.

24 ~~SEC. 528.~~ (a) None of the funds appropriated or oth-
 25 erwise made available in this or any other Act may be used

1 to construct, acquire, or modify any facility in the United
 2 States, its territories, or possessions to house any indi-
 3 vidual described in subsection (c) for the purposes of de-
 4 tention or imprisonment in the custody or under the effec-
 5 tive control of the Department of Defense.

6 (b) The prohibition in subsection (a) shall not apply
 7 to any modification of facilities at United States Naval
 8 Station, Guantanamo Bay, Cuba.

9 (c) An individual described in this subsection is any
 10 individual who, as of June 24, 2009, is located at United
 11 States Naval Station, Guantanamo Bay, Cuba, and who—

12 (1) is not a citizen of the United States or a
 13 member of the Armed Forces of the United States;
 14 and

15 (2) is—

16 (A) in the custody or under the effective
 17 control of the Department of Defense; or

18 (B) otherwise under detention at United
 19 States Naval Station, Guantanamo Bay, Cuba.

20 SEC. 529. To the extent practicable, funds made
 21 available in this Act should be used to purchase light bulbs
 22 that are “Energy Star” qualified or have the “Federal En-
 23 ergy Management Program” designation.

24 SEC. 530. The Director of the Office of Management
 25 and Budget shall instruct any department, agency, or in-

1 instrumentality of the United States receiving funds appro-
 2 priated under this Act to track undisbursed balances in
 3 expired grant accounts and include in its annual perform-
 4 ance plan and performance and accountability reports the
 5 following:

6 (1) Details on future action the department,
 7 agency, or instrumentality will take to resolve
 8 undisbursed balances in expired grant accounts.

9 (2) The method that the department, agency, or
 10 instrumentality uses to track undisbursed balances
 11 in expired grant accounts.

12 (3) Identification of undisbursed balances in ex-
 13 pired grant accounts that may be returned to the
 14 Treasury of the United States.

15 (4) In the preceding 3 fiscal years, details on
 16 the total number of expired grant accounts with
 17 undisbursed balances (on the first day of each fiscal
 18 year) for the department, agency, or instrumentality
 19 and the total finances that have not been obligated
 20 to a specific project remaining in the accounts.

21 ~~SEC. 531.~~ (a) None of the funds made available by
 22 this Act may be used for the National Aeronautics and
 23 Space Administration (NASA) or the Office of Science
 24 and Technology Policy (OSTP) to develop, design, plan,
 25 promulgate, implement, or execute a bilateral policy, pro-

1 gram, order, or contract of any kind to participate, col-
2 laborate, or coordinate bilaterally in any way with China
3 or any Chinese-owned company unless such activities are
4 specifically authorized by a law enacted after the date of
5 enactment of this Act.

6 (b) None of the funds made available by this Act may
7 be used to effectuate the hosting of official Chinese visitors
8 at facilities belonging to or utilized by NASA.

9 (c) The limitations described in subsections (a) and
10 (b) shall not apply to activities which NASA or OSTP has
11 certified—

12 (1) pose no risk of resulting in the transfer of
13 technology, data, or other information with national
14 security or economic security implications to China
15 or a Chinese-owned company; and

16 (2) will not involve knowing interactions with
17 officials who have been determined by the United
18 States to have direct involvement with violations of
19 human rights.

20 (d) Any certification made under subsection (c) shall
21 be submitted to the Committees on Appropriations of the
22 House of Representatives and the Senate, and the Federal
23 Bureau of Investigation, no later than 30 days prior to
24 the activity in question and shall include a description of

1 the purpose of the activity, its agenda, its major partici-
2 pants, and its location and timing.

3 ~~SEC. 532.~~ None of the funds made available by this
4 or any other Act, for fiscal year 2016 and each fiscal year
5 thereafter, may be used to pay the salaries or expenses
6 of personnel to deny, or fail to act on, an application for
7 the importation of any model of shotgun if—

8 (1) all other requirements of law with respect to
9 the proposed importation are met; and

10 (2) no application for the importation of such
11 model of shotgun, in the same configuration, had
12 been denied by the Attorney General prior to Janu-
13 ary 1, 2011, on the basis that the shotgun was not
14 particularly suitable for or readily adaptable to
15 sporting purposes.

16 ~~SEC. 533.~~ (a) None of the funds made available in
17 this Act may be used to maintain or establish a computer
18 network unless such network blocks the viewing,
19 downloading, and exchanging of pornography.

20 (b) Nothing in subsection (a) shall limit the use of
21 funds necessary for any Federal, State, tribal, or local law
22 enforcement agency or any other entity carrying out crimi-
23 nal investigations, prosecution, adjudication, or other law-
24 enforcement related activity.

1 ~~SEC. 534.~~ The Departments of Commerce and Jus-
2 tice, the National Aeronautics and Space Administration,
3 the National Science Foundation, the Commission on Civil
4 Rights, the Equal Employment Opportunity Commission,
5 the International Trade Commission, the Legal Services
6 Corporation, the Marine Mammal Commission, the Offices
7 of Science and Technology Policy and the United States
8 Trade Representative, and the State Justice Institute
9 shall submit spending plans, signed by the respective de-
10 partment or agency head, to the Committees on Appro-
11 priations of the House of Representatives and the Senate
12 within 45 days after the date of enactment of this Act.

13 ~~SEC. 535.~~ None of the funds made available by this
14 Act may be obligated or expended to implement the Arms
15 Trade Treaty until the Senate approves a resolution of
16 ratification for the Treaty.

17 ~~SEC. 536.~~ None of the funds made available by this
18 Act may be used to relinquish the responsibility of the Na-
19 tional Telecommunications and Information Administra-
20 tion with respect to Internet domain name system func-
21 tions, including responsibility with respect to the authori-
22 tative root zone file and the Internet Assigned Numbers
23 Authority functions.

24 ~~SEC. 537.~~ None of the funds made available by this
25 Act may be used to require a person licensed under section

1 923 of title 18, United States Code, to report information
2 to the Department of Justice regarding the sale of mul-
3 tiple rifles or shotguns to the same person.

4 ~~SEC. 538.~~ No funds provided in this Act shall be used
5 to deny the Inspectors General of the Departments of
6 Commerce and Justice, the National Aeronautics and
7 Space Administration, and the National Science Founda-
8 tion timely access to all records, documents, and other ma-
9 terials in the custody or possession of the respective de-
10 partment or agency or to prevent or impede the particular
11 Inspector General's access to such records, documents,
12 and other materials, unless in accordance with an express
13 limitation of section 6(a) of the Inspector General Act, as
14 amended, consistent with the plain language of the Inspec-
15 tor General Act, as amended. The Inspectors General of
16 the Departments of Commerce and Justice, the National
17 Aeronautics and Space Administration, and the National
18 Science Foundation shall report to the Committees on Ap-
19 propriations of the House of Representatives and the Sen-
20 ate within five calendar days any failures to comply with
21 this requirement.

22 ~~SEC. 539.~~ The Department of Commerce, the Na-
23 tional Aeronautics and Space Administration, the Na-
24 tional Science Foundation, and the Office of Science and
25 Technology Policy shall provide a monthly report to the

1 Committees on Appropriations of the House of Represent-
2 atives and the Senate on any official travel to China by
3 any employee of such Department or agency, including the
4 purpose of such travel.

5 ~~SEC. 540.~~ (a) No funds made available in this Act
6 may be used to facilitate, permit, license, or promote ex-
7 ports to the Cuban military or intelligence service or to
8 any officer of the Cuban military or intelligence service,
9 or an immediate family member thereof.

10 (b) This section does not apply to exports of goods
11 permitted under the Trade Sanctions Reform and Export
12 Enhancement Act of 2000 (22 U.S.C. 7201 et seq.).

13 (c) In this section—

14 (1) the term “Cuban military or intelligence
15 service” includes, but is not limited to, the Ministry
16 of the Revolutionary Armed Forces, and the Min-
17 istry of the Interior, of Cuba, and any subsidiary of
18 either such Ministry; and

19 (2) the term “immediate family member”
20 means a spouse, sibling, son, daughter, parent,
21 grandparent, grandchild, aunt, uncle, niece, or neph-
22 ew.

23 ~~SEC. 541.~~ None of the funds made available by this
24 Act may be expended during fiscal year 2016 for the shut-

1 down of the Stratospheric Observatory for Infrared As-
 2 tronomy or for the preparation therefor.

3 **SPENDING REDUCTION ACCOUNT**

4 ~~SEC. 542.~~ The amount by which the applicable alloca-
 5 tion of new budget authority made by the Committee on
 6 Appropriations of the House of Representatives under sec-
 7 tion 302(b) of the Congressional Budget Act of 1974 ex-
 8 ceeds the amount of proposed new budget authority is \$0
 9 (increased by \$1,000,000).

10 ~~SEC. 543.~~ None of the funds made available by this
 11 Act may be used by the Department of Commerce, the
 12 Department of Justice, or any other Federal agency to
 13 lease or purchase new light duty vehicles for any executive
 14 fleet, or for an agency's fleet inventory, except in accord-
 15 ance with Presidential Memorandum—Federal Fleet Per-
 16 formance, dated May 24, 2011.

17 ~~SEC. 544.~~ (a) Except as provided by subsection (b),
 18 none of the funds made available by this Act for the De-
 19 partment of Justice or the Federal Bureau of Investiga-
 20 tion may be used to mandate or request that a person
 21 (as defined in section 101(m) of the Foreign Intelligence
 22 Surveillance Act of 1978 (50 U.S.C. 1801(m)) alter the
 23 product or service of the person to permit the electronic
 24 surveillance (as defined in section 101(f) of such Act (50
 25 U.S.C. 1801(f)) of any user of such product or service.

1 (b) Subsection (a) shall not apply with respect to
2 mandates or requests authorized under the Communica-
3 tions Assistance for Law Enforcement Act (47 U.S.C.
4 1001 et seq.).

5 ~~SEC. 545.~~ None of the funds made available by this
6 Act may be used to execute a subpoena of tangible things
7 pursuant to section 506 of the Controlled Substances Act
8 (21 U.S.C. 876) that does not include the following sen-
9 tence: “This subpoena limits the collection of any tangible
10 things (including phone numbers dialed, telephone num-
11 bers of incoming calls, and the duration of calls) to those
12 tangible things identified by a term that specifically identi-
13 fies an individual, account, address, or personal device,
14 and that limits, to the greatest extent reasonably prac-
15 ticable, the scope of the tangible things sought.”.

16 ~~SEC. 546.~~ None of the funds made available in this
17 Act may be used to enforce section 221 of title 13, United
18 States Code, with respect to the survey, conducted by the
19 Secretary of Commerce, commonly referred to as the
20 “American Community Survey”.

21 ~~SEC. 547.~~ None of the funds made available in this
22 Act may be used to pay the salaries and expenses of per-
23 sonnel of the Department of Justice to negotiate or con-
24 clude a settlement with the Federal Government that in-

1 eludes terms requiring the defendant to donate or con-
 2 tribute funds to an organization or individual.

3 ~~SEC. 548.~~ None of the funds made available by this
 4 Act may be used to propose or to issue a rule that would
 5 change the Chief Law Enforcement Officer certificate re-
 6 quirement in a manner that has the same substance as
 7 the proposed rule published on September 9, 2013 (786
 8 Fed. Reg. 55014).

9 ~~SEC. 549.~~ None of the funds made available by this
 10 Act may be used by the Department of Justice in violation
 11 of—

12 (1) the Fifth and Fourteenth Amendments to
 13 the United States Constitution; or

14 (2) to repeal the guidance provided in the
 15 memorandum issued by the Attorney General on
 16 March 31, 2015, and entitled “Guidance Regarding
 17 the Use of Asset Forfeiture Authorities in Conne-
 18 tion with Structuring Offenses”.

19 ~~SEC. 550.~~ None of the funds made available by this
 20 Act may be used to require, pursuant to section 478.124
 21 of title 27, or section 25.7 of title 28, Code of Federal
 22 Regulations, or the Office of Management and Budget
 23 Statistical Policy Directive No. 15, Race and Ethnic
 24 Standards for Federal Statistics and Administrative Re-
 25 porting, that any person disclose the race or ethnicity of

1 the person in connection with the transfer of a firearm
2 to the person.

3 ~~SEC. 551.~~ None of the funds made available by this
4 Act may be used to negotiate or enter into a trade agree-
5 ment that establishes a limit on greenhouse gas emissions
6 for the United States. The limitation described in this sec-
7 tion shall not apply in the case of the administration of
8 a tax or tariff.

9 ~~SEC. 552.~~ None of the funds made available by this
10 Act may be used to enter into a contract with any offeror
11 or any of its principals if the offeror certifies, as required
12 by Federal Acquisition Regulation, that the offeror or any
13 of its principals—

14 (1) within a 3-year period preceding this offer
15 has been convicted of or had a civil judgment ren-
16 dered against it for: commission of fraud or a crimi-
17 nal offense in connection with obtaining, attempting
18 to obtain, or performing a public (Federal, State, or
19 local) contract or subcontract; violation of Federal or
20 State antitrust statutes relating to the submission of
21 offers; or commission of embezzlement, theft, for-
22 gery, bribery, falsification or destruction of records,
23 making false statements, tax evasion, violating Fed-
24 eral criminal tax laws, or receiving stolen property;

1 (2) are presently indicted for, or otherwise
 2 criminally or civilly charged by a governmental enti-
 3 ty with, commission of any of the offenses enumer-
 4 ated above in paragraph (1); or

5 (3) within a 3-year period preceding this offer,
 6 has been notified of any delinquent Federal taxes in
 7 an amount that exceeds \$3,000 for which the liabil-
 8 ity remains unsatisfied.

9 ~~SEC. 553.~~ None of the funds made available by this
 10 Act may be used to treat any M855 (5.56 mm x 45 mm)
 11 or SS109 type ammunition as armor piercing ammunition
 12 for purposes of chapter 44 of title 18, United States Code.

13 ~~SEC. 554.~~ None of the funds made available in this
 14 Act may be used to implement the United States Global
 15 Climate Research Program's National Climate Assess-
 16 ment, the Intergovernmental Panel on Climate Change's
 17 Fifth Assessment Report, the United Nation's Agenda 21
 18 sustainable development plan, or the May 2013 Technical
 19 Update of the Social Cost of Carbon for Regulatory Im-
 20 pact Analysis under Executive Order No. 12866.

21 ~~SEC. 555.~~ None of the funds made available by this
 22 Act may be used for the Department of Justice's clemency
 23 initiative announced on April 23, 2014, or for Clemency
 24 Project 2014, or to transfer or temporarily assign employ-

1 ces to the Office of the Pardon Attorney for the purpose
2 of screening clemency applications.

3 ~~SEC. 556.~~ None of the funds made available by this
4 Act may be used by the National Oceanic and Atmospheric
5 Administration to enforce—

6 (1) Amendment 40 to the Fishery Management
7 Plan for the Reef Fish Resources of the Gulf of
8 Mexico published in the Federal Register on April
9 22, 2015, or any other effort of the same substance;
10 or

11 (2) Red Snapper Management Measures pub-
12 lished in the Federal Register on May 1, 2015, or
13 any other effort of the same substance that estab-
14 lishes an annual catch limits or annual catch targets
15 for Red Snapper that would result in the commercial
16 fishing for Red Snapper in the Federal waters of the
17 Gulf of Mexico lasting longer than 5 times the num-
18 ber of days recreational fishers are allowed to catch
19 and retain at least 2 such fish each day in such Fed-
20 eral waters.

21 ~~SEC. 557.~~ None of the funds made available in this
22 Act to the Department of Justice may be used to prevent
23 a State from implementing its own State laws that author-
24 ize the use, distribution, possession, or cultivation of in-

1 dustrial hemp, as defined in section 7606 of the Agricul-
2 tural Act of 2014 (Public Law 113–79).

3 ~~SEC. 558.~~ None of the funds made available in this
4 Act to the Department of Justice may be used, with re-
5 spect to any of the States of Alabama, Alaska, Arizona,
6 California, Colorado, Connecticut, Delaware, Florida,
7 Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana,
8 Maine, Maryland, Massachusetts, Michigan, Minnesota,
9 Mississippi, Missouri, Montana, Nevada, New Hampshire,
10 New Jersey, New Mexico, New York, North Carolina,
11 Oklahoma, Oregon, Rhode Island, South Carolina, Ten-
12 nessee, Texas, Utah, Vermont, Virginia, Washington, and
13 Wisconsin, or with respect to either the District of Colum-
14 bia or Guam, to prevent any of them from implementing
15 their own laws that authorize the use, distribution, posses-
16 sion, or cultivation of medical marijuana.

17 ~~SEC. 559.~~ None of the funds made available by this
18 Act may be used to compel a person to testify about infor-
19 mation or sources that the person states in a motion to
20 quash the subpoena that he has obtained as a journalist
21 or reporter and that he regards as confidential.

22 ~~SEC. 560.~~ None of the funds made available by this
23 Act may be used to take any action to prevent a State
24 from implementing any law that makes it lawful to pos-
25 sess, distribute, or use cannabidiol or cannabidiol oil.

1 ~~SEC. 561.~~ None of the funds made available in this
2 Act may be used by the Department of Justice to enforce
3 the Fair Housing Act in a manner that relies upon an
4 allegation of liability under section 100.500 of title 24,
5 Code of Federal Regulations.

6 ~~SEC. 562.~~ None of the funds made available by this
7 Act may be used to carry out the Bureau of Alcohol, To-
8 bacco, Firearms, and Explosives Special Advisory entitled
9 “Test, Examination and Classification of 7N6 5.45 x 39
10 Ammunition”, dated April 7, 2014. The limitation de-
11 scribed in this section shall not apply in the case of the
12 administration of a tax or tariff.

13 ~~SEC. 563.~~ None of the funds made available by this
14 Act may be used to operate or disseminate a cell-site simu-
15 lator or IMSI catcher in the United States except pursu-
16 ant to a court order that identifies an individual, account,
17 address, or personal device.

18 ~~SEC. 564.~~ None of the funds made available by this
19 Act may be used to prosecute or hold liable any person
20 or corporation for a violation of section 2(a) of the Migra-
21 tory Bird Treaty Act (16 U.S.C. 703(a)).

22 ~~SEC. 565.~~ None of the funds made available in this
23 Act may be used to carry out the program known as “Op-
24 eration Choke Point”.

1 ~~SEC. 566.~~ None of the funds made available by this
2 Act may be used to negotiate or finalize a trade agreement
3 that includes provisions relating to visas issued under sec-
4 tion ~~101(a)(15)~~ of the Immigration and Nationality Act
5 (~~8 U.S.C. 1101(a)(15)~~). The limitation described in this
6 section shall not apply in the case of the administration
7 of a tax or tariff.

8 ~~SEC. 567.~~ None of the funds made available by this
9 Act may be used in contravention of section 7606 (“Legit-
10 imacy of Industrial Hemp Research”) of the Agricultural
11 Act of 2014 (Public Law 113–79) by the Department of
12 Justice or the Drug Enforcement Administration.

13 ~~SEC. 568.~~ None of the funds made available by this
14 Act may be used to treat ammunition as armor piercing
15 for purposes of chapter 44 of title 18, United States Code,
16 except for ammunition designed and intended for use in
17 a handgun (in accordance with ~~18 U.S.C. section~~
18 ~~921(a)(17)~~).

19 ~~SEC. 569.~~ None of the funds made available by this
20 Act may be used by the National Institute of Standards
21 and Technology to consult with the National Security
22 Agency or the Central Intelligence Agency to alter cryp-
23 tographic or computer standards, except to improve infor-
24 mation security (in accordance with section ~~20(c)(1)(A)~~ of

1 the National Institute of Standards and Technology Act
 2 (~~15 U.S.C. 278g-3(c)(1)(A))~~).

3 ~~SEC. 570.~~ None of the funds made available by this
 4 Act may be used to implement Executive Order No. ~~13547~~
 5 (~~75 Fed. Reg. 43023~~, relating to the stewardship of
 6 oceans, coasts, and the Great Lakes), including the Na-
 7 tional Ocean Policy developed under such Executive order.

8 ~~SEC. 571.~~ None of the funds made available by this
 9 Act may be used with respect to the case State of Texas,
 10 et al. v. United States of America, et al. (No. ~~B-14-254~~
 11 in the United States District Court for the Southern Dis-
 12 trict of Texas and No. ~~15-40238~~ in the United States
 13 Court of Appeals for the Fifth Circuit).

14 ~~SEC. 572.~~ None of the funds made available by this
 15 Act under the heading “Department of Justice—Office of
 16 Justice Programs—State and Local Law Enforcement As-
 17 sistance” may be used in contravention of section 642(a)
 18 of the Illegal Immigration Reform and Immigrant Respon-
 19 sibility Act of 1996 (~~8 U.S.C. 1373(a)~~).

20 ~~SEC. 573.~~ None of the funds made available by this
 21 Act may be used by the National Oceanic and Atmospheric
 22 Administration to implement in the California Central
 23 Valley Recovery Domain any existing recovery plan for
 24 salmon and steelhead populations listed under the Endan-
 25 gered Species Act of 1973 (~~16 U.S.C. 1531 et seq.~~) as

1 threatened species or endangered species if that recovery
2 plan does not address predation by non-native species.

3 This Act may be cited as the “Commerce, Justice,
4 Science, and Related Agencies Appropriations Act, 2016”.
5 *That the following sums are appropriated, out of any*
6 *money in the Treasury not otherwise appropriated, for De-*
7 *partments of Commerce and Justice, and Science, and Re-*
8 *lated Agencies for the fiscal year ending September 30,*
9 *2016, and for other purposes, namely:*

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

14 *For necessary expenses for international trade activi-*
15 *ties of the Department of Commerce provided for by law,*
16 *and for engaging in trade promotional activities abroad,*
17 *including expenses of grants and cooperative agreements for*
18 *the purpose of promoting exports of United States firms,*
19 *without regard to sections 3702 and 3703 of title 44, United*
20 *States Code; full medical coverage for dependent members*
21 *of immediate families of employees stationed overseas and*
22 *employees temporarily posted overseas; travel and transpor-*
23 *tation of employees of the International Trade Administra-*
24 *tion between two points abroad, without regard to section*
25 *40118 of title 49, United States Code; employment of citi-*

1 *zens of the United States and aliens by contract for services;*
2 *rental of space abroad for periods not exceeding 10 years,*
3 *and expenses of alteration, repair, or improvement; pur-*
4 *chase or construction of temporary demountable exhibition*
5 *structures for use abroad; payment of tort claims, in the*
6 *manner authorized in the first paragraph of section 2672*
7 *of title 28, United States Code, when such claims arise in*
8 *foreign countries; not to exceed \$294,300 for official rep-*
9 *resentation expenses abroad; purchase of passenger motor*
10 *vehicles for official use abroad, not to exceed \$45,000 per*
11 *vehicle; obtaining insurance on official motor vehicles; and*
12 *rental of tie lines, \$473,000,000, to remain available until*
13 *September 30, 2017, of which \$10,000,000 is to be derived*
14 *from fees to be retained and used by the International Trade*
15 *Administration, notwithstanding section 3302 of title 31,*
16 *United States Code: Provided, That, of amounts provided*
17 *under this heading, not less than \$16,400,000 shall be for*
18 *China antidumping and countervailing duty enforcement*
19 *and compliance activities: Provided further, That the provi-*
20 *sions of the first sentence of section 105(f) and all of section*
21 *108(c) of the Mutual Educational and Cultural Exchange*
22 *Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply*
23 *in carrying out these activities; and that for the purpose*
24 *of this Act, contributions under the provisions of the Mutual*
25 *Educational and Cultural Exchange Act of 1961 shall in-*

1 *clude payment for assessments for services provided as part*
 2 *of these activities.*

3 ***OFFICE OF UNITED STATES TRADE REPRESENTATIVE***

4 ***SALARIES AND EXPENSES***

5 *For necessary expenses of the Office of the United*
 6 *States Trade Representative, including the hire of passenger*
 7 *motor vehicles and the employment of experts and consult-*
 8 *ants as authorized by section 3109 of title 5, United States*
 9 *Code, \$54,250,000, of which \$1,000,000 shall remain avail-*
 10 *able until expended: Provided, That section 141(a) of the*
 11 *Trade Act of 1974 (19 U.S.C. 2171(a)) is amended by strik-*
 12 *ing “Executive Office of the President” and inserting “De-*
 13 *partment of Commerce”: Provided further, That not to ex-*
 14 *ceed \$124,000 shall be available for official reception and*
 15 *representation expenses.*

16 ***BUREAU OF INDUSTRY AND SECURITY***

17 ***OPERATIONS AND ADMINISTRATION***

18 *For necessary expenses for export administration and*
 19 *national security activities of the Department of Commerce,*
 20 *including costs associated with the performance of export*
 21 *administration field activities both domestically and*
 22 *abroad; full medical coverage for dependent members of im-*
 23 *mediate families of employees stationed overseas; employ-*
 24 *ment of citizens of the United States and aliens by contract*
 25 *for services abroad; payment of tort claims, in the manner*

1 *authorized in the first paragraph of section 2672 of title*
2 *28, United States Code, when such claims arise in foreign*
3 *countries; not to exceed \$13,500 for official representation*
4 *expenses abroad; awards of compensation to informers*
5 *under the Export Administration Act of 1979, and as au-*
6 *thorized by section 1(b) of the Act of June 15, 1917 (40*
7 *Stat. 223; 22 U.S.C. 401(b)); and purchase of passenger*
8 *motor vehicles for official use and motor vehicles for law*
9 *enforcement use with special requirement vehicles eligible*
10 *for purchase without regard to any price limitation other-*
11 *wise established by law, \$106,500,000, to remain available*
12 *until expended: Provided, That the provisions of the first*
13 *sentence of section 105(f) and all of section 108(c) of the*
14 *Mutual Educational and Cultural Exchange Act of 1961*
15 *(22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying*
16 *out these activities: Provided further, That payments and*
17 *contributions collected and accepted for materials or serv-*
18 *ices provided as part of such activities may be retained for*
19 *use in covering the cost of such activities, and for providing*
20 *information to the public with respect to the export admin-*
21 *istration and national security activities of the Department*
22 *of Commerce and other export control programs of the*
23 *United States and other governments.*

1 ***ECONOMIC DEVELOPMENT ADMINISTRATION***

2 ***ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS***

3 *For grants for economic development assistance as pro-*
4 *vided by the Public Works and Economic Development Act*
5 *of 1965, for trade adjustment assistance, and for grants au-*
6 *thorized by section 27 of the Stevenson-Wydler Technology*
7 *Innovation Act of 1980 (15 U.S.C. 3722), \$213,000,000, to*
8 *remain available until expended; of which \$10,000,000 shall*
9 *be for grants under such section 27.*

10 ***SALARIES AND EXPENSES***

11 *For necessary expenses of administering the economic*
12 *development assistance programs as provided for by law,*
13 *\$37,000,000: Provided, That these funds may be used to*
14 *monitor projects approved pursuant to title I of the Public*
15 *Works Employment Act of 1976, title II of the Trade Act*
16 *of 1974, section 27 of the Stevenson-Wydler Technology In-*
17 *novation Act of 1980 (15 U.S.C. 3722), and the Community*
18 *Emergency Drought Relief Act of 1977.*

19 ***MINORITY BUSINESS DEVELOPMENT AGENCY***

20 ***MINORITY BUSINESS DEVELOPMENT***

21 *For necessary expenses of the Department of Commerce*
22 *in fostering, promoting, and developing minority business*
23 *enterprise, including expenses of grants, contracts, and*
24 *other agreements with public or private organizations,*
25 *\$30,000,000.*

1 *ECONOMIC AND STATISTICAL ANALYSIS*

2 *SALARIES AND EXPENSES*

3 *For necessary expenses, as authorized by law, of eco-*
4 *nomic and statistical analysis programs of the Department*
5 *of Commerce, \$100,000,000, to remain available until Sep-*
6 *tember 30, 2017.*

7 *BUREAU OF THE CENSUS*

8 *CURRENT SURVEYS AND PROGRAMS*

9 *For necessary expenses for collecting, compiling, ana-*
10 *lyzing, preparing and publishing statistics, provided for by*
11 *law, \$266,000,000: Provided, That, from amounts provided*
12 *herein, funds may be used for promotion, outreach, and*
13 *marketing activities.*

14 *PERIODIC CENSUSES AND PROGRAMS*

15 *For necessary expenses for collecting, compiling, ana-*
16 *lyzing, preparing and publishing statistics for periodic cen-*
17 *suses and programs provided for by law, \$862,000,000, to*
18 *remain available until September 30, 2017: Provided, That,*
19 *from amounts provided herein, funds may be used for pro-*
20 *motion, outreach, and marketing activities: Provided fur-*
21 *ther, That within the amounts appropriated, \$1,551,000*
22 *shall be transferred to the “Office of Inspector General” ac-*
23 *count for activities associated with carrying out investiga-*
24 *tions and audits related to the Bureau of the Census.*

1 *NATIONAL TELECOMMUNICATIONS AND INFORMATION*2 *ADMINISTRATION*3 *SALARIES AND EXPENSES*

4 *For necessary expenses, as provided for by law, of the*
5 *National Telecommunications and Information Adminis-*
6 *tration (NTIA), \$38,200,000, to remain available until*
7 *September 30, 2017: Provided, That, notwithstanding 31*
8 *U.S.C. 1535(d), the Secretary of Commerce shall charge*
9 *Federal agencies for costs incurred in spectrum manage-*
10 *ment, analysis, operations, and related services, and such*
11 *fees shall be retained and used as offsetting collections for*
12 *costs of such spectrum services, to remain available until*
13 *expended: Provided further, That the Secretary of Com-*
14 *merce is authorized to retain and use as offsetting collec-*
15 *tions all funds transferred, or previously transferred, from*
16 *other Government agencies for all costs incurred in tele-*
17 *communications research, engineering, and related activi-*
18 *ties by the Institute for Telecommunication Sciences of*
19 *NTIA, in furtherance of its assigned functions under this*
20 *paragraph, and such funds received from other Government*
21 *agencies shall remain available until expended.*

22 *PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND*
23 *CONSTRUCTION*

24 *For the administration of prior-year grants, recoveries*
25 *and unobligated balances of funds previously appropriated*

1 *are available for the administration of all open grants until*
2 *their expiration.*

3 *UNITED STATES PATENT AND TRADEMARK OFFICE*

4 *SALARIES AND EXPENSES*

5 *(INCLUDING TRANSFERS OF FUNDS)*

6 *For necessary expenses of the United States Patent and*
7 *Trademark Office (USPTO) provided for by law, including*
8 *defense of suits instituted against the Under Secretary of*
9 *Commerce for Intellectual Property and Director of the*
10 *USPTO, \$3,272,000,000, to remain available until ex-*
11 *pended: Provided, That the sum herein appropriated from*
12 *the general fund shall be reduced as offsetting collections*
13 *of fees and surcharges assessed and collected by the USPTO*
14 *under any law are received during fiscal year 2016, so as*
15 *to result in a fiscal year 2016 appropriation from the gen-*
16 *eral fund estimated at \$0: Provided further, That during*
17 *fiscal year 2016, should the total amount of such offsetting*
18 *collections be less than \$3,272,000,000 this amount shall be*
19 *reduced accordingly: Provided further, That any amount re-*
20 *ceived in excess of \$3,272,000,000 in fiscal year 2016 and*
21 *deposited in the Patent and Trademark Fee Reserve Fund*
22 *shall remain available until expended: Provided further,*
23 *That the Director of USPTO shall submit a spending plan*
24 *to the Committees on Appropriations of the House of Rep-*
25 *resentatives and the Senate for any amounts made available*

1 *by the preceding proviso and such spending plan shall be*
2 *treated as a reprogramming under section 505 of this Act*
3 *and shall not be available for obligation or expenditure ex-*
4 *cept in compliance with the procedures set forth in that sec-*
5 *tion: Provided further, That any amounts reprogrammed*
6 *in accordance with the preceding proviso shall be trans-*
7 *ferred to the United States Patent and Trademark Office*
8 *“Salaries and Expenses” account: Provided further, That*
9 *from amounts provided herein, not to exceed \$900 shall be*
10 *made available in fiscal year 2016 for official reception and*
11 *representation expenses: Provided further, That in fiscal*
12 *year 2016 from the amounts made available for “Salaries*
13 *and Expenses” for the USPTO, the amounts necessary to*
14 *pay (1) the difference between the percentage of basic pay*
15 *contributed by the USPTO and employees under section*
16 *8334(a) of title 5, United States Code, and the normal cost*
17 *percentage (as defined by section 8331(17) of that title) as*
18 *provided by the Office of Personnel Management (OPM) for*
19 *USPTO’s specific use, of basic pay, of employees subject to*
20 *subchapter III of chapter 83 of that title, and (2) the present*
21 *value of the otherwise unfunded accruing costs, as deter-*
22 *mined by OPM for USPTO’s specific use of post-retirement*
23 *life insurance and post-retirement health benefits coverage*
24 *for all USPTO employees who are enrolled in Federal Em-*
25 *ployees Health Benefits (FEHB) and Federal Employees*

1 *Group Life Insurance (FEGLI), shall be transferred to the*
 2 *Civil Service Retirement and Disability Fund, the FEGLI*
 3 *Fund, and the FEHB Fund, as appropriate, and shall be*
 4 *available for the authorized purposes of those accounts: Pro-*
 5 *vided further, That any differences between the present*
 6 *value factors published in OPM's yearly 300 series benefit*
 7 *letters and the factors that OPM provides for USPTO's spe-*
 8 *cific use shall be recognized as an imputed cost on USPTO's*
 9 *financial statements, where applicable: Provided further,*
 10 *That, notwithstanding any other provision of law, all fees*
 11 *and surcharges assessed and collected by USPTO are avail-*
 12 *able for USPTO only pursuant to section 42(c) of title 35,*
 13 *United States Code, as amended by section 22 of the Leahy-*
 14 *Smith America Invents Act (Public Law 112–29): Provided*
 15 *further, That within the amounts appropriated, \$2,000,000*
 16 *shall be transferred to the “Office of Inspector General” ac-*
 17 *count for activities associated with carrying out investiga-*
 18 *tions and audits related to the USPTO.*

19 ***NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY***
 20 ***SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES***

21 *For necessary expenses of the National Institute of*
 22 *Standards and Technology (NIST), \$684,700,000, to re-*
 23 *main available until expended, of which not to exceed*
 24 *\$9,000,000 may be transferred to the “Working Capital*
 25 *Fund”: Provided, That not to exceed \$5,000 shall be for offi-*

1 cial reception and representation expenses: Provided fur-
 2 ther, That NIST may provide local transportation for sum-
 3 mer undergraduate research fellowship program partici-
 4 pants.

5 **INDUSTRIAL TECHNOLOGY SERVICES**

6 For necessary expenses for industrial technology serv-
 7 ices, \$145,000,000, to remain available until expended, of
 8 which \$130,000,000 shall be for the Hollings Manufacturing
 9 Extension Partnership, and of which \$15,000,000 shall be
 10 for the Advanced Manufacturing Technology Consortia.

11 **CONSTRUCTION OF RESEARCH FACILITIES**

12 For construction of new research facilities, including
 13 architectural and engineering design, and for renovation
 14 and maintenance of existing facilities, not otherwise pro-
 15 vided for the National Institute of Standards and Tech-
 16 nology, as authorized by sections 13 through 15 of the Na-
 17 tional Institute of Standards and Technology Act (15
 18 U.S.C. 278c–278e), \$63,300,000, to remain available until
 19 expended: Provided, That the Secretary of Commerce shall
 20 include in the budget justification materials that the Sec-
 21 retary submits to Congress in support of the Department
 22 of Commerce budget (as submitted with the budget of the
 23 President under section 1105(a) of title 31, United States
 24 Code) an estimate for each National Institute of Standards
 25 and Technology construction project having a total multi-

1 year program cost of more than \$5,000,000, and simulta-
 2 neously the budget justification materials shall include an
 3 estimate of the budgetary requirements for each such project
 4 for each of the 5 subsequent fiscal years.

5 **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
 6 **OPERATIONS, RESEARCH, AND FACILITIES**
 7 **(INCLUDING TRANSFER OF FUNDS)**

8 *For necessary expenses of activities authorized by law*
 9 *for the National Oceanic and Atmospheric Administration,*
 10 *including maintenance, operation, and hire of aircraft and*
 11 *vessels; grants, contracts, or other payments to nonprofit*
 12 *organizations for the purposes of conducting activities pur-*
 13 *suant to cooperative agreements; and relocation of facilities,*
 14 *\$3,242,723,000, to remain available until September 30,*
 15 *2017, except that funds provided for cooperative enforce-*
 16 *ment shall remain available until September 30, 2018: Pro-*
 17 *vided, That fees and donations received by the National*
 18 *Ocean Service for the management of national marine sanc-*
 19 *tuaries may be retained and used for the salaries and ex-*
 20 *penses associated with those activities, notwithstanding sec-*
 21 *tion 3302 of title 31, United States Code: Provided further,*
 22 *That in addition, \$130,164,000 shall be derived by transfer*
 23 *from the fund entitled “Promote and Develop Fishery Prod-*
 24 *ucts and Research Pertaining to American Fisheries”,*
 25 *which shall only be used for fishery activities related to the*

1 *Saltonstall-Kennedy Grant Program, Cooperative Research,*
 2 *Annual Stock Assessments, Survey and Monitoring*
 3 *Projects, Interjurisdictional Fisheries Grants, and Fish In-*
 4 *formation Networks: Provided further, That of the*
 5 *\$3,390,387,000 provided for in direct obligations under this*
 6 *heading, \$3,242,723,000 is appropriated from the general*
 7 *fund, \$130,164,000 is provided by transfer and \$17,500,000*
 8 *is derived from recoveries of prior year obligations: Pro-*
 9 *vided further, That the total amount available for National*
 10 *Oceanic and Atmospheric Administration corporate services*
 11 *administrative support costs shall not exceed \$222,523,000:*
 12 *Provided further, That any deviation from the amounts des-*
 13 *ignated for specific activities in the report accompanying*
 14 *this Act, or any use of deobligated balances of funds pro-*
 15 *vided under this heading in previous years, shall be subject*
 16 *to the procedures set forth in section 505 of this Act: Pro-*
 17 *vided further, That in addition, for necessary retired pay*
 18 *expenses under the Retired Serviceman's Family Protection*
 19 *and Survivor Benefits Plan, and for payments for the med-*
 20 *ical care of retired personnel and their dependents under*
 21 *the Dependents Medical Care Act (10 U.S.C. 55), such sums*
 22 *as may be necessary.*

23 ***PROCUREMENT, ACQUISITION AND CONSTRUCTION***

24 *For procurement, acquisition and construction of cap-*
 25 *ital assets, including alteration and modification costs, of*

1 *the National Oceanic and Atmospheric Administration,*
2 *\$2,079,494,000, to remain available until September 30,*
3 *2018, except that funds provided for acquisition and con-*
4 *struction of vessels and construction of facilities shall re-*
5 *main available until expended: Provided, That of the*
6 *\$2,092,494,000 provided for in direct obligations under this*
7 *heading, \$2,079,494,000 is appropriated from the general*
8 *fund and \$13,000,000 is provided from recoveries of prior*
9 *year obligations: Provided further, That any deviation from*
10 *the amounts designated for specific activities in the report*
11 *accompanying this Act, or any use of deobligated balances*
12 *of funds provided under this heading in previous years,*
13 *shall be subject to the procedures set forth in section 505*
14 *of this Act: Provided further, That the Secretary of Com-*
15 *merce shall include in budget justification materials that*
16 *the Secretary submits to Congress in support of the Depart-*
17 *ment of Commerce budget (as submitted with the budget of*
18 *the President under section 1105(a) of title 31, United*
19 *States Code) an estimate for each National Oceanic and*
20 *Atmospheric Administration procurement, acquisition or*
21 *construction project having a total of more than \$5,000,000*
22 *and simultaneously the budget justification shall include an*
23 *estimate of the budgetary requirements for each such project*
24 *for each of the 5 subsequent fiscal years: Provided further,*
25 *That, within the amounts appropriated, \$1,302,000 shall*

1 *be transferred to the “Office of Inspector General” account*
2 *for activities associated with carrying out investigations*
3 *and audits related to satellite procurement, acquisition and*
4 *construction.*

5 ***PACIFIC COASTAL SALMON RECOVERY***

6 *For necessary expenses associated with the restoration*
7 *of Pacific salmon populations, \$65,000,000, to remain*
8 *available until September 30, 2017: Provided, That, of the*
9 *funds provided herein, the Secretary of Commerce may*
10 *issue grants to the States of Washington, Oregon, Idaho,*
11 *Nevada, California, and Alaska, and to the Federally recog-*
12 *nized tribes of the Columbia River and Pacific Coast (in-*
13 *cluding Alaska), for projects necessary for conservation of*
14 *salmon and steelhead populations that are listed as threat-*
15 *ened or endangered, or that are identified by a State as*
16 *at-risk to be so listed, for maintaining populations nec-*
17 *essary for exercise of tribal treaty fishing rights or native*
18 *subsistence fishing, or for conservation of Pacific coastal*
19 *salmon and steelhead habitat, based on guidelines to be de-*
20 *veloped by the Secretary of Commerce: Provided further,*
21 *That all funds shall be allocated based on scientific and*
22 *other merit principles and shall not be available for mar-*
23 *keting activities: Provided further, That funds disbursed to*
24 *States shall be subject to a matching requirement of funds*

1 *or documented in-kind contributions of at least 33 percent*
2 *of the Federal funds.*

3 ***FISHERMEN’S CONTINGENCY FUND***

4 *For carrying out the provisions of title IV of Public*
5 *Law 95–372, not to exceed \$350,000, to be derived from re-*
6 *ceipts collected pursuant to that Act, to remain available*
7 *until expended.*

8 ***FISHERIES FINANCE PROGRAM ACCOUNT***

9 *Subject to section 502 of the Congressional Budget Act*
10 *of 1974, during fiscal year 2016, obligations of direct loans*
11 *may not exceed \$24,000,000 for Individual Fishing Quota*
12 *loans and not to exceed \$100,000,000 for traditional direct*
13 *loans as authorized by the Merchant Marine Act of 1936.*

14 ***DEPARTMENTAL MANAGEMENT***

15 ***SALARIES AND EXPENSES***

16 *For necessary expenses for the management of the De-*
17 *partment of Commerce provided for by law, including not*
18 *to exceed \$4,500 for official reception and representation,*
19 *\$56,000,000: Provided, That within amounts provided, the*
20 *Secretary of Commerce may use up to \$2,500,000 to engage*
21 *in activities to provide businesses and communities with*
22 *information about and referrals to relevant Federal, State,*
23 *and local government programs.*

1 **OFFICE OF INSPECTOR GENERAL**

2 *For necessary expenses of the Office of Inspector Gen-*
3 *eral in carrying out the provisions of the Inspector General*
4 *Act of 1978 (5 U.S.C. App.), \$30,596,000.*

5 **GENERAL PROVISIONS—DEPARTMENT OF COMMERCE**

6 *SEC. 101. During the current fiscal year, applicable*
7 *appropriations and funds made available to the Depart-*
8 *ment of Commerce by this Act shall be available for the*
9 *activities specified in the Act of October 26, 1949 (15 U.S.C.*
10 *1514), to the extent and in the manner prescribed by the*
11 *Act, and, notwithstanding 31 U.S.C. 3324, may be used for*
12 *advanced payments not otherwise authorized only upon the*
13 *certification of officials designated by the Secretary of Com-*
14 *merce that such payments are in the public interest.*

15 *SEC. 102. During the current fiscal year, appropria-*
16 *tions made available to the Department of Commerce by*
17 *this Act for salaries and expenses shall be available for hire*
18 *of passenger motor vehicles as authorized by 31 U.S.C. 1343*
19 *and 1344; services as authorized by 5 U.S.C. 3109; and uni-*
20 *forms or allowances therefor, as authorized by law (5 U.S.C.*
21 *5901–5902).*

22 *SEC. 103. Not to exceed 5 percent of any appropriation*
23 *made available for the current fiscal year for the Depart-*
24 *ment of Commerce in this Act may be transferred between*
25 *such appropriations, but no such appropriation shall be in-*

1 creased by more than 10 percent by any such transfers: Pro-
2 vided, That any transfer pursuant to this section shall be
3 treated as a reprogramming of funds under section 505 of
4 this Act and shall not be available for obligation or expendi-
5 ture except in compliance with the procedures set forth in
6 that section: Provided further, That the Secretary of Com-
7 merce shall notify the Committees on Appropriations at
8 least 15 days in advance of the acquisition or disposal of
9 any capital asset (including land, structures and equip-
10 ment) not specifically provided for in this Act or any other
11 law appropriating funds for the Department of Commerce.

12 *SEC. 104. The requirements set forth by section 105*
13 *of the Commerce, Justice, Science, and Related Agencies*
14 *Appropriations Act, 2012 (Public Law 112–55), as amend-*
15 *ed by section 105 of title I of division B of Public Law*
16 *113–6, are hereby adopted by reference and made applicable*
17 *with respect to fiscal year 2016: Provided, That the life*
18 *cycle cost for the Joint Polar Satellite System is*
19 *\$11,322,125,000 and the life cycle cost for the Geostationary*
20 *Operational Environmental Satellite R-Series Program is*
21 *\$10,828,059,000.*

22 *SEC. 105. Notwithstanding any other provision of law,*
23 *the Secretary may furnish services (including but not lim-*
24 *ited to utilities, telecommunications, and security services)*
25 *necessary to support the operation, maintenance, and im-*

1 *provement of space that persons, firms, or organizations are*
2 *authorized, pursuant to the Public Buildings Cooperative*
3 *Use Act of 1976 or other authority, to use or occupy in*
4 *the Herbert C. Hoover Building, Washington, DC, or other*
5 *buildings, the maintenance, operation, and protection of*
6 *which has been delegated to the Secretary from the Adminis-*
7 *trator of General Services pursuant to the Federal Property*
8 *and Administrative Services Act of 1949 on a reimbursable*
9 *or non-reimbursable basis. Amounts received as reimburse-*
10 *ment for services provided under this section or the author-*
11 *ity under which the use or occupancy of the space is author-*
12 *ized, up to \$200,000, shall be credited to the appropriation*
13 *or fund which initially bears the costs of such services.*

14 *SEC. 106. Nothing in this title shall be construed to*
15 *prevent a grant recipient from deterring child pornography,*
16 *copyright infringement, or any other unlawful activity over*
17 *its networks.*

18 *SEC. 107. The Administrator of the National Oceanic*
19 *and Atmospheric Administration is authorized to use, with*
20 *their consent, with reimbursement and subject to the limits*
21 *of available appropriations, the land, services, equipment,*
22 *personnel, and facilities of any department, agency, or in-*
23 *strumentality of the United States, or of any State, local*
24 *government, Indian tribal government, Territory, or posses-*
25 *sion, or of any political subdivision thereof, or of any for-*

1 *eign government or international organization, for purposes*
2 *related to carrying out the responsibilities of any statute*
3 *administered by the National Oceanic and Atmospheric Ad-*
4 *ministration.*

5 *SEC. 108. Notwithstanding section 14 of the Act of*
6 *June 18, 1934 (commonly known as the “Foreign Trade*
7 *Zones Act”)* (48 Stat. 998, chapter 590; 19 U.S.C. 81n),
8 *none of the funds provided for in this Act, or any other*
9 *appropriations Act, for the Department of Commerce shall*
10 *be available to enforce or carry out any activities under*
11 *15 CFR 400.43.*

12 *SEC. 109. (a) None of the funds made available by this*
13 *Act or any other appropriations Act may be used by the*
14 *Secretary of Commerce to manage fisheries in the Gulf of*
15 *Mexico unless such management is subject to the boundaries*
16 *for coastal States set out under subsection (b).*

17 *(b) Notwithstanding any other provision of law, for*
18 *the purpose of fisheries management the seaward boundary*
19 *of a coastal State in the Gulf of Mexico is a line 9 nautical*
20 *miles seaward from the baseline from which the territorial*
21 *sea of the United States is measured.*

22 *SEC. 110. The National Technical Information Service*
23 *shall not charge any customer for a copy of any report or*
24 *document generated by the Legislative Branch unless the*
25 *Service has provided information to the customer on how*

1 *an electronic copy of such report or document may be*
2 *accessed and downloaded for free online. Should a customer*
3 *still require the Service to provide a printed or digital copy*
4 *of the report or document, the charge shall be limited to*
5 *recovering the Service's cost of processing, reproducing, and*
6 *delivering such report or document.*

7 *SEC. 111. To carry out the responsibilities of the Na-*
8 *tional Oceanic and Atmospheric Administration (NOAA),*
9 *the Administrator of NOAA is authorized to: (1) enter into*
10 *grants and cooperative agreements with; (2) use on a non-*
11 *reimbursable basis land, services, equipment, personnel, and*
12 *facilities provided by; and (3) receive and expend funds*
13 *made available on a consensual basis from: a Federal agen-*
14 *cy, State or subdivision thereof, local government, tribal*
15 *government, territory, or possession or any subdivisions*
16 *thereof: Provided, That funds received for permitting and*
17 *related regulatory activities pursuant to this section shall*
18 *be deposited under the heading "National Oceanic and At-*
19 *mospheric Administration—Operations, Research, and Fa-*
20 *cilities" and shall remain available until September 30,*
21 *2018 for such purposes: Provided further, That all funds*
22 *within this section and their corresponding uses are subject*
23 *to section 505 of this Act.*

24 *SEC. 112. The Secretary of Commerce may waive the*
25 *requirement for bonds under 40 U.S.C. 3131 with respect*

1 *to contracts for the construction, alteration, or repair of ves-*
2 *sels, regardless of the terms of the contracts as to payment*
3 *or title, when the contract is made under the Coast and*
4 *Geodetic Survey Act of 1947 (33 U.S.C. 883a et seq.).*

5 *SEC. 113. Amounts provided by this Act or by any*
6 *prior appropriations Act that remain available for obliga-*
7 *tion, for necessary expenses of the programs of the Econom-*
8 *ics and Statistics Administration of the Department of*
9 *Commerce, including amounts provided for programs of the*
10 *Bureau of Economic Analysis and the U.S. Census Bureau,*
11 *shall be available for expenses of cooperative agreements*
12 *with appropriate entities, including any Federal, State, or*
13 *local governmental unit, or institution of higher education,*
14 *to aid and promote statistical, research, and methodology*
15 *activities which further the purposes for which such*
16 *amounts have been made available.*

17 *This title may be cited as the “Department of Com-*
18 *merce Appropriations Act, 2016”.*

1

TITLE II

2

DEPARTMENT OF JUSTICE

3

GENERAL ADMINISTRATION

4

SALARIES AND EXPENSES

5

For expenses necessary for the administration of the

6

Department of Justice, \$109,000,000, of which not to exceed

7

\$4,000,000 for security and construction of Department of

8

Justice facilities shall remain available until expended.

9

JUSTICE INFORMATION SHARING TECHNOLOGY

10

For necessary expenses for information sharing tech-

11

nology, including planning, development, deployment and

12

departmental direction, \$25,842,000, to remain available

13

until expended: Provided, That the Attorney General may

14

transfer up to \$34,400,000 to this account, from funds made

15

available to the Department of Justice in this Act for infor-

16

mation technology, to remain available until expended, for

17

enterprise-wide information technology initiatives: Pro-

18

vided further, That the transfer authority in the preceding

19

proviso is in addition to any other transfer authority con-

20

tained in this Act.

21

ADMINISTRATIVE REVIEW AND APPEALS

22

(INCLUDING TRANSFER OF FUNDS)

23

For expenses necessary for the administration of par-

24

don and clemency petitions and immigration-related activi-

25

ties, \$411,072,000, of which \$4,000,000 shall be derived by

1 *transfer from the Executive Office for Immigration Review*
 2 *fees deposited in the “Immigration Examinations Fee” ac-*
 3 *count: Provided, That, of the amount available for the Exec-*
 4 *utive Office for Immigration Review, not to exceed*
 5 *\$15,000,000 shall remain available until expended.*

6 **OFFICE OF INSPECTOR GENERAL**

7 *For necessary expenses of the Office of Inspector Gen-*
 8 *eral, \$89,000,000, including not to exceed \$10,000 to meet*
 9 *unforeseen emergencies of a confidential character.*

10 **UNITED STATES PAROLE COMMISSION**

11 **SALARIES AND EXPENSES**

12 *For necessary expenses of the United States Parole*
 13 *Commission as authorized, \$13,308,000.*

14 **LEGAL ACTIVITIES**

15 **SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

16 *For expenses necessary for the legal activities of the*
 17 *Department of Justice, not otherwise provided for, includ-*
 18 *ing not to exceed \$20,000 for expenses of collecting evidence,*
 19 *to be expended under the direction of, and to be accounted*
 20 *for solely under the certificate of, the Attorney General; and*
 21 *rent of private or Government-owned space in the District*
 22 *of Columbia, \$885,000,000, of which not to exceed*
 23 *\$20,000,000 for litigation support contracts shall remain*
 24 *available until expended: Provided, That of the amount pro-*
 25 *vided for INTERPOL Washington dues payments, not to*

1 exceed \$685,000 shall remain available until expended: Pro-
2 vided further, That of the total amount appropriated, not
3 to exceed \$9,000 shall be available to INTERPOL Wash-
4 ington for official reception and representation expenses:
5 Provided further, That notwithstanding section 205 of this
6 Act, upon a determination by the Attorney General that
7 emergent circumstances require additional funding for liti-
8 gation activities of the Civil Division, the Attorney General
9 may transfer such amounts to “Salaries and Expenses,
10 General Legal Activities” from available appropriations for
11 the current fiscal year for the Department of Justice, as
12 may be necessary to respond to such circumstances: Pro-
13 vided further, That any transfer pursuant to the preceding
14 proviso shall be treated as a reprogramming under section
15 505 of this Act and shall not be available for obligation
16 or expenditure except in compliance with the procedures set
17 forth in that section: Provided further, That of the amount
18 appropriated, such sums as may be necessary shall be avail-
19 able to the Civil Rights Division for salaries and expenses
20 associated with the election monitoring program under sec-
21 tion 8 of the Voting Rights Act of 1965 (52 U.S.C. 10305)
22 and to reimburse the Office of Personnel Management for
23 such salaries and expenses: Provided further, That of the
24 amounts provided under this heading for the election moni-

1 toring program, \$3,390,000 shall remain available until ex-
 2 pended.

3 *In addition, for reimbursement of expenses of the De-*
 4 *partment of Justice associated with processing cases under*
 5 *the National Childhood Vaccine Injury Act of 1986, not to*
 6 *exceed \$9,358,000, to be appropriated from the Vaccine In-*
 7 *jury Compensation Trust Fund.*

8 ***SALARIES AND EXPENSES, ANTITRUST DIVISION***

9 *For expenses necessary for the enforcement of antitrust*
 10 *and kindred laws, \$162,246,000, to remain available until*
 11 *expended: Provided, That notwithstanding any other provi-*
 12 *sion of law, fees collected for premerger notification filings*
 13 *under the Hart-Scott-Rodino Antitrust Improvements Act*
 14 *of 1976 (15 U.S.C. 18a), regardless of the year of collection*
 15 *(and estimated to be \$124,000,000 in fiscal year 2016),*
 16 *shall be retained and used for necessary expenses in this*
 17 *appropriation, and shall remain available until expended:*
 18 *Provided further, That the sum herein appropriated from*
 19 *the general fund shall be reduced as such offsetting collec-*
 20 *tions are received during fiscal year 2016, so as to result*
 21 *in a final fiscal year 2016 appropriation from the general*
 22 *fund estimated at \$38,246,000.*

23 ***SALARIES AND EXPENSES, UNITED STATES ATTORNEYS***

24 *For necessary expenses of the Offices of the United*
 25 *States Attorneys, including inter-governmental and cooper-*

1 *ative agreements, \$1,973,000,000: Provided, That of the*
 2 *total amount appropriated, not to exceed \$7,200 shall be*
 3 *available for official reception and representation expenses:*
 4 *Provided further, That not to exceed \$25,000,000 shall re-*
 5 *main available until expended.*

6 ***UNITED STATES TRUSTEE SYSTEM FUND***

7 *For necessary expenses of the United States Trustee*
 8 *Program, as authorized, \$225,908,000, to remain available*
 9 *until expended and to be derived from the United States*
 10 *Trustee System Fund: Provided, That, notwithstanding any*
 11 *other provision of law, deposits to the Fund shall be avail-*
 12 *able in such amounts as may be necessary to pay refunds*
 13 *due depositors: Provided further, That, notwithstanding*
 14 *any other provision of law, \$162,000,000 of offsetting collec-*
 15 *tions pursuant to section 589a(b) of title 28, United States*
 16 *Code, shall be retained and used for necessary expenses in*
 17 *this appropriation and shall remain available until ex-*
 18 *pended: Provided further, That the sum herein appro-*
 19 *priated from the Fund shall be reduced as such offsetting*
 20 *collections are received during fiscal year 2016, so as to*
 21 *result in a final fiscal year 2016 appropriation from the*
 22 *Fund estimated at \$63,908,000.*

1 ***SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT***2 ***COMMISSION***

3 *For expenses necessary to carry out the activities of*
 4 *the Foreign Claims Settlement Commission, including serv-*
 5 *ices as authorized by section 3109 of title 5, United States*
 6 *Code, \$2,374,000.*

7 ***FEES AND EXPENSES OF WITNESSES***

8 *For fees and expenses of witnesses, for expenses of con-*
 9 *tracts for the procurement and supervision of expert wit-*
 10 *nesses, for private counsel expenses, including advances,*
 11 *and for expenses of foreign counsel, \$270,000,000, to remain*
 12 *available until expended, of which not to exceed \$16,000,000*
 13 *is for construction of buildings for protected witness*
 14 *safesites; not to exceed \$3,000,000 is for the purchase and*
 15 *maintenance of armored and other vehicles for witness secu-*
 16 *rity caravans; and not to exceed \$13,000,000 is for the pur-*
 17 *chase, installation, maintenance, and upgrade of secure*
 18 *telecommunications equipment and a secure automated in-*
 19 *formation network to store and retrieve the identities and*
 20 *locations of protected witnesses: Provided, That amounts*
 21 *made under this heading may not be transferred pursuant*
 22 *to section 205 of this Act.*

23 ***SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE***

24 *For necessary expenses of the Community Relations*
 25 *Service, \$14,446,000: Provided, That notwithstanding sec-*

tion 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by subparagraphs (B), (F), and (G) of section 524(c)(1) of title 28, United States Code, \$20,514,000, to be derived from the Department of Justice Assets Forfeiture Fund.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, \$1,195,000,000, of which not to exceed \$6,000 shall be available for official reception and representation expenses, and not to exceed \$15,000,000 shall remain available until expended.

1 **CONSTRUCTION**

2 *For construction in space controlled, occupied or uti-*
 3 *lized by the United States Marshals Service for prisoner*
 4 *holding and related support, \$9,800,000, to remain avail-*
 5 *able until expended.*

6 **FEDERAL PRISONER DETENTION**

7 **(INCLUDING TRANSFER OF FUNDS)**

8 *For necessary expenses related to United States pris-*
 9 *oners in the custody of the United States Marshals Service*
 10 *as authorized by section 4013 of title 18, United States*
 11 *Code, \$1,454,414,000, to remain available until expended:*
 12 *Provided, That not to exceed \$20,000,000 shall be considered*
 13 *“funds appropriated for State and local law enforcement*
 14 *assistance” pursuant to section 4013(b) of title 18, United*
 15 *States Code: Provided further, That the United States Mar-*
 16 *shals Service shall be responsible for managing the Justice*
 17 *Prisoner and Alien Transportation System: Provided fur-*
 18 *ther, That any unobligated balances available from funds*
 19 *appropriated under the heading “General Administration,*
 20 *Detention Trustee” shall be transferred to and merged with*
 21 *the appropriation under this heading.*

22 **NATIONAL SECURITY DIVISION**

23 **SALARIES AND EXPENSES**

24 *For expenses necessary to carry out the activities of*
 25 *the National Security Division, \$93,000,000, of which not*

1 *to exceed \$5,000,000 for information technology systems*
 2 *shall remain available until expended: Provided, That not-*
 3 *withstanding section 205 of this Act, upon a determination*
 4 *by the Attorney General that emergent circumstances re-*
 5 *quire additional funding for the activities of the National*
 6 *Security Division, the Attorney General may transfer such*
 7 *amounts to this heading from available appropriations for*
 8 *the current fiscal year for the Department of Justice, as*
 9 *may be necessary to respond to such circumstances: Pro-*
 10 *vided further, That any transfer pursuant to the preceding*
 11 *proviso shall be treated as a reprogramming under section*
 12 *505 of this Act and shall not be available for obligation*
 13 *or expenditure except in compliance with the procedures set*
 14 *forth in that section.*

15 ***INTERAGENCY LAW ENFORCEMENT***

16 ***INTERAGENCY CRIME AND DRUG ENFORCEMENT***

17 *For necessary expenses for the identification, inves-*
 18 *tigation, and prosecution of individuals associated with the*
 19 *most significant drug trafficking and affiliated money*
 20 *laundering organizations not otherwise provided for, to in-*
 21 *clude inter-governmental agreements with State and local*
 22 *law enforcement agencies engaged in the investigation and*
 23 *prosecution of individuals involved in organized crime drug*
 24 *trafficking, \$507,194,000, of which \$50,000,000 shall re-*
 25 *main available until expended: Provided, That any*

1 *amounts obligated from appropriations under this heading*
 2 *may be used under authorities available to the organiza-*
 3 *tions reimbursed from this appropriation.*

4 ***FEDERAL BUREAU OF INVESTIGATION***

5 ***SALARIES AND EXPENSES***

6 *For necessary expenses of the Federal Bureau of Inves-*
 7 *tigation for detection, investigation, and prosecution of*
 8 *crimes against the United States, \$8,433,492,000, of which*
 9 *not to exceed \$216,900,000 shall remain available until ex-*
 10 *pende: Provided, That not to exceed \$184,500 shall be*
 11 *available for official reception and representation expenses.*

12 ***CONSTRUCTION***

13 *For necessary expenses, to include the cost of equip-*
 14 *ment, furniture, and information technology requirements,*
 15 *related to construction or acquisition of buildings, facilities*
 16 *and sites by purchase, or as otherwise authorized by law;*
 17 *conversion, modification and extension of Federally-owned*
 18 *buildings; preliminary planning and design of projects; and*
 19 *operation and maintenance of secure work environment fa-*
 20 *cilities and secure networking capabilities; \$108,982,000, to*
 21 *remain available until expended.*

22 ***DRUG ENFORCEMENT ADMINISTRATION***

23 ***SALARIES AND EXPENSES***

24 *For necessary expenses of the Drug Enforcement Ad-*
 25 *ministration, including not to exceed \$70,000 to meet un-*

1 *foreseen emergencies of a confidential character pursuant*
 2 *to section 530C of title 28, United States Code; and expenses*
 3 *for conducting drug education and training programs, in-*
 4 *cluding travel and related expenses for participants in such*
 5 *programs and the distribution of items of token value that*
 6 *promote the goals of such programs, \$2,033,320,000; of*
 7 *which not to exceed \$75,000,000 shall remain available*
 8 *until expended and not to exceed \$90,000 shall be available*
 9 *for official reception and representation expenses.*

10 ***BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND***

11 ***EXPLOSIVES***

12 ***SALARIES AND EXPENSES***

13 *For necessary expenses of the Bureau of Alcohol, To-*
 14 *bacco, Firearms and Explosives, for training of State and*
 15 *local law enforcement agencies with or without reimburse-*
 16 *ment, including training in connection with the training*
 17 *and acquisition of canines for explosives and fire*
 18 *accelerants detection; and for provision of laboratory assist-*
 19 *ance to State and local law enforcement agencies, with or*
 20 *without reimbursement, \$1,201,000,000, of which not to ex-*
 21 *ceed \$36,000 shall be for official reception and representa-*
 22 *tion expenses, not to exceed \$1,000 shall be available for*
 23 *the payment of attorneys' fees as provided by section*
 24 *924(d)(2) of title 18, United States Code, and not to exceed*
 25 *\$20,000,000 shall remain available until expended: Pro-*

1 *vided, That none of the funds appropriated herein shall be*
 2 *available to investigate or act upon applications for relief*
 3 *from Federal firearms disabilities under section 925(c) of*
 4 *title 18, United States Code: Provided further, That such*
 5 *funds shall be available to investigate and act upon appli-*
 6 *cations filed by corporations for relief from Federal fire-*
 7 *arms disabilities under section 925(c) of title 18, United*
 8 *States Code: Provided further, That no funds made avail-*
 9 *able by this or any other Act may be used to transfer the*
 10 *functions, missions, or activities of the Bureau of Alcohol,*
 11 *Tobacco, Firearms and Explosives to other agencies or De-*
 12 *partments.*

13 ***FEDERAL PRISON SYSTEM***

14 ***SALARIES AND EXPENSES***

15 ***(INCLUDING TRANSFER OF FUNDS)***

16 *For necessary expenses of the Federal Prison System*
 17 *for the administration, operation, and maintenance of Fed-*
 18 *eral penal and correctional institutions, and for the provi-*
 19 *sion of technical assistance and advice on corrections re-*
 20 *lated issues to foreign governments, \$6,848,000,000: Pro-*
 21 *vided, That the Attorney General may transfer to the De-*
 22 *partment of Health and Human Services such amounts as*
 23 *may be necessary for direct expenditures by that Depart-*
 24 *ment for medical relief for inmates of Federal penal and*
 25 *correctional institutions: Provided further, That the Direc-*

1 *tor of the Federal Prison System, where necessary, may*
2 *enter into contracts with a fiscal agent or fiscal inter-*
3 *mediary claims processor to determine the amounts payable*
4 *to persons who, on behalf of the Federal Prison System, fur-*
5 *nish health services to individuals committed to the custody*
6 *of the Federal Prison System: Provided further, That not*
7 *to exceed \$5,400 shall be available for official reception and*
8 *representation expenses: Provided further, That not to ex-*
9 *ceed \$50,000,000 shall remain available for necessary oper-*
10 *ations until September 30, 2017: Provided further, That,*
11 *of the amounts provided for contract confinement, not to*
12 *exceed \$20,000,000 shall remain available until expended*
13 *to make payments in advance for grants, contracts and re-*
14 *imbursable agreements, and other expenses: Provided fur-*
15 *ther, That the Director of the Federal Prison System may*
16 *accept donated property and services relating to the oper-*
17 *ation of the prison card program from a not-for-profit enti-*
18 *ty which has operated such program in the past, notwith-*
19 *standing the fact that such not-for-profit entity furnishes*
20 *services under contracts to the Federal Prison System relat-*
21 *ing to the operation of pre-release services, halfway houses,*
22 *or other custodial facilities: Provided further, That, not-*
23 *withstanding section 1345 of title 31, United States Code,*
24 *or any other provision of law, up to \$540,000 may be used*
25 *to pay expenses associated with reentry programs to assist*

1 inmates in preparation for successful return to the commu-
2 nity, including prison institution and Residential Reentry
3 Center programs that involve inmates' family members and
4 significant others, community sponsors, and volunteers.

5 ***BUILDINGS AND FACILITIES***

6 *For planning, acquisition of sites and construction of*
7 *new facilities; purchase and acquisition of facilities and re-*
8 *modeling, and equipping of such facilities for penal and*
9 *correctional use, including all necessary expenses incident*
10 *thereto, by contract or force account; and constructing, re-*
11 *modeling, and equipping necessary buildings and facilities*
12 *at existing penal and correctional institutions, including*
13 *all necessary expenses incident thereto, by contract or force*
14 *account, \$106,000,000, to remain available until expended,*
15 *and of which not less than \$81,000,000 shall be available*
16 *only for modernization, maintenance and repair, and of*
17 *which not to exceed \$14,000,000 shall be available to con-*
18 *struct areas for inmate work programs: Provided, That*
19 *labor of United States prisoners may be used for work per-*
20 *formed under this appropriation.*

21 ***FEDERAL PRISON INDUSTRIES, INCORPORATED***

22 *The Federal Prison Industries, Incorporated, is hereby*
23 *authorized to make such expenditures within the limits of*
24 *funds and borrowing authority available, and in accord*
25 *with the law, and to make such contracts and commitments*

1 *without regard to fiscal year limitations as provided by sec-*
2 *tion 9104 of title 31, United States Code, as may be nec-*
3 *essary in carrying out the program set forth in the budget*
4 *for the current fiscal year for such corporation.*

5 ***LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL***
6 ***PRISON INDUSTRIES, INCORPORATED***

7 *Not to exceed \$2,700,000 of the funds of the Federal*
8 *Prison Industries, Incorporated, shall be available for its*
9 *administrative expenses, and for services as authorized by*
10 *section 3109 of title 5, United States Code, to be computed*
11 *on an accrual basis to be determined in accordance with*
12 *the corporation's current prescribed accounting system, and*
13 *such amounts shall be exclusive of depreciation, payment*
14 *of claims, and expenditures which such accounting system*
15 *requires to be capitalized or charged to cost of commodities*
16 *acquired or produced, including selling and shipping ex-*
17 *penses, and expenses in connection with acquisition, con-*
18 *struction, operation, maintenance, improvement, protec-*
19 *tion, or disposition of facilities and other property belong-*
20 *ing to the corporation or in which it has an interest.*

1 *STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES*
2 *OFFICE ON VIOLENCE AGAINST WOMEN*
3 *VIOLENCE AGAINST WOMEN PREVENTION AND*
4 *PROSECUTION PROGRAMS*

5 *For grants, contracts, cooperative agreements, and*
6 *other assistance for the prevention and prosecution of vio-*
7 *lence against women, as authorized by the Omnibus Crime*
8 *Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et*
9 *seq.) (“the 1968 Act”); the Violent Crime Control and Law*
10 *Enforcement Act of 1994 (Public Law 103–322) (“the 1994*
11 *Act”); the Victims of Child Abuse Act of 1990 (Public Law*
12 *101–647) (“the 1990 Act”); the Prosecutorial Remedies and*
13 *Other Tools to end the Exploitation of Children Today Act*
14 *of 2003 (Public Law 108–21); the Juvenile Justice and De-*
15 *linquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.)*
16 *(“the 1974 Act”); the Victims of Trafficking and Violence*
17 *Protection Act of 2000 (Public Law 106–386) (“the 2000*
18 *Act”); the Violence Against Women and Department of Jus-*
19 *tice Reauthorization Act of 2005 (Public Law 109–162)*
20 *(“the 2005 Act”); and the Violence Against Women Reau-*
21 *thorization Act of 2013 (Public Law 113–4) (“the 2013*
22 *Act”); and for related victims services, \$479,000,000, to re-*
23 *main available until expended, of which \$245,000,000 shall*
24 *be derived by transfer from amounts available for obligation*
25 *in this Act from the Fund established by section 1402 of*

1 *chapter XIV of title II of Public Law 98–473 (42 U.S.C.*
2 *10601), notwithstanding section 1402(d) of such Act of*
3 *1984: Provided, That except as otherwise provided by law,*
4 *not to exceed 5 percent of funds made available under this*
5 *heading may be used for expenses related to evaluation,*
6 *training, and technical assistance: Provided further, That*
7 *of the amount provided—*

8 (1) *\$215,000,000 is for grants to combat violence*
9 *against women, as authorized by part T of the 1968*
10 *Act;*

11 (2) *\$30,000,000 is for transitional housing as-*
12 *sistance grants for victims of domestic violence, dat-*
13 *ing violence, stalking, or sexual assault as authorized*
14 *by section 40299 of the 1994 Act;*

15 (3) *\$3,000,000 is for the National Institute of*
16 *Justice for research and evaluation of violence against*
17 *women and related issues addressed by grant pro-*
18 *grams of the Office on Violence Against Women,*
19 *which shall be transferred to “Research, Evaluation*
20 *and Statistics” for administration by the Office of*
21 *Justice Programs;*

22 (4) *\$11,000,000 is for a grant program to pro-*
23 *vide services to advocate for and respond to youth vic-*
24 *tims of domestic violence, dating violence, sexual as-*
25 *sault, and stalking; assistance to children and youth*

1 *exposed to such violence; programs to engage men and*
2 *youth in preventing such violence; and assistance to*
3 *middle and high school students through education*
4 *and other services related to such violence: Provided,*
5 *That unobligated balances available for the programs*
6 *authorized by sections 41201, 41204, 41303 and*
7 *41305 of the 1994 Act, prior to its amendment by the*
8 *2013 Act, shall be available for this program: Pro-*
9 *vided further, That 10 percent of the total amount*
10 *available for this grant program shall be available for*
11 *grants under the program authorized by section 2015*
12 *of the 1968 Act: Provided further, That the definitions*
13 *and grant conditions in section 40002 of the 1994 Act*
14 *shall apply to this program;*

15 *(5) \$51,000,000 is for grants to encourage arrest*
16 *policies as authorized by part U of the 1968 Act, of*
17 *which \$4,000,000 is for a homicide reduction initia-*
18 *tive;*

19 *(6) \$35,000,000 is for sexual assault victims as-*
20 *sistance, as authorized by section 41601 of the 1994*
21 *Act;*

22 *(7) \$35,000,000 is for rural domestic violence*
23 *and child abuse enforcement assistance grants, as au-*
24 *thorized by section 40295 of the 1994 Act;*

1 (8) \$20,000,000 is for grants to reduce violent
2 crimes against women on campus, as authorized by
3 section 304 of the 2005 Act;

4 (9) \$45,000,000 is for legal assistance for vic-
5 tims, as authorized by section 1201 of the 2000 Act;

6 (10) \$5,000,000 is for enhanced training and
7 services to end violence against and abuse of women
8 in later life, as authorized by section 40802 of the
9 1994 Act;

10 (11) \$16,000,000 is for grants to support fami-
11 lies in the justice system, as authorized by section
12 1301 of the 2000 Act: Provided, That unobligated bal-
13 ances available for the programs authorized by section
14 1301 of the 2000 Act and section 41002 of the 1994
15 Act, prior to their amendment by the 2013 Act, shall
16 be available for this program;

17 (12) \$6,000,000 is for education and training to
18 end violence against and abuse of women with dis-
19 abilities, as authorized by section 1402 of the 2000
20 Act;

21 (13) \$500,000 is for the National Resource Cen-
22 ter on Workplace Responses to assist victims of do-
23 mestic violence, as authorized by section 41501 of the
24 1994 Act;

1 (14) \$1,000,000 is for analysis and research on
 2 violence against Indian women, including as author-
 3 ized by section 904 of the 2005 Act: Provided, That
 4 such funds may be transferred to “Research, Evalua-
 5 tion and Statistics” for administration by the Office
 6 of Justice Programs;

7 (15) \$500,000 is for a national clearinghouse
 8 that provides training and technical assistance on
 9 issues relating to sexual assault of American Indian
 10 and Alaska Native women; and

11 (16) \$5,000,000 is for grants to assist tribal gov-
 12 ernments in exercising special domestic violence
 13 criminal jurisdiction, as authorized by section 904 of
 14 the 2013 Act: Provided, That the grant conditions in
 15 section 40002(b) of the 1994 Act shall apply to this
 16 program.

17 **OFFICE OF JUSTICE PROGRAMS**

18 **RESEARCH, EVALUATION AND STATISTICS**

19 For grants, contracts, cooperative agreements, and
 20 other assistance authorized by title I of the Omnibus Crime
 21 Control and Safe Streets Act of 1968 (“the 1968 Act”); the
 22 Juvenile Justice and Delinquency Prevention Act of 1974
 23 (“the 1974 Act”); the Missing Children’s Assistance Act (42
 24 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other
 25 Tools to end the Exploitation of Children Today Act of 2003

1 *(Public Law 108–21); the Justice for All Act of 2004 (Pub-*
 2 *lic Law 108–405); the Violence Against Women and De-*
 3 *partment of Justice Reauthorization Act of 2005 (Public*
 4 *Law 109–162) (“the 2005 Act”); the Victims of Child Abuse*
 5 *Act of 1990 (Public Law 101–647); the Second Chance Act*
 6 *of 2007 (Public Law 110–199); the Victims of Crime Act*
 7 *of 1984 (Public Law 98–473); the Adam Walsh Child Pro-*
 8 *tection and Safety Act of 2006 (Public Law 109–248) (“the*
 9 *Adam Walsh Act”); the PROTECT Our Children Act of*
 10 *2008 (Public Law 110–401); subtitle D of title II of the*
 11 *Homeland Security Act of 2002 (Public Law 107–296)*
 12 *(“the 2002 Act”); the NICS Improvement Amendments Act*
 13 *of 2007 (Public Law 110–180); the Violence Against Women*
 14 *Reauthorization Act of 2013 (Public Law 113–4) (“the*
 15 *2013 Act”); and other programs, \$117,000,000, to remain*
 16 *available until expended, of which—*

17 (1) \$41,000,000 is for criminal justice statistics
 18 programs, and other activities, as authorized by part
 19 C of title I of the 1968 Act;

20 (2) \$36,000,000 is for research, development, and
 21 evaluation programs, and other activities as author-
 22 ized by part B of title I of the 1968 Act and subtitle
 23 D of title II of the 2002 Act;

1 (3) \$35,000,000 is for regional information shar-
 2 ing activities, as authorized by part M of title I of
 3 the 1968 Act; and

4 (4) \$5,000,000 is for activities to strengthen and
 5 enhance the practice of forensic sciences, of which
 6 \$4,000,000 is for transfer to the National Institute of
 7 Standards and Technology to support Scientific Area
 8 Committees.

9 **STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE**

10 For grants, contracts, cooperative agreements, and
 11 other assistance authorized by the Violent Crime Control
 12 and Law Enforcement Act of 1994 (Public Law 103–322)
 13 (“the 1994 Act”); the Omnibus Crime Control and Safe
 14 Streets Act of 1968 (“the 1968 Act”); the Justice for All
 15 Act of 2004 (Public Law 108–405); the Victims of Child
 16 Abuse Act of 1990 (Public Law 101–647) (“the 1990 Act”);
 17 the Trafficking Victims Protection Reauthorization Act of
 18 2005 (Public Law 109–164); the Violence Against Women
 19 and Department of Justice Reauthorization Act of 2005
 20 (Public Law 109–162) (“the 2005 Act”); the Adam Walsh
 21 Child Protection and Safety Act of 2006 (Public Law 109–
 22 248) (“the Adam Walsh Act”); the Victims of Trafficking
 23 and Violence Protection Act of 2000 (Public Law 106–386);
 24 the NICS Improvement Amendments Act of 2007 (Public
 25 Law 110–180); subtitle D of title II of the Homeland Secu-

1 rity Act of 2002 (Public Law 107–296) (“the 2002 Act”);
 2 the Second Chance Act of 2007 (Public Law 110–199); the
 3 Prioritizing Resources and Organization for Intellectual
 4 Property Act of 2008 (Public Law 110–403); the Victims
 5 of Crime Act of 1984 (Public Law 98–473); the Mentally
 6 Ill Offender Treatment and Crime Reduction Reauthoriza-
 7 tion and Improvement Act of 2008 (Public Law 110–416);
 8 the Violence Against Women Reauthorization Act of 2013
 9 (Public Law 113–4) (“the 2013 Act”); and other programs,
 10 \$1,009,000,000, to remain available until expended as fol-
 11 lows—

12 (1) \$382,000,000 for the Edward Byrne Memo-
 13 rial Justice Assistance Grant program as authorized
 14 by subpart 1 of part E of title I of the 1968 Act (ex-
 15 cept that section 1001(c), and the special rules for
 16 Puerto Rico under section 505(g) of title I of the 1968
 17 Act shall not apply for purposes of this Act), of
 18 which, notwithstanding such subpart 1, \$15,000,000
 19 is for a Preventing Violence Against Law Enforce-
 20 ment Officer Resilience and Survivability Initiative
 21 (VALOR), \$10,000,000 is for an initiative to support
 22 evidence-based policing, \$2,500,000 is for an initia-
 23 tive to enhance prosecutorial decision-making,
 24 \$15,000,000 is for an Edward Byrne Memorial crimi-
 25 nal justice innovation program, \$20,000,000 is for a

1 *competitive matching grant program for purchases of*
2 *body-worn cameras for State, local and tribal law en-*
3 *forcement, and \$2,400,000 is for the*
4 *operationalization, maintenance and expansion of the*
5 *National Missing and Unidentified Persons System;*

6 (2) *\$75,000,000 for the State Criminal Alien As-*
7 *sistance Program, as authorized by section 241(i)(5)*
8 *of the Immigration and Nationality Act (8 U.S.C.*
9 *1231(i)(5)): Provided, That no jurisdiction shall re-*
10 *quest compensation for any cost greater than the ac-*
11 *tual cost for Federal immigration and other detainees*
12 *housed in State and local detention facilities;*

13 (3) *\$41,000,000 for Drug Courts, as authorized*
14 *by section 1001(a)(25)(A) of title I of the 1968 Act;*

15 (4) *\$10,000,000 for mental health courts and*
16 *adult and juvenile collaboration program grants, as*
17 *authorized by parts V and HH of title I of the 1968*
18 *Act, and the Mentally Ill Offender Treatment and*
19 *Crime Reduction Reauthorization and Improvement*
20 *Act of 2008 (Public Law 110–416);*

21 (5) *\$12,000,000 for grants for Residential Sub-*
22 *stance Abuse Treatment for State Prisoners, as au-*
23 *thorized by part S of title I of the 1968 Act;*

24 (6) *\$4,000,000 for the Capital Litigation Im-*
25 *provement Grant Program, as authorized by section*

1 426 of Public Law 108–405, and for grants for
2 wrongful conviction review;

3 (7) \$13,000,000 for economic, high technology
4 and Internet crime prevention grants, including as
5 authorized by section 401 of Public Law 110–403, of
6 which not more than \$2,500,000 is for intellectual
7 property enforcement grants, including as authorized
8 by Section 401 of Public Law 110–403;

9 (8) \$3,000,000 for a student loan repayment as-
10 sistance program pursuant to section 952 of Public
11 Law 110–315;

12 (9) \$20,000,000 for sex offender management as-
13 sistance, as authorized by the Adam Walsh Act, and
14 related activities;

15 (10) \$22,500,000 for the matching grant pro-
16 gram for law enforcement armor vests, as authorized
17 by section 2501 of title I of the 1968 Act: Provided,
18 That \$1,500,000 is transferred directly to the Na-
19 tional Institute of Standards and Technology’s Office
20 of Law Enforcement Standards for research, testing
21 and evaluation programs;

22 (11) \$1,000,000 for the National Sex Offender
23 Public Website;

1 (12) \$8,500,000 for competitive and evidence-
2 based programs to reduce gun crime and gang vio-
3 lence;

4 (13) \$55,000,000 for grants to States to upgrade
5 criminal and mental health records for the National
6 Instant Criminal Background Check System, of which
7 no less than \$12,000,000 shall be for grants made
8 under the authorities of the NICS Improvement
9 Amendments Act of 2007 (Public Law 110–180);

10 (14) \$15,000,000 for Paul Coverdell Forensic
11 Sciences Improvement Grants under part BB of title
12 I of the 1968 Act;

13 (15) \$125,000,000 for DNA-related and forensic
14 programs and activities, of which—

15 (A) \$117,000,000 is for a DNA analysis
16 and capacity enhancement program and for
17 other local, State, and Federal forensic activities,
18 including the purposes authorized under section
19 2 of the DNA Analysis Backlog Elimination Act
20 of 2000 (Public Law 106–546) (the Debbie Smith
21 DNA Backlog Grant Program): Provided, That
22 up to 4 percent of funds made available under
23 this paragraph may be used for the purposes de-
24 scribed in the DNA Training and Education for
25 Law Enforcement, Correctional Personnel, and

1 *Court Officers program (Public Law 108–405,*
2 *section 303);*

3 *(B) \$4,000,000 is for the purposes described*
4 *in the Kirk Bloodsworth Post-Conviction DNA*
5 *Testing Program (Public Law 108–405, section*
6 *412); and*

7 *(C) \$4,000,000 is for Sexual Assault Foren-*
8 *sic Exam Program grants, including as author-*
9 *ized by section 304 of Public Law 108–405;*

10 *(16) \$41,000,000 for a grant program for com-*
11 *munity-based sexual assault response reform;*

12 *(17) \$68,000,000 for offender reentry programs*
13 *and research, as authorized by the Second Chance Act*
14 *of 2007 (Public Law 110–199), without regard to the*
15 *time limitations specified at section 6(1) of such Act,*
16 *of which not to exceed \$6,000,000 is for a program to*
17 *improve State, local, and tribal probation or parole*
18 *supervision efforts and strategies, and \$5,000,000 is*
19 *for Children of Incarcerated Parents Demonstrations*
20 *to enhance and maintain parental and family rela-*
21 *tionships for incarcerated parents as a reentry or re-*
22 *cidivism reduction strategy: Provided, That up to*
23 *\$7,500,000 of funds made available in this paragraph*
24 *may be used for performance-based awards for Pay*
25 *for Success projects, of which up to \$5,000,000 shall*

1 *be for Pay for Success programs implementing the*
2 *Permanent Supportive Housing Model;*

3 (18) *\$5,000,000 for a veterans treatment courts*
4 *program;*

5 (19) *\$7,000,000 for a program to monitor pre-*
6 *scription drugs and scheduled listed chemical prod-*
7 *ucts;*

8 (20) *\$22,000,000 for a justice reinvestment ini-*
9 *tiative, for activities related to criminal justice re-*
10 *form and recidivism reduction;*

11 (21) *\$4,000,000 for additional replication sites*
12 *employing the Project HOPE Opportunity Probation*
13 *with Enforcement model implementing swift and cer-*
14 *tain sanctions in probation, and for a research*
15 *project on the effectiveness of the model; and*

16 (22) *\$75,000,000 for the Comprehensive School*
17 *Safety Initiative, and for related hiring: Provided,*
18 *That section 213 of this Act shall not apply with re-*
19 *spect to the amount made available in this para-*
20 *graph:*

21 *Provided, That, if a unit of local government uses any of*
22 *the funds made available under this heading to increase the*
23 *number of law enforcement officers, the unit of local govern-*
24 *ment will achieve a net gain in the number of law enforce-*

1 *ment officers who perform non-administrative public sector*
 2 *safety service.*

3 ***JUVENILE JUSTICE PROGRAMS***

4 *For grants, contracts, cooperative agreements, and*
 5 *other assistance authorized by the Juvenile Justice and De-*
 6 *linquency Prevention Act of 1974 (“the 1974 Act”); the Om-*
 7 *nibus Crime Control and Safe Streets Act of 1968 (“the*
 8 *1968 Act”); the Violence Against Women and Department*
 9 *of Justice Reauthorization Act of 2005 (Public Law 109–*
 10 *162) (“the 2005 Act”); the Missing Children’s Assistance*
 11 *Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies*
 12 *and Other Tools to end the Exploitation of Children Today*
 13 *Act of 2003 (Public Law 108–21); the Victims of Child*
 14 *Abuse Act of 1990 (Public Law 101–647) (“the 1990 Act”);*
 15 *the Adam Walsh Child Protection and Safety Act of 2006*
 16 *(Public Law 109–248) (“the Adam Walsh Act”); the PRO-*
 17 *TECT Our Children Act of 2008 (Public Law 110–401);*
 18 *the Violence Against Women Reauthorization Act of 2013*
 19 *(Public Law 113–4) (“the 2013 Act”); and other juvenile*
 20 *justice programs, \$253,500,000, to remain available until*
 21 *expended as follows—*

22 *(1) \$65,500,000 for programs authorized by sec-*
 23 *tion 221 of the 1974 Act, and for training and tech-*
 24 *nical assistance to assist small, nonprofit organiza-*
 25 *tions with the Federal grants process: Provided, That*

1 *of the amounts provided under this paragraph,*
2 *\$500,000 shall be for a competitive demonstration*
3 *grant program to support emergency planning among*
4 *State, local and tribal juvenile justice residential fa-*
5 *cilities;*

6 (2) *\$75,000,000 for youth mentoring grants;*

7 (3) *\$40,000,000 for delinquency prevention, as*
8 *authorized by section 505 of the 1974 Act, of which,*
9 *pursuant to sections 261 and 262 thereof—*

10 (A) *\$10,000,000 shall be for the Tribal*
11 *Youth Program;*

12 (B) *\$5,000,000 shall be for gang and youth*
13 *violence education, prevention and intervention,*
14 *and related activities;*

15 (4) *\$68,000,000 for missing and exploited chil-*
16 *dren programs, including as authorized by sections*
17 *404(b) and 405(a) of the 1974 Act (except that section*
18 *102(b)(4)(B) of the PROTECT Our Children Act of*
19 *2008 (Public Law 110–401) shall not apply for pur-*
20 *poses of this Act);*

21 (5) *\$500,000 for an Internet site providing infor-*
22 *mation and resources on children of incarcerated par-*
23 *ents;*

24 (6) *\$2,000,000 for competitive grants focusing on*
25 *girls in the juvenile justice system; and*

1 (7) \$2,500,000 for a program to improve juvenile
2 indigent defense:

3 *Provided, That not more than 10 percent of each amount*
4 *may be used for research, evaluation, and statistics activi-*
5 *ties designed to benefit the programs or activities author-*
6 *ized: Provided further, That not more than 2 percent of the*
7 *amounts designated under paragraphs (1) through (3) may*
8 *be used for training and technical assistance: Provided fur-*
9 *ther, That the two preceding provisos shall not apply to*
10 *grants and projects administered pursuant to sections 261*
11 *and 262 of the 1974 Act and to missing and exploited chil-*
12 *dren programs.*

13 ***PUBLIC SAFETY OFFICER BENEFITS***

14 *For payments and expenses authorized under section*
15 *1001(a)(4) of title I of the Omnibus Crime Control and Safe*
16 *Streets Act of 1968, such sums as are necessary (including*
17 *amounts for administrative costs), to remain available*
18 *until expended; and \$16,300,000 for payments authorized*
19 *by section 1201(b) of such Act and for educational assist-*
20 *ance authorized by section 1218 of such Act, to remain*
21 *available until expended: Provided, That notwithstanding*
22 *section 205 of this Act, upon a determination by the Attor-*
23 *ney General that emergent circumstances require additional*
24 *funding for such disability and education payments, the At-*
25 *torney General may transfer such amounts to “Public Safe-*

1 *ty Officer Benefits” from available appropriations for the*
 2 *Department of Justice as may be necessary to respond to*
 3 *such circumstances: Provided further, That any transfer*
 4 *pursuant to the preceding proviso shall be treated as a re-*
 5 *programming under section 505 of this Act and shall not*
 6 *be available for obligation or expenditure except in compli-*
 7 *ance with the procedures set forth in that section.*

8 **COMMUNITY ORIENTED POLICING SERVICES**

9 **COMMUNITY ORIENTED POLICING SERVICES PROGRAMS**

10 *For activities authorized by the Violent Crime Control*
 11 *and Law Enforcement Act of 1994 (Public Law 103–322);*
 12 *the Omnibus Crime Control and Safe Streets Act of 1968*
 13 *(“the 1968 Act”); and the Violence Against Women and De-*
 14 *partment of Justice Reauthorization Act of 2005 (Public*
 15 *Law 109–162) (“the 2005 Act”), \$212,000,000, to remain*
 16 *available until expended: Provided, That any balances*
 17 *made available through prior year deobligations shall only*
 18 *be available in accordance with section 505 of this Act: Pro-*
 19 *vided further, That of the amount provided under this head-*
 20 *ing—*

21 *(1) \$11,000,000 is for anti-methamphetamine-re-*
 22 *lated activities, which shall be transferred to the Drug*
 23 *Enforcement Administration upon enactment of this*
 24 *Act;*

1 (2) \$187,000,000 is for grants under section
2 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for
3 the hiring and rehiring of additional career law en-
4 forcement officers under part Q of such title notwith-
5 standing subsection (i) of such section: Provided,
6 That, notwithstanding section 1704(c) of such title
7 (42 U.S.C. 3796dd–3(c)), funding for hiring or rehir-
8 ing a career law enforcement officer may not exceed
9 \$125,000 unless the Director of the Office of Commu-
10 nity Oriented Policing Services grants a waiver from
11 this limitation: Provided further, That within the
12 amounts appropriated under this paragraph,
13 \$30,000,000 is for improving tribal law enforcement,
14 including hiring, equipment, training, and anti-
15 methamphetamine activities: Provided further, That
16 of the amounts appropriated under this paragraph,
17 \$10,000,000 is for community policing development
18 activities in furtherance of the purposes in section
19 1701: Provided further, That within the amounts ap-
20 propriated under this paragraph, \$10,000,000 is for
21 the collaborative reform model of technical assistance
22 in furtherance of the purposes in section 1701;

23 (3) \$7,000,000 is for competitive grants to State
24 law enforcement agencies in States with high seizures
25 of precursor chemicals, finished methamphetamine,

1 laboratories, and laboratory dump seizures: Provided,
2 That funds appropriated under this paragraph shall
3 be utilized for investigative purposes to locate or in-
4 vestigate illicit activities, including precursor diver-
5 sion, laboratories, or methamphetamine traffickers;
6 and

7 (4) \$7,000,000 is for competitive grants to state-
8 wide law enforcement agencies in States with high
9 rates of primary treatment admissions for heroin and
10 other opioids: Provided, That these funds shall be uti-
11 lized for investigative purposes to locate or investigate
12 illicit activities, including activities related to the dis-
13 tribution of heroin or unlawful distribution of pre-
14 scription opioids, or unlawful heroin and prescription
15 opioid traffickers through statewide collaboration.

16 **GENERAL PROVISIONS—DEPARTMENT OF JUSTICE**

17 **SEC. 201.** In addition to amounts otherwise made
18 available in this title for official reception and representa-
19 tion expenses, a total of not to exceed \$50,000 from funds
20 appropriated to the Department of Justice in this title shall
21 be available to the Attorney General for official reception
22 and representation expenses.

23 **SEC. 202.** None of the funds appropriated by this title
24 shall be available to pay for an abortion, except where the
25 life of the mother would be endangered if the fetus were car-

1 ried to term, or in the case of rape: Provided, That should
2 this prohibition be declared unconstitutional by a court of
3 competent jurisdiction, this section shall be null and void.

4 *SEC. 203. None of the funds appropriated under this*
5 *title shall be used to require any person to perform, or fa-*
6 *cilitate in any way the performance of, any abortion.*

7 *SEC. 204. Nothing in the preceding section shall re-*
8 *move the obligation of the Director of the Bureau of Prisons*
9 *to provide escort services necessary for a female inmate to*
10 *receive such service outside the Federal facility: Provided,*
11 *That nothing in this section in any way diminishes the*
12 *effect of section 203 intended to address the philosophical*
13 *beliefs of individual employees of the Bureau of Prisons.*

14 *SEC. 205. Not to exceed 5 percent of any appropriation*
15 *made available for the current fiscal year for the Depart-*
16 *ment of Justice in this Act may be transferred between such*
17 *appropriations, but no such appropriation, except as other-*
18 *wise specifically provided, shall be increased by more than*
19 *10 percent by any such transfers: Provided, That any trans-*
20 *fer pursuant to this section shall be treated as a reprogram-*
21 *ming of funds under section 505 of this Act and shall not*
22 *be available for obligation except in compliance with the*
23 *procedures set forth in that section.*

24 *SEC. 206. Funds appropriated by this or any other*
25 *Act under the heading "Bureau of Alcohol, Tobacco, Fire-*

1 arms, and Explosives, Salaries and Expenses” shall be
2 available for retention pay for any employee who would oth-
3 erwise be subject to a reduction in pay upon termination
4 of the Bureau’s Personnel Management Demonstration
5 Project (as transferred to the Attorney General by section
6 1115 of the Homeland Security Act of 2002, Public Law
7 107–296 (28 U.S.C. 599B)): Provided, That such retention
8 pay shall comply with section 5363 of title 5, United States
9 Code, and related Office of Personnel Management regula-
10 tions, except as provided in this section: Provided further,
11 That such retention pay shall be paid at the employee’s rate
12 of pay immediately prior to the termination of the dem-
13 onstration project and shall not be subject to the limitation
14 set forth in section 5304(g)(1) of title 5, United States Code,
15 and related regulations.

16 *SEC. 207. None of the funds made available under this*
17 *title may be used by the Federal Bureau of Prisons or the*
18 *United States Marshals Service for the purpose of trans-*
19 *porting an individual who is a prisoner pursuant to convic-*
20 *tion for crime under State or Federal law and is classified*
21 *as a maximum or high security prisoner, other than to a*
22 *prison or other facility certified by the Federal Bureau of*
23 *Prisons as appropriately secure for housing such a prisoner.*

24 *SEC. 208. (a) None of the funds appropriated by this*
25 *Act may be used by Federal prisons to purchase cable tele-*

1 *vision services, or to rent or purchase audiovisual or elec-*
2 *tronic media or equipment used primarily for recreational*
3 *purposes.*

4 *(b) Subsection (a) does not preclude the rental, mainte-*
5 *nance, or purchase of audiovisual or electronic media or*
6 *equipment for inmate training, religious, or educational*
7 *programs.*

8 *SEC. 209. None of the funds made available under this*
9 *title shall be obligated or expended for any new or enhanced*
10 *information technology program having total estimated de-*
11 *velopment costs in excess of \$100,000,000, unless the Deputy*
12 *Attorney General and the investment review board certify*
13 *to the Committees on Appropriations of the House of Rep-*
14 *resentatives and the Senate that the information technology*
15 *program has appropriate program management controls*
16 *and contractor oversight mechanisms in place, and that the*
17 *program is compatible with the enterprise architecture of*
18 *the Department of Justice.*

19 *SEC. 210. The notification thresholds and procedures*
20 *set forth in section 505 of this Act shall apply to deviations*
21 *from the amounts designated for specific activities in this*
22 *Act and in the accompanying report and to any use of*
23 *deobligated balances of funds provided under this title in*
24 *previous years.*

1 *SEC. 211. None of the funds appropriated by this Act*
2 *may be used to plan for, begin, continue, finish, process,*
3 *or approve a public-private competition under the Office*
4 *of Management and Budget Circular A–76 or any successor*
5 *administrative regulation, directive, or policy for work per-*
6 *formed by employees of the Bureau of Prisons or of Federal*
7 *Prison Industries, Incorporated.*

8 *SEC. 212. Notwithstanding any other provision of law,*
9 *no funds shall be available for the salary, benefits, or ex-*
10 *penses of any United States Attorney assigned dual or addi-*
11 *tional responsibilities by the Attorney General or his des-*
12 *ignee that exempt that United States Attorney from the*
13 *residency requirements of section 545 of title 28, United*
14 *States Code.*

15 *SEC. 213. At the discretion of the Attorney General,*
16 *and in addition to any amounts that otherwise may be*
17 *available (or authorized to be made available) by law, with*
18 *respect to funds appropriated by this title under the head-*
19 *ings “Research, Evaluation and Statistics”, “State and*
20 *Local Law Enforcement Assistance”, and “Juvenile Justice*
21 *Programs”—*

22 *(1) up to 3 percent of funds made available to*
23 *the Office of Justice Programs for grant or reimburse-*
24 *ment programs may be used by such Office to provide*
25 *training and technical assistance;*

1 (2) up to 2 percent of funds made available for
2 grant or reimbursement programs under such head-
3 ings, except for amounts appropriated specifically for
4 research, evaluation, or statistical programs adminis-
5 tered by the National Institute of Justice and the Bu-
6 reau of Justice Statistics, shall be transferred to and
7 merged with funds provided to the National Institute
8 of Justice and the Bureau of Justice Statistics, to be
9 used by them for research, evaluation, or statistical
10 purposes, without regard to the authorizations for
11 such grant or reimbursement programs; and

12 (3) up to 7 percent of funds made available for
13 grant or reimbursement programs: (1) under the
14 heading “State and Local Law Enforcement Assist-
15 ance”; or (2) under the headings “Research, Evalua-
16 tion, and Statistics” and “Juvenile Justice Pro-
17 grams”, to be transferred to and merged with funds
18 made available under the heading “State and Local
19 Law Enforcement Assistance”, shall be available for
20 tribal criminal justice assistance without regard to
21 the authorizations for such grant or reimbursement
22 programs.

23 SEC. 214. Upon request by a grantee for whom the At-
24 torney General has determined there is a fiscal hardship,
25 the Attorney General may, with respect to funds appro-

1 *priated in this or any other Act making appropriations for*
 2 *fiscal years 2013 through 2016 for the following programs,*
 3 *waive the following requirements:*

4 (1) *For the adult and juvenile offender State and*
 5 *local reentry demonstration projects under part FF of*
 6 *title I of the Omnibus Crime Control and Safe Streets*
 7 *Act of 1968 (42 U.S.C. 3797w(g)(1)), the require-*
 8 *ments under section 2976(g)(1) of such part.*

9 (2) *For State, Tribal, and local reentry courts*
 10 *under part FF of title I of such Act of 1968 (42*
 11 *U.S.C. 3797w-2(e)(1) and (2)), the requirements*
 12 *under section 2978(e)(1) and (2) of such part.*

13 (3) *For the prosecution drug treatment alter-*
 14 *natives to prison program under part CC of title I of*
 15 *such Act of 1968 (42 U.S.C. 3797q-3), the require-*
 16 *ments under section 2904 of such part.*

17 (4) *For grants to protect inmates and safeguard*
 18 *communities as authorized by section 6 of the Prison*
 19 *Rape Elimination Act of 2003 (42 U.S.C.*
 20 *15605(c)(3)), the requirements of section 6(c)(3) of*
 21 *such Act.*

22 *SEC. 215. Notwithstanding any other provision of law,*
 23 *section 20109(a) of subtitle A of title II of the Violent Crime*
 24 *Control and Law Enforcement Act of 1994 (42 U.S.C.*

1 13709(a)) shall not apply to amounts made available by
2 this or any other Act.

3 *SEC. 216. None of the funds made available under this*
4 *Act, other than for the national instant criminal back-*
5 *ground check system established under section 103 of the*
6 *Brady Handgun Violence Prevention Act (18 U.S.C. 922*
7 *note), may be used by a Federal law enforcement officer*
8 *to facilitate the transfer of an operable firearm to an indi-*
9 *vidual if the Federal law enforcement officer knows or sus-*
10 *pects that the individual is an agent of a drug cartel, unless*
11 *law enforcement personnel of the United States continu-*
12 *ously monitor or control the firearm at all times.*

13 *SEC. 217. No funds provided in this Act shall be used*
14 *to deny the Inspector General of the Department of Justice*
15 *timely access to all records, documents, and other materials*
16 *in the custody or possession of the Department or to prevent*
17 *or impede the Inspector General's access to such records,*
18 *documents and other materials, unless in accordance with*
19 *an express limitation of section 6(a) of the Inspector Gen-*
20 *eral Act, as amended, consistent with the plain language*
21 *of the Inspector General Act, as amended. The Inspector*
22 *General of the Department of Justice shall report to the*
23 *Committees on Appropriations within five calendar days*
24 *any failures to comply with this requirement.*

1 *SEC. 218. Section 8(e) of Public Law 108–79 (42*
2 *U.S.C. 15607(e)) shall not apply to funds appropriated to*
3 *or administered by the Office on Violence Against Women,*
4 *including funds appropriated in previous appropriations*
5 *acts that remain available for obligation.*

6 *SEC. 219. Discretionary funds that are made available*
7 *in this Act for the Office of Justice Programs may be used*
8 *to participate in Performance Partnership Pilots author-*
9 *ized under section 526 of division H of Public Law 113–*
10 *76, section 524 of division G of Public Law 113–235, and*
11 *such authorities as are enacted for Performance Partnership*
12 *Pilots in an appropriations Act for fiscal year 2016.*

13 *This title may be cited as the “Department of Justice*
14 *Appropriations Act, 2016”.*

1 *TITLE III*2 *SCIENCE*3 *OFFICE OF SCIENCE AND TECHNOLOGY POLICY*

4 *For necessary expenses of the Office of Science and*
5 *Technology Policy, in carrying out the purposes of the Na-*
6 *tional Science and Technology Policy, Organization, and*
7 *Priorities Act of 1976 (42 U.S.C. 6601 et seq.), hire of pas-*
8 *senger motor vehicles, and services as authorized by section*
9 *3109 of title 5, United States Code, not to exceed \$2,250*
10 *for official reception and representation expenses, and rent-*
11 *al of conference rooms in the District of Columbia,*
12 *\$5,555,000.*

13 *NATIONAL AERONAUTICS AND SPACE ADMINISTRATION*14 *SCIENCE*

15 *For necessary expenses, not otherwise provided for, in*
16 *the conduct and support of science research and develop-*
17 *ment activities, including research, development, oper-*
18 *ations, support, and services; maintenance and repair, fa-*
19 *cility planning and design; space flight, spacecraft control,*
20 *and communications activities; program management; per-*
21 *sonnel and related costs, including uniforms or allowances*
22 *therefor, as authorized by sections 5901 and 5902 of title*
23 *5, United States Code; travel expenses; purchase and hire*
24 *of passenger motor vehicles; and purchase, lease, charter,*
25 *maintenance, and operation of mission and administrative*

1 aircraft, \$5,295,000,000, to remain available until Sep-
2 tember 30, 2017: Provided, That the formulation and devel-
3 opment costs (with development cost as defined under sec-
4 tion 30104 of title 51, United States Code) for the James
5 Webb Space Telescope shall not exceed \$8,000,000,000: Pro-
6 vided further, That should the individual identified under
7 subsection (c)(2)(E) of section 30104 of title 51, United
8 States Code, as responsible for the James Webb Space Tele-
9 scope determine that the development cost of the program
10 is likely to exceed that limitation, the individual shall im-
11 mediately notify the Administrator and the increase shall
12 be treated as if it meets the 30 percent threshold described
13 in subsection (f) of section 30104.

14 **AERONAUTICS**

15 *For necessary expenses, not otherwise provided for, in*
16 *the conduct and support of aeronautics research and devel-*
17 *opment activities, including research, development, oper-*
18 *ations, support, and services; maintenance and repair, fa-*
19 *cility planning and design; space flight, spacecraft control,*
20 *and communications activities; program management; per-*
21 *sonnel and related costs, including uniforms or allowances*
22 *therefor, as authorized by sections 5901 and 5902 of title*
23 *5, United States Code; travel expenses; purchase and hire*
24 *of passenger motor vehicles; and purchase, lease, charter,*
25 *maintenance, and operation of mission and administrative*

1 aircraft, \$524,700,000, to remain available until September
2 30, 2017.

3 ***SPACE TECHNOLOGY***

4 *For necessary expenses, not otherwise provided for, in*
5 *the conduct and support of space technology research and*
6 *development activities, including research, development, op-*
7 *erations, support, and services; maintenance and repair, fa-*
8 *cility planning and design; space flight, spacecraft control,*
9 *and communications activities; program management; per-*
10 *sonnel and related costs, including uniforms or allowances*
11 *therefor, as authorized by sections 5901 and 5902 of title*
12 *5, United States Code; travel expenses; purchase and hire*
13 *of passenger motor vehicles; and purchase, lease, charter,*
14 *maintenance, and operation of mission and administrative*
15 *aircraft, \$600,000,000, to remain available until September*
16 *30, 2017: Provided, That \$150,000,000 shall be for the RE-*
17 *STORE satellite servicing program for completion of pre-*
18 *formulation and initiation of formulation activities for*
19 *RESTORE, and such funds are independent of the asteroid*
20 *rendezvous mission or satellite servicing demonstration ac-*
21 *tivities on the International Space Station.*

22 ***EXPLORATION***

23 *For necessary expenses, not otherwise provided for, in*
24 *the conduct and support of exploration research and devel-*
25 *opment activities, including research, development, oper-*

1 ations, support, and services; maintenance and repair, fa-
 2 cility planning and design; space flight, spacecraft control,
 3 and communications activities; program management; per-
 4 sonnel and related costs, including uniforms or allowances
 5 therefor, as authorized by sections 5901 and 5902 of title
 6 5, United States Code; travel expenses; purchase and hire
 7 of passenger motor vehicles; and purchase, lease, charter,
 8 maintenance, and operation of mission and administrative
 9 aircraft, \$3,831,200,000, to remain available until Sep-
 10 tember 30, 2017: Provided, That not less than
 11 \$1,200,000,000 shall be for the Orion Multi-Purpose Crew
 12 Vehicle: Provided further, That not less than \$2,310,000,000
 13 shall be for the Space Launch System, which shall have a
 14 lift capability not less than 130 metric tons and which shall
 15 have an upper stage and other core elements developed si-
 16 multaneously: Provided further, That of the funds made
 17 available for the Space Launch System, \$1,900,000,000
 18 shall be for launch vehicle development and \$410,000,000
 19 shall be for exploration ground systems: Provided further,
 20 That the National Aeronautics and Space Administration
 21 (NASA) shall provide to the Committees on Appropriations
 22 of the House of Representatives and the Senate, concurrent
 23 with the annual budget submission, a 5 year budget profile
 24 and funding projection that adheres to a 70 percent Joint
 25 Confidence Level (JCL) and is consistent with the Key De-

1 cision Point C (KDP-C) for the Space Launch System and
 2 with the future KDP-C for the Orion Multi-Purpose Crew
 3 Vehicle: Provided further, That funds made available for the
 4 Orion Multi-Purpose Crew Vehicle and Space Launch Sys-
 5 tem are in addition to funds provided for these programs
 6 under the “Construction and Environmental Compliance
 7 and Restoration” heading: Provided further, That
 8 \$321,200,000 shall be for exploration research and develop-
 9 ment.

10 **SPACE OPERATIONS**

11 *For necessary expenses, not otherwise provided for, in*
 12 *the conduct and support of space operations research and*
 13 *development activities, including research, development, op-*
 14 *erations, support and services; space flight, spacecraft con-*
 15 *trol and communications activities, including operations,*
 16 *production, and services; maintenance and repair, facility*
 17 *planning and design; program management; personnel and*
 18 *related costs, including uniforms or allowances therefor, as*
 19 *authorized by sections 5901 and 5902 of title 5, United*
 20 *States Code; travel expenses; purchase and hire of passenger*
 21 *motor vehicles; and purchase, lease, charter, maintenance*
 22 *and operation of mission and administrative aircraft,*
 23 *\$4,756,400,000, to remain available until September 30,*
 24 *2017.*

1 **EDUCATION**

2 *For necessary expenses, not otherwise provided for, in*
3 *the conduct and support of aerospace and aeronautical edu-*
4 *cation research and development activities, including re-*
5 *search, development, operations, support, and services; pro-*
6 *gram management; personnel and related costs, including*
7 *uniforms or allowances therefor, as authorized by sections*
8 *5901 and 5902 of title 5, United States Code; travel ex-*
9 *penses; purchase and hire of passenger motor vehicles; and*
10 *purchase, lease, charter, maintenance, and operation of*
11 *mission and administrative aircraft, \$108,000,000, to re-*
12 *main available until September 30, 2017, of which*
13 *\$18,000,000 shall be for the Experimental Program to*
14 *Stimulate Competitive Research and \$40,000,000 shall be*
15 *for the National Space Grant College program.*

16 **SAFETY, SECURITY AND MISSION SERVICES**

17 *For necessary expenses, not otherwise provided for, in*
18 *the conduct and support of science, aeronautics, space tech-*
19 *nology, exploration, space operations and education re-*
20 *search and development activities, including research, devel-*
21 *opment, operations, support, and services; maintenance and*
22 *repair, facility planning and design; space flight, spacecraft*
23 *control, and communications activities; program manage-*
24 *ment; personnel and related costs, including uniforms or*
25 *allowances therefor, as authorized by sections 5901 and*

1 5902 of title 5, United States Code; travel expenses; pur-
 2 chase and hire of passenger motor vehicles; not to exceed
 3 \$63,000 for official reception and representation expenses;
 4 and purchase, lease, charter, maintenance, and operation
 5 of mission and administrative aircraft, \$2,784,000,000, to
 6 remain available until September 30, 2017.

7 **CONSTRUCTION AND ENVIRONMENTAL COMPLIANCE AND**
 8 **RESTORATION**

9 *For necessary expenses for construction of facilities in-*
 10 *cluding repair, rehabilitation, revitalization, and modifica-*
 11 *tion of facilities, construction of new facilities and addi-*
 12 *tions to existing facilities, facility planning and design,*
 13 *and restoration, and acquisition or condemnation of real*
 14 *property, as authorized by law, and environmental compli-*
 15 *ance and restoration, \$352,800,000, to remain available*
 16 *until September 30, 2021: Provided, That proceeds from*
 17 *leases deposited into this account shall be available for a*
 18 *period of 5 years to the extent and in amounts as provided*
 19 *in annual appropriations Acts: Provided further, That such*
 20 *proceeds referred to in the preceding proviso shall be avail-*
 21 *able for obligation for fiscal year 2016 in an amount not*
 22 *to exceed \$6,905,600: Provided further, That each annual*
 23 *budget request shall include an annual estimate of gross re-*
 24 *ceipts and collections and proposed use of all funds collected*
 25 *pursuant to section 20145 of title 51, United States Code.*

1 **OFFICE OF INSPECTOR GENERAL**

2 *For necessary expenses of the Office of Inspector Gen-*
3 *eral in carrying out the Inspector General Act of 1978,*
4 *\$37,400,000, of which \$500,000 shall remain available until*
5 *September 30, 2017.*

6 **ADMINISTRATIVE PROVISIONS**

7 *Funds for any announced prize otherwise authorized*
8 *shall remain available, without fiscal year limitation, until*
9 *the prize is claimed or the offer is withdrawn.*

10 *Not to exceed 5 percent of any appropriation made*
11 *available for the current fiscal year for the National Aero-*
12 *nautics and Space Administration in this Act may be*
13 *transferred between such appropriations, but no such ap-*
14 *propriation, except as otherwise specifically provided, shall*
15 *be increased by more than 10 percent by any such transfers.*
16 *Balances so transferred shall be merged with and available*
17 *for the same purposes and the same time period as the ap-*
18 *propriations to which transferred. Any transfer pursuant*
19 *to this provision shall be treated as a reprogramming of*
20 *funds under section 505 of this Act and shall not be avail-*
21 *able for obligation except in compliance with the procedures*
22 *set forth in that section.*

23 *The spending plan required by this Act shall be pro-*
24 *vided by NASA at the theme, program, project and activity*
25 *level. The spending plan, as well as any subsequent change*

1 *of an amount established in that spending plan that meets*
 2 *the notification requirements of section 505 of this Act, shall*
 3 *be treated as a reprogramming under section 505 of this*
 4 *Act and shall not be available for obligation or expenditure*
 5 *except in compliance with the procedures set forth in that*
 6 *section.*

7 *For the closeout of all Space Shuttle contracts and as-*
 8 *sociated programs, amounts that have expired but have not*
 9 *been cancelled in the Exploration, Space Operations,*
 10 *Human Space Flight, Space Flight Capabilities, and Ex-*
 11 *ploration Capabilities appropriations accounts shall re-*
 12 *main available through fiscal year 2025 for the liquidation*
 13 *of valid obligations incurred during the period of fiscal year*
 14 *2001 through fiscal year 2013.*

15 ***NATIONAL SCIENCE FOUNDATION***

16 ***RESEARCH AND RELATED ACTIVITIES***

17 *For necessary expenses in carrying out the National*
 18 *Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.),*
 19 *and Public Law 86–209 (42 U.S.C. 1880 et seq.); services*
 20 *as authorized by section 3109 of title 5, United States Code;*
 21 *maintenance and operation of aircraft and purchase of*
 22 *flight services for research support; acquisition of aircraft;*
 23 *and authorized travel; \$5,933,645,000, to remain available*
 24 *until September 30, 2017, of which not to exceed*
 25 *\$540,000,000 shall remain available until expended for*

1 *polar research and operations support, and for reimburse-*
2 *ment to other Federal agencies for operational and science*
3 *support and logistical and other related activities for the*
4 *United States Antarctic program: Provided, That receipts*
5 *for scientific support services and materials furnished by*
6 *the National Research Centers and other National Science*
7 *Foundation supported research facilities may be credited to*
8 *this appropriation.*

9 ***MAJOR RESEARCH EQUIPMENT AND FACILITIES***

10 ***CONSTRUCTION***

11 *For necessary expenses for the acquisition, construc-*
12 *tion, commissioning, and upgrading of major research*
13 *equipment, facilities, and other such capital assets pursuant*
14 *to the National Science Foundation Act of 1950 (42 U.S.C.*
15 *1861 et seq.), including authorized travel, \$200,310,000, to*
16 *remain available until expended.*

17 ***EDUCATION AND HUMAN RESOURCES***

18 *For necessary expenses in carrying out science, mathe-*
19 *matics and engineering education and human resources*
20 *programs and activities pursuant to the National Science*
21 *Foundation Act of 1950 (42 U.S.C. 1861 et seq.), including*
22 *services as authorized by section 3109 of title 5, United*
23 *States Code, authorized travel, and rental of conference*
24 *rooms in the District of Columbia, \$866,000,000, to remain*
25 *available until September 30, 2017.*

1 **AGENCY OPERATIONS AND AWARD MANAGEMENT**

2 *For agency operations and award management nec-*
 3 *essary in carrying out the National Science Foundation Act*
 4 *of 1950 (42 U.S.C. 1861 et seq.); services authorized by sec-*
 5 *tion 3109 of title 5, United States Code; hire of passenger*
 6 *motor vehicles; uniforms or allowances therefor, as author-*
 7 *ized by sections 5901 and 5902 of title 5, United States*
 8 *Code; rental of conference rooms in the District of Colum-*
 9 *bia; and reimbursement of the Department of Homeland Se-*
 10 *curity for security guard services; \$325,000,000: Provided,*
 11 *That not to exceed \$8,250 is for official reception and rep-*
 12 *resentation expenses: Provided further, That contracts may*
 13 *be entered into under this heading in fiscal year 2016 for*
 14 *maintenance and operation of facilities and for other serv-*
 15 *ices to be provided during the next fiscal year.*

16 **OFFICE OF THE NATIONAL SCIENCE BOARD**

17 *For necessary expenses (including payment of salaries,*
 18 *authorized travel, hire of passenger motor vehicles, the rent-*
 19 *al of conference rooms in the District of Columbia, and the*
 20 *employment of experts and consultants under section 3109*
 21 *of title 5, United States Code) involved in carrying out sec-*
 22 *tion 4 of the National Science Foundation Act of 1950 (42*
 23 *U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et*
 24 *seq.), \$4,370,000: Provided, That not to exceed \$2,500 shall*

1 *be available for official reception and representation ex-*
2 *penses.*

3 ***OFFICE OF INSPECTOR GENERAL***

4 *For necessary expenses of the Office of Inspector Gen-*
5 *eral as authorized by the Inspector General Act of 1978,*
6 *\$14,450,000, of which \$400,000 shall remain available until*
7 *September 30, 2017.*

8 ***ADMINISTRATIVE PROVISION***

9 *Not to exceed 5 percent of any appropriation made*
10 *available for the current fiscal year for the National Science*
11 *Foundation in this Act may be transferred between such*
12 *appropriations, but no such appropriation shall be in-*
13 *creased by more than 10 percent by any such transfers. Any*
14 *transfer pursuant to this section shall be treated as a re-*
15 *programming of funds under section 505 of this Act and*
16 *shall not be available for obligation except in compliance*
17 *with the procedures set forth in that section.*

18 *This title may be cited as the “Science Appropriations*
19 *Act, 2016”.*

1

TITLE IV

2

RELATED AGENCIES

3

COMMISSION ON CIVIL RIGHTS

4

SALARIES AND EXPENSES

5

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, \$9,200,000: Provided, That none of the funds appropriated in this paragraph shall be used to employ in excess of eight full-time individuals under Schedule C of the Excepted Service: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days: Provided further, That none of the funds appropriated in this paragraph shall be used for any activity or expense that is not explicitly authorized by section 3 of the Civil Rights Commission Act of 1983 (42 U.S.C. 1975a).

18

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

19

SALARIES AND EXPENSES

20

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, section 501 of the Rehabilitation Act of 1973, the Civil Rights Act of 1991, the

23

24

25

1 *Genetic Information Non-Discrimination Act (GINA) of*
 2 *2008 (Public Law 110–233), the ADA Amendments Act of*
 3 *2008 (Public Law 110–325), and the Lilly Ledbetter Fair*
 4 *Pay Act of 2009 (Public Law 111–2), including services*
 5 *as authorized by section 3109 of title 5, United States Code;*
 6 *hire of passenger motor vehicles as authorized by section*
 7 *1343(b) of title 31, United States Code; nonmonetary*
 8 *awards to private citizens; and up to \$29,500,000 for pay-*
 9 *ments to State and local enforcement agencies for author-*
 10 *ized services to the Commission, \$364,500,000: Provided,*
 11 *That the Commission is authorized to make available for*
 12 *official reception and representation expenses not to exceed*
 13 *\$2,250 from available funds: Provided further, That the*
 14 *Commission may take no action to implement any work-*
 15 *force repositioning, restructuring, or reorganization until*
 16 *such time as the Committees on Appropriations of the*
 17 *House of Representatives and the Senate have been notified*
 18 *of such proposals, in accordance with the reprogramming*
 19 *requirements of section 505 of this Act: Provided further,*
 20 *That the Chair is authorized to accept and use any gift*
 21 *or donation to carry out the work of the Commission.*

22 ***INTERNATIONAL TRADE COMMISSION***

23 ***SALARIES AND EXPENSES***

24 *For necessary expenses of the International Trade*
 25 *Commission, including hire of passenger motor vehicles and*

1 *services as authorized by section 3109 of title 5, United*
 2 *States Code, and not to exceed \$2,250 for official reception*
 3 *and representation expenses, \$84,500,000, to remain avail-*
 4 *able until expended.*

5 ***LEGAL SERVICES CORPORATION***

6 ***PAYMENT TO THE LEGAL SERVICES CORPORATION***

7 *For payment to the Legal Services Corporation to*
 8 *carry out the purposes of the Legal Services Corporation*
 9 *Act of 1974, \$385,000,000, of which \$353,000,000 is for*
 10 *basic field programs and required independent audits;*
 11 *\$4,500,000 is for the Office of Inspector General, of which*
 12 *such amounts as may be necessary may be used to conduct*
 13 *additional audits of recipients; \$18,500,000 is for manage-*
 14 *ment and grants oversight; \$4,000,000 is for client self-help*
 15 *and information technology; \$4,000,000 is for a Pro Bono*
 16 *Innovation Fund; and \$1,000,000 is for loan repayment as-*
 17 *sistance: Provided, That the Legal Services Corporation*
 18 *may continue to provide locality pay to officers and em-*
 19 *ployees at a rate no greater than that provided by the Fed-*
 20 *eral Government to Washington, DC-based employees as au-*
 21 *thorized by section 5304 of title 5, United States Code, not-*
 22 *withstanding section 1005(d) of the Legal Services Corpora-*
 23 *tion Act (42 U.S.C. 2996(d)): Provided further, That the*
 24 *authorities provided in section 205 of this Act shall be ap-*
 25 *plicable to the Legal Services Corporation: Provided fur-*

1 *ther, That, for the purposes of section 505 of this Act, the*
 2 *Legal Services Corporation shall be considered an agency*
 3 *of the United States Government.*

4 **ADMINISTRATIVE PROVISION—LEGAL SERVICES**
 5 **CORPORATION**

6 *None of the funds appropriated in this Act to the Legal*
 7 *Services Corporation shall be expended for any purpose pro-*
 8 *hibited or limited by, or contrary to any of the provisions*
 9 *of, sections 501, 502, 503, 504, 505, and 506 of Public Law*
 10 *105–119, and all funds appropriated in this Act to the*
 11 *Legal Services Corporation shall be subject to the same*
 12 *terms and conditions set forth in such sections, except that*
 13 *all references in sections 502 and 503 to 1997 and 1998*
 14 *shall be deemed to refer instead to 2015 and 2016, respec-*
 15 *tively.*

16 **MARINE MAMMAL COMMISSION**
 17 **SALARIES AND EXPENSES**

18 *For necessary expenses of the Marine Mammal Com-*
 19 *mission as authorized by title II of the Marine Mammal*
 20 *Protection Act of 1972 (16 U.S.C. 1361 et seq.), \$3,431,000.*

21 **STATE JUSTICE INSTITUTE**
 22 **SALARIES AND EXPENSES**

23 *For necessary expenses of the State Justice Institute,*
 24 *as authorized by the State Justice Institute Authorization*
 25 *Act of 1984 (42 U.S.C. 10701 et seq.) \$5,121,000, of which*

1 \$500,000 shall remain available until September 30, 2017:
2 Provided, That not to exceed \$2,250 shall be available for
3 official reception and representation expenses: Provided fur-
4 ther, That, for the purposes of section 505 of this Act, the
5 State Justice Institute shall be considered an agency of the
6 United States Government.

1 *TITLE V*
2 *GENERAL PROVISIONS*
3 *(INCLUDING RESCISSIONS)*

4 *SEC. 501. No part of any appropriation contained in*
5 *this Act shall be used for publicity or propaganda purposes*
6 *not authorized by the Congress.*

7 *SEC. 502. No part of any appropriation contained in*
8 *this Act shall remain available for obligation beyond the*
9 *current fiscal year unless expressly so provided herein.*

10 *SEC. 503. The expenditure of any appropriation under*
11 *this Act for any consulting service through procurement*
12 *contract, pursuant to section 3109 of title 5, United States*
13 *Code, shall be limited to those contracts where such expendi-*
14 *tures are a matter of public record and available for public*
15 *inspection, except where otherwise provided under existing*
16 *law, or under existing Executive order issued pursuant to*
17 *existing law.*

18 *SEC. 504. If any provision of this Act or the applica-*
19 *tion of such provision to any person or circumstances shall*
20 *be held invalid, the remainder of the Act and the applica-*
21 *tion of each provision to persons or circumstances other*
22 *than those as to which it is held invalid shall not be affected*
23 *thereby.*

24 *SEC. 505. None of the funds provided under this Act,*
25 *or provided under previous appropriations Acts to the agen-*

1 *cies funded by this Act that remain available for obligation*
 2 *or expenditure in fiscal year 2016, or provided from any*
 3 *accounts in the Treasury of the United States derived by*
 4 *the collection of fees available to the agencies funded by this*
 5 *Act, shall be available for obligation or expenditure through*
 6 *a reprogramming of funds that: (1) creates or initiates a*
 7 *new program, project or activity; (2) eliminates a program,*
 8 *project or activity; (3) increases funds or personnel by any*
 9 *means for any project or activity for which funds have been*
 10 *denied or restricted; (4) relocates an office or employees; (5)*
 11 *reorganizes or renames offices, programs or activities; (6)*
 12 *contracts out or privatizes any functions or activities pres-*
 13 *ently performed by Federal employees; (7) augments exist-*
 14 *ing programs, projects or activities in excess of \$500,000*
 15 *or 10 percent, whichever is less, or reduces by 10 percent*
 16 *funding for any program, project or activity, or numbers*
 17 *of personnel by 10 percent; or (8) results from any general*
 18 *savings, including savings from a reduction in personnel,*
 19 *which would result in a change in existing programs,*
 20 *projects or activities as approved by Congress; unless the*
 21 *House and Senate Committees on Appropriations are noti-*
 22 *fied 15 days in advance of such reprogramming of funds.*
 23 *SEC. 506. (a) If it has been finally determined by a*
 24 *court or Federal agency that any person intentionally af-*
 25 *fixed a label bearing a "Made in America" inscription, or*

1 *any inscription with the same meaning, to any product sold*
2 *in or shipped to the United States that is not made in the*
3 *United States, the person shall be ineligible to receive any*
4 *contract or subcontract made with funds made available in*
5 *this Act, pursuant to the debarment, suspension, and ineli-*
6 *gibility procedures described in sections 9.400 through*
7 *9.409 of title 48, Code of Federal Regulations.*

8 **(b)(1)** *To the extent practicable, with respect to author-*
9 *ized purchases of promotional items, funds made available*
10 *by this Act shall be used to purchase items that are manu-*
11 *factured, produced, or assembled in the United States, its*
12 *territories or possessions.*

13 **(2)** *The term “promotional items” has the meaning*
14 *given the term in OMB Circular A–87, Attachment B, Item*
15 *(1)(f)(3).*

16 **SEC. 507. (a)** *The Departments of Commerce and Jus-*
17 *tice, the National Science Foundation, and the National*
18 *Aeronautics and Space Administration shall provide to the*
19 *Committees on Appropriations of the House of Representa-*
20 *tives and the Senate a quarterly report on the status of bal-*
21 *ances of appropriations at the account level. For unobli-*
22 *gated, uncommitted balances and unobligated, committed*
23 *balances the quarterly reports shall separately identify the*
24 *amounts attributable to each source year of appropriation*
25 *from which the balances were derived. For balances that are*

1 *obligated, but unexpended, the quarterly reports shall sepa-*
2 *rately identify amounts by the year of obligation.*

3 *(b) The report described in subsection (a) shall be sub-*
4 *mitted within 30 days of the end of each quarter.*

5 *(c) If a department or agency is unable to fulfill any*
6 *aspect of a reporting requirement described in subsection*
7 *(a) due to a limitation of a current accounting system, the*
8 *department or agency shall fulfill such aspect to the max-*
9 *imum extent practicable under such accounting system and*
10 *shall identify and describe in each quarterly report the ex-*
11 *tent to which such aspect is not fulfilled.*

12 *SEC. 508. Any costs incurred by a department or agen-*
13 *cy funded under this Act resulting from, or to prevent, per-*
14 *sonnel actions taken in response to funding reductions in-*
15 *cluded in this Act shall be absorbed within the total budg-*
16 *etary resources available to such department or agency:*
17 *Provided, That the authority to transfer funds between ap-*
18 *propriations accounts as may be necessary to carry out this*
19 *section is provided in addition to authorities included else-*
20 *where in this Act: Provided further, That use of funds to*
21 *carry out this section shall be treated as a reprogramming*
22 *of funds under section 505 of this Act and shall not be avail-*
23 *able for obligation or expenditure except in compliance with*
24 *the procedures set forth in that section: Provided further,*
25 *That for the Department of Commerce, this section shall*

1 *also apply to actions taken for the care and protection of*
 2 *loan collateral or grant property.*

3 *SEC. 509. None of the funds provided by this Act shall*
 4 *be available to promote the sale or export of tobacco or to-*
 5 *bacco products, or to seek the reduction or removal by any*
 6 *foreign country of restrictions on the marketing of tobacco*
 7 *or tobacco products, except for restrictions which are not*
 8 *applied equally to all tobacco or tobacco products of the*
 9 *same type.*

10 *SEC. 510. (a) Notwithstanding any other provision of*
 11 *law, amounts deposited or available in the Fund established*
 12 *by section 1402 of chapter XIV of title II of Public Law*
 13 *98-473 (42 U.S.C. 10601) in any fiscal year in excess of*
 14 *\$2,602,000,000 shall not be available for obligation until*
 15 *the following fiscal year:*

16 *(b) Notwithstanding section 1402(d) of such Act of*
 17 *1984, of the amounts available from the Fund for obliga-*
 18 *tion, the following amounts shall be available without fiscal*
 19 *year limitation—*

20 *(1) to the Assistant Attorney General for the Of-*
 21 *fice of Justice Programs—*

22 *(A) \$50,000,000 for victim services pro-*
 23 *grams for victims of trafficking as authorized by*
 24 *section 107(b)(2) of Public Law 106-386, or pro-*
 25 *grams authorized under Public Law 113-4;*

1 (B) \$16,000,000 for an initiative relating to
2 children exposed to violence;

3 (C) \$12,000,000 for the court-appointed spe-
4 cial advocate program, as authorized by section
5 217 of the Victims of Child Abuse Act of 1990;

6 (D) \$15,000,000 for supplemental victims'
7 services and other victim-related programs and
8 initiatives, including research and statistics, and
9 for tribal assistance for victims of violence;

10 (E) \$20,000,000 for programs authorized by
11 the Victims of Child Abuse Act of 1990;

12 (F) \$3,000,000 for child abuse training pro-
13 grams for judicial personnel and practitioners,
14 as authorized by section 222 of the Victims of
15 Child Abuse Act of 1990; and

16 (G) \$18,000,000 for community-based vio-
17 lence prevention initiatives, including for public
18 health approaches to reducing shootings and vio-
19 lence.

20 (2) to the Director of the Office for Victims of
21 Crime, \$52,000,000 for assistance to Indian tribes
22 only for supplementing victims' services and other
23 victim-related programs and initiatives.

1 (3) to the Department of Justice Office of Inspec-
2 tor General, \$10,000,000 for oversight and auditing
3 purposes.

4 *SEC. 511. None of the funds made available to the De-*
5 *partment of Justice in this Act may be used to discriminate*
6 *against or denigrate the religious or moral beliefs of stu-*
7 *dents who participate in programs for which financial as-*
8 *sistance is provided from those funds, or of the parents or*
9 *legal guardians of such students.*

10 *SEC. 512. None of the funds made available in this*
11 *Act may be transferred to any department, agency, or in-*
12 *strumentality of the United States Government, except pur-*
13 *suant to a transfer made by, or transfer authority provided*
14 *in, this Act or any other appropriations Act.*

15 *SEC. 513. Any funds provided in this Act used to im-*
16 *plement E-Government Initiatives shall be subject to the*
17 *procedures set forth in section 505 of this Act.*

18 *SEC. 514. (a) The Inspectors General of the Depart-*
19 *ment of Commerce, the Department of Justice, the National*
20 *Aeronautics and Space Administration, the National*
21 *Science Foundation, and the Legal Services Corporation*
22 *shall conduct audits, pursuant to the Inspector General Act*
23 *(5 U.S.C. App.), of grants or contracts for which funds are*
24 *appropriated by this Act, and shall submit reports to Con-*
25 *gress on the progress of such audits, which may include pre-*

1 *liminary findings and a description of areas of particular*
2 *interest, within 180 days after initiating such an audit and*
3 *every 180 days thereafter until any such audit is completed.*

4 **(b)** *Within 60 days after the date on which an audit*
5 *described in subsection (a) by an Inspector General is com-*
6 *pleted, the Secretary, Attorney General, Administrator, Di-*
7 *rector, or President, as appropriate, shall make the results*
8 *of the audit available to the public on the Internet website*
9 *maintained by the Department, Administration, Founda-*
10 *tion, or Corporation, respectively. The results shall be made*
11 *available in redacted form to exclude—*

12 **(1)** *any matter described in section 552(b) of*
13 *title 5, United States Code; and*

14 **(2)** *sensitive personal information for any indi-*
15 *vidual, the public access to which could be used to*
16 *commit identity theft or for other inappropriate or*
17 *unlawful purposes.*

18 **(c)** *Any person awarded a grant or contract funded*
19 *by amounts appropriated by this Act shall submit a state-*
20 *ment to the Secretary of Commerce, the Attorney General,*
21 *the Administrator, Director, or President, as appropriate,*
22 *certifying that no funds derived from the grant or contract*
23 *will be made available through a subcontract or in any*
24 *other manner to another person who has a financial interest*
25 *in the person awarded the grant or contract.*

1 (d) *The provisions of the preceding subsections of this*
2 *section shall take effect 30 days after the date on which the*
3 *Director of the Office of Management and Budget, in con-*
4 *sultation with the Director of the Office of Government Eth-*
5 *ics, determines that a uniform set of rules and requirements,*
6 *substantially similar to the requirements in such sub-*
7 *sections, consistently apply under the executive branch eth-*
8 *ics program to all Federal departments, agencies, and enti-*
9 *ties.*

10 *SEC. 515. None of the funds appropriated or otherwise*
11 *made available under this Act may be used by the Depart-*
12 *ments of Commerce and Justice, the National Aeronautics*
13 *and Space Administration, or the National Science Foun-*
14 *dation to acquire a high-impact information system, as de-*
15 *finied for security categorization in the National Institute*
16 *of Standards and Technology's (NIST) Federal Information*
17 *Processing Standard Publication 199, "Standards for Secu-*
18 *rity Categorization of Federal Information and Informa-*
19 *tion Systems" unless the agency has—*

20 (1) *reviewed the supply chain risk for the infor-*
21 *mation systems against criteria developed by NIST to*
22 *inform acquisition decisions for high-impact informa-*
23 *tion systems within the Federal Government and*
24 *against international standards and guidelines, in-*
25 *cluding those developed by NIST;*

1 (2) reviewed the supply chain risk from the pre-
2 sumptive awardee against available and relevant
3 threat information provided by the Federal Bureau of
4 Investigation and other appropriate agencies; and

5 (3) developed, in consultation with NIST and
6 supply chain risk management experts, a mitigation
7 strategy for any identified risks.

8 *SEC. 516. None of the funds made available in this*
9 *Act shall be used in any way whatsoever to support or jus-*
10 *tify the use of torture by any official or contract employee*
11 *of the United States Government.*

12 *SEC. 517. (a) Notwithstanding any other provision of*
13 *law or treaty, none of the funds appropriated or otherwise*
14 *made available under this Act or any other Act may be*
15 *expended or obligated by a department, agency, or instru-*
16 *mentality of the United States to pay administrative ex-*
17 *penses or to compensate an officer or employee of the United*
18 *States in connection with requiring an export license for*
19 *the export to Canada of components, parts, accessories or*
20 *attachments for firearms listed in Category I, section 121.1*
21 *of title 22, Code of Federal Regulations (International Traf-*
22 *ficking in Arms Regulations (ITAR), part 121, as it existed*
23 *on April 1, 2005) with a total value not exceeding \$500*
24 *wholesale in any transaction, provided that the conditions*

1 *of subsection (b) of this section are met by the exporting*
2 *party for such articles.*

3 *(b) The foregoing exemption from obtaining an export*
4 *license—*

5 *(1) does not exempt an exporter from filing any*
6 *Shipper's Export Declaration or notification letter re-*
7 *quired by law, or from being otherwise eligible under*
8 *the laws of the United States to possess, ship, trans-*
9 *port, or export the articles enumerated in subsection*
10 *(a); and*

11 *(2) does not permit the export without a license*
12 *of—*

13 *(A) fully automatic firearms and compo-*
14 *nents and parts for such firearms, other than for*
15 *end use by the Federal Government, or a Provin-*
16 *cial or Municipal Government of Canada;*

17 *(B) barrels, cylinders, receivers (frames) or*
18 *complete breech mechanisms for any firearm list-*
19 *ed in Category I, other than for end use by the*
20 *Federal Government, or a Provincial or Munic-*
21 *ipal Government of Canada; or*

22 *(C) articles for export from Canada to an-*
23 *other foreign destination.*

24 *(c) In accordance with this section, the District Direc-*
25 *tors of Customs and postmasters shall permit the permanent*

1 *or temporary export without a license of any unclassified*
2 *articles specified in subsection (a) to Canada for end use*
3 *in Canada or return to the United States, or temporary*
4 *import of Canadian-origin items from Canada for end use*
5 *in the United States or return to Canada for a Canadian*
6 *citizen.*

7 *(d) The President may require export licenses under*
8 *this section on a temporary basis if the President deter-*
9 *mines, upon publication first in the Federal Register, that*
10 *the Government of Canada has implemented or maintained*
11 *inadequate import controls for the articles specified in sub-*
12 *section (a), such that a significant diversion of such articles*
13 *has and continues to take place for use in international*
14 *terrorism or in the escalation of a conflict in another na-*
15 *tion. The President shall terminate the requirements of a*
16 *license when reasons for the temporary requirements have*
17 *ceased.*

18 *SEC. 518. Notwithstanding any other provision of law,*
19 *no department, agency, or instrumentality of the United*
20 *States receiving appropriated funds under this Act or any*
21 *other Act shall obligate or expend in any way such funds*
22 *to pay administrative expenses or the compensation of any*
23 *officer or employee of the United States to deny any appli-*
24 *cation submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and*
25 *qualified pursuant to 27 CFR section 478.112 or .113, for*

1 *a permit to import United States origin “curios or relics”*
 2 *firearms, parts, or ammunition.*

3 *SEC. 519. None of the funds made available in this*
 4 *Act may be used to include in any new bilateral or multi-*
 5 *lateral trade agreement the text of—*

6 *(1) paragraph 2 of article 16.7 of the United*
 7 *States-Singapore Free Trade Agreement;*

8 *(2) paragraph 4 of article 17.9 of the United*
 9 *States-Australia Free Trade Agreement; or*

10 *(3) paragraph 4 of article 15.9 of the United*
 11 *States-Morocco Free Trade Agreement.*

12 *SEC. 520. None of the funds made available in this*
 13 *Act may be used to authorize or issue a national security*
 14 *letter in contravention of any of the following laws author-*
 15 *izing the Federal Bureau of Investigation to issue national*
 16 *security letters: The Right to Financial Privacy Act; The*
 17 *Electronic Communications Privacy Act; The Fair Credit*
 18 *Reporting Act; The National Security Act of 1947; USA*
 19 *Freedom Act; and the laws amended by these Acts.*

20 *SEC. 521. If at any time during any quarter, the pro-*
 21 *gram manager of a project within the jurisdiction of the*
 22 *Departments of Commerce or Justice, the National Aero-*
 23 *navitics and Space Administration, or the National Science*
 24 *Foundation totaling more than \$75,000,000 has reasonable*
 25 *cause to believe that the total program cost has increased*

1 by 10 percent or more, the program manager shall imme-
2 diately inform the respective Secretary, Administrator, or
3 Director. The Secretary, Administrator, or Director shall
4 notify the House and Senate Committees on Appropriations
5 within 30 days in writing of such increase, and shall in-
6 clude in such notice: the date on which such determination
7 was made; a statement of the reasons for such increases;
8 the action taken and proposed to be taken to control future
9 cost growth of the project; changes made in the performance
10 or schedule milestones and the degree to which such changes
11 have contributed to the increase in total program costs or
12 procurement costs; new estimates of the total project or pro-
13 curement costs; and a statement validating that the project's
14 management structure is adequate to control total project
15 or procurement costs.

16 *SEC. 522. Funds appropriated by this Act, or made*
17 *available by the transfer of funds in this Act, for intelligence*
18 *or intelligence related activities are deemed to be specifi-*
19 *cally authorized by the Congress for purposes of section 504*
20 *of the National Security Act of 1947 (50 U.S.C. 414) during*
21 *fiscal year 2016 until the enactment of the Intelligence Au-*
22 *thorization Act for fiscal year 2016.*

23 *SEC. 523. None of the funds appropriated or otherwise*
24 *made available by this Act may be used to enter into a*
25 *contract in an amount greater than \$5,000,000 or to award*

1 a grant in excess of such amount unless the prospective con-
 2 tractor or grantee certifies in writing to the agency award-
 3 ing the contract or grant that, to the best of its knowledge
 4 and belief, the contractor or grantee has filed all Federal
 5 tax returns required during the three years preceding the
 6 certification, has not been convicted of a criminal offense
 7 under the Internal Revenue Code of 1986, and has not, more
 8 than 90 days prior to certification, been notified of any
 9 unpaid Federal tax assessment for which the liability re-
 10 mains unsatisfied, unless the assessment is the subject of
 11 an installment agreement or offer in compromise that has
 12 been approved by the Internal Revenue Service and is not
 13 in default, or the assessment is the subject of a non-frivolous
 14 administrative or judicial proceeding.

15 **(RESCISSIONS)**

16 *SEC. 524. (a) Of the unobligated balances available to*
 17 *the Department of Justice, the following funds are hereby*
 18 *rescinded, not later than September 30, 2016, from the fol-*
 19 *lowing accounts in the specified amounts—*

20 (1) “Working Capital Fund”, \$55,000,000;

21 (2) “Legal Activities, Assets Forfeiture Fund”,
 22 \$362,945,000, of which \$58,945,000 is permanently
 23 rescinded;

24 (3) “United States Marshals Service, Federal
 25 Prisoner Detention”, \$69,500,000;

1 (4) “*Federal Bureau of Investigations, Salaries*
2 *and Expenses*”, \$80,000,000;

3 (5) “*State and Local Law Enforcement Activi-*
4 *ties, Office on Violence Against Women, Violence*
5 *Against Women Prevention and Prosecution Pro-*
6 *grams*”, \$5,020,000; and

7 (6) “*State and Local Law Enforcement Activi-*
8 *ties, Community Oriented Policing Services*”,
9 \$10,000,000.

10 (b) *The Department of Justice shall submit to the Com-*
11 *mittees on Appropriations of the House of Representatives*
12 *and the Senate a report no later than September 1, 2016,*
13 *specifying the amount of each rescission made pursuant to*
14 *subsection (a).*

15 *SEC. 525. None of the funds made available in this*
16 *Act may be used to purchase first class or premium airline*
17 *travel in contravention of sections 301–10.122 through 301–*
18 *10.124 of title 41 of the Code of Federal Regulations.*

19 *SEC. 526. None of the funds made available in this*
20 *Act may be used to send or otherwise pay for the attendance*
21 *of more than 50 employees from a Federal department or*
22 *agency, who are stationed in the United States, at any sin-*
23 *gle conference occurring outside the United States unless*
24 *such conference is a law enforcement training or oper-*
25 *ational conference for law enforcement personnel and the*

1 majority of Federal employees in attendance are law en-
2 forcement personnel stationed outside the United States.

3 *SEC. 527. None of the funds appropriated or otherwise*
4 *made available in this Act may be used in a manner that*
5 *is inconsistent with the principal negotiating objective of*
6 *the United States with respect to trade remedy laws to pre-*
7 *serve the ability of the United States—*

8 (1) *to enforce vigorously its trade laws, including*
9 *antidumping, countervailing duty, and safeguard*
10 *laws;*

11 (2) *to avoid agreements that—*

12 (A) *lessen the effectiveness of domestic and*
13 *international disciplines on unfair trade, espe-*
14 *cially dumping and subsidies; or*

15 (B) *lessen the effectiveness of domestic and*
16 *international safeguard provisions, in order to*
17 *ensure that United States workers, agricultural*
18 *producers, and firms can compete fully on fair*
19 *terms and enjoy the benefits of reciprocal trade*
20 *concessions; and*

21 (3) *to address and remedy market distortions*
22 *that lead to dumping and subsidization, including*
23 *overcapacity, cartelization, and market-access bar-*
24 *riers.*

1 *SEC. 528. None of the funds appropriated or otherwise*
2 *made available in this Act may be used to transfer, release,*
3 *or assist in the transfer or release to or within the United*
4 *States, its territories, or possessions Khalid Sheikh Moham-*
5 *med or any other detainee who—*

6 *(1) is not a United States citizen or a member*
7 *of the Armed Forces of the United States; and*

8 *(2) is or was held on or after June 24, 2009, at*
9 *the United States Naval Station, Guantanamo Bay,*
10 *Cuba, by the Department of Defense.*

11 *SEC. 529. (a) None of the funds appropriated or other-*
12 *wise made available in this Act may be used to construct,*
13 *acquire, or modify any facility in the United States, its*
14 *territories, or possessions to house any individual described*
15 *in subsection (c) for the purposes of detention or imprison-*
16 *ment in the custody or under the effective control of the*
17 *Department of Defense.*

18 *(b) The prohibition in subsection (a) shall not apply*
19 *to any modification of facilities at United States Naval*
20 *Station, Guantanamo Bay, Cuba.*

21 *(c) An individual described in this subsection is any*
22 *individual who, as of June 24, 2009, is located at United*
23 *States Naval Station, Guantanamo Bay, Cuba, and who—*

24 *(1) is not a citizen of the United States or a*
25 *member of the Armed Forces of the United States; and*

1 (2) is—

2 (A) in the custody or under the effective
3 control of the Department of Defense; or

4 (B) otherwise under detention at United
5 States Naval Station, Guantanamo Bay, Cuba.

6 *SEC. 530. To the extent practicable, funds made avail-*
7 *able in this Act should be used to purchase light bulbs that*
8 *are “Energy Star” qualified or have the “Federal Energy*
9 *Management Program” designation.*

10 *SEC. 531. The Director of the Office of Management*
11 *and Budget shall instruct any department, agency, or in-*
12 *strumentality of the United States receiving funds appro-*
13 *priated under this Act to track undisbursed balances in ex-*
14 *pired grant accounts and include in its annual performance*
15 *plan and performance and accountability reports the fol-*
16 *lowing:*

17 (1) Details on future action the department,
18 agency, or instrumentality will take to resolve
19 undisbursed balances in expired grant accounts.

20 (2) The method that the department, agency, or
21 instrumentality uses to track undisbursed balances in
22 expired grant accounts.

23 (3) Identification of undisbursed balances in ex-
24 pired grant accounts that may be returned to the
25 Treasury of the United States.

1 (4) *In the preceding 3 fiscal years, details on the*
2 *total number of expired grant accounts with*
3 *undisbursed balances (on the first day of each fiscal*
4 *year) for the department, agency, or instrumentality*
5 *and the total finances that have not been obligated to*
6 *a specific project remaining in the accounts.*

7 *SEC. 532. None of the funds made available by this*
8 *Act may be used to pay the salaries or expenses of personnel*
9 *to deny, or fail to act on, an application for the importation*
10 *of any model of shotgun if—*

11 (1) *all other requirements of law with respect to*
12 *the proposed importation are met; and*

13 (2) *no application for the importation of such*
14 *model of shotgun, in the same configuration, had been*
15 *denied by the Attorney General prior to January 1,*
16 *2011, on the basis that the shotgun was not particu-*
17 *larly suitable for or readily adaptable to sporting*
18 *purposes.*

19 *SEC. 533. (a) None of the funds made available in this*
20 *Act may be used to maintain or establish a computer net-*
21 *work unless such network blocks the viewing, downloading,*
22 *and exchanging of pornography.*

23 (b) *Nothing in subsection (a) shall limit the use of*
24 *funds necessary for any Federal, State, tribal, or local law*

1 *enforcement agency or any other entity carrying out crimi-*
2 *nal investigations, prosecution, or adjudication activities.*

3 *SEC. 534. The Departments of Commerce and Justice,*
4 *the National Aeronautics and Space Administration, and*
5 *the National Science Foundation shall submit spending*
6 *plans, signed by the respective department or agency head,*
7 *to the Committees on Appropriations of the House of Rep-*
8 *resentatives and the Senate within 45 days after the date*
9 *of enactment of this Act.*

10 *SEC. 535. (a) The head of any executive branch depart-*
11 *ment, agency, board, commission, or office funded by this*
12 *Act shall submit annual reports to the Inspector General*
13 *or senior ethics official for any entity without an Inspector*
14 *General, regarding the costs and contracting procedures re-*
15 *lated to each conference held by any such department, agen-*
16 *cy, board, commission, or office during fiscal year 2016 for*
17 *which the cost to the United States Government was more*
18 *than \$100,000.*

19 *(b) Each report submitted shall include, for each con-*
20 *ference described in subsection (a) held during the applica-*
21 *ble period—*

22 *(1) a description of its purpose;*

23 *(2) the number of participants attending;*

24 *(3) a detailed statement of the costs to the United*
25 *States Government, including—*

1 (A) the cost of any food or beverages;

2 (B) the cost of any audio-visual services;

3 (C) the cost of employee or contractor travel
4 to and from the conference; and

5 (D) a discussion of the methodology used to
6 determine which costs relate to the conference;
7 and

8 (4) a description of the contracting procedures
9 used including—

10 (A) whether contracts were awarded on a
11 competitive basis; and

12 (B) a discussion of any cost comparison
13 conducted by the departmental component or of-
14 fice in evaluating potential contractors for the
15 conference.

16 (c) Within 15 days of the date of a conference held
17 by any executive branch department, agency, board, com-
18 mission, or office funded by this Act during fiscal year 2016
19 for which the cost to the United States Government was
20 more than \$20,000, the head of any such department, agen-
21 cy, board, commission, or office shall notify the Inspector
22 General or senior ethics official for any entity without an
23 Inspector General, of the date, location, and number of em-
24 ployees attending such conference.

1 (d) A grant or contract funded by amounts appro-
2 priated by this or any other appropriations Act may not
3 be used for the purpose of defraying the costs of a banquet
4 or conference that is not directly and programmatically re-
5 lated to the purpose for which the grant or contract was
6 awarded, such as a banquet or conference held in connection
7 with planning, training, assessment, review, or other rou-
8 tine purposes related to a project funded by the grant or
9 contract.

10 (e) None of the funds made available in this or any
11 other appropriations Act may be used for travel and con-
12 ference activities that are not in compliance with Office of
13 Management and Budget Memorandum M-12-12 dated
14 May 11, 2012 or any subsequent revisions to that memo-
15 randum.

16 SEC. 536. None of the funds made available by this
17 Act may be obligated or expended to implement the Arms
18 Trade Treaty until the Senate approves a resolution of rati-
19 fication for the Treaty.

20 SEC. 537. The head of any executive branch depart-
21 ment, agency, board, commission, or office funded by this
22 Act shall require that all contracts within their purview
23 that provide award fees link such fees to successful acquisi-
24 tion outcomes, specifying the terms of cost, schedule, and
25 performance.

1 *SEC. 538. Notwithstanding any other provision of this*
2 *Act, none of the funds appropriated or otherwise made*
3 *available by this Act may be used to pay award or incentive*
4 *fees for contractor performance that has been judged to be*
5 *below satisfactory performance or for performance that does*
6 *not meet the basic requirements of a contract.*

7 *SEC. 539. None of the funds made available by this*
8 *Act may be used to enter into a contract, memorandum of*
9 *understanding, or cooperative agreement with, make a*
10 *grant to, or provide a loan or loan guarantee to, any cor-*
11 *poration that was convicted of a felony criminal violation*
12 *under any Federal law within the preceding 24 months,*
13 *where the awarding agency is aware of the conviction, un-*
14 *less a Federal agency has considered suspension or debar-*
15 *ment of the corporation and has made a determination that*
16 *this further action is not necessary to protect the interests*
17 *of the Government.*

18 *SEC. 540. None of the funds made available by this*
19 *Act may be used to enter into a contract, memorandum of*
20 *understanding, or cooperative agreement with, make a*
21 *grant to, or provide a loan or loan guarantee to, any cor-*
22 *poration that has any unpaid Federal tax liability that has*
23 *been assessed, for which all judicial and administrative*
24 *remedies have been exhausted or have lapsed, and that is*
25 *not being paid in a timely manner pursuant to an agree-*

1 *ment with the authority responsible for collecting the tax*
2 *liability, where the awarding agency is aware of the unpaid*
3 *tax liability, unless the agency has considered suspension*
4 *or debarment of the corporation and has made a determina-*
5 *tion that this further action is not necessary to protect the*
6 *interests of the Government.*

7 *SEC. 541. None of the funds made available under this*
8 *Act may be used in contravention of section 7606 (“Legiti-*
9 *macy of Industrial Hemp Research”) of the Agricultural*
10 *Act of 2014 (Public Law 113–79) by the Department of Jus-*
11 *tice or the Drug Enforcement Administration.*

12 *SEC. 542. None of the funds made available in this*
13 *Act to the Department of Justice may be used, with respect*
14 *to any of the States of Alabama, Alaska, Arizona, Cali-*
15 *fornia, Colorado, Connecticut, Delaware, Florida, Georgia,*
16 *Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Mary-*
17 *land, Massachusetts, Michigan, Minnesota, Mississippi,*
18 *Missouri, Montana, Nevada, New Hampshire, New Jersey,*
19 *New Mexico, New York, North Carolina, Oklahoma, Oregon,*
20 *Rhode Island, South Carolina, Tennessee, Texas, Utah,*
21 *Vermont, Virginia, Washington, and Wisconsin, or with re-*
22 *spect to either the District of Columbia or Guam, to prevent*
23 *any of them from implementing their own laws that author-*
24 *ize the use, distribution, possession, or cultivation of med-*
25 *ical marijuana.*

1 *This Act may be cited as the “Commerce, Justice,*
2 *Science, and Related Agencies Appropriations Act, 2016”.*

Calendar No. 120

114TH CONGRESS
1ST SESSION

H. R. 2578

[Report No. 114-66]

AN ACT

Making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2016, and for other purposes.

JUNE 8, 2015

Received; read twice and referred to the Committee on Appropriations

JUNE 16, 2015

Reported with an amendment

IIB

114TH CONGRESS
1ST SESSION

H. R. 3009

IN THE SENATE OF THE UNITED STATES

JULY 24, 2015

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend section 241(i) of the Immigration and Nationality Act to deny assistance under such section to a State or political subdivision of a State that prohibits its officials from taking certain actions with respect to immigration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Enforce the Law for
3 Sanctuary Cities Act”.

4 **SEC. 2. ELIGIBILITY REQUIREMENTS FOR STATE CRIMINAL**
5 **ALIEN ASSISTANCE PROGRAM (SCAAP) FUND-**
6 **ING.**

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

10 “(7) A State (or a political subdivision of a
11 State) shall not be eligible to enter into a contrac-
12 tual arrangement under paragraph (1) if the State
13 (or political subdivision)—

14 “(A) has in effect any law, policy, or proce-
15 dure in contravention of subsection (a) or (b) of
16 section 642 of the Illegal Immigration Reform
17 and Immigrant Responsibility Act of 1996 (8
18 U.S.C. 1373); or

19 “(B) prohibits State or local law enforce-
20 ment officials from gathering information re-
21 garding the citizenship or immigration status,
22 lawful or unlawful, of any individual.”.

23 **SEC. 3. LIMITATION ON DOJ GRANT PROGRAMS.**

24 (a) COPS.—In the case of a State or unit of local
25 government that received a grant award under part Q of
26 title I of the Omnibus Crime Control and Safe Streets Act

1 of 1968 (42 U.S.C. 3796dd et seq.), if, during a fiscal
2 year, that State or local government is a State or local
3 government described in subsection (c), the Attorney Gen-
4 eral shall withhold all of the amount that would otherwise
5 be awarded to that State or unit of local government for
6 the following fiscal year.

7 (b) **BYRNE-JAG.**—In the case of a State or unit of
8 local government that received a grant award under sub-
9 part 1 of part E of title I of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.),
11 if, during a fiscal year, that State or unit of local govern-
12 ment is described in subsection (c), the Attorney General
13 shall withhold all of the amount that would otherwise be
14 awarded to that State or unit of local government for the
15 following fiscal year.

16 (c) **STATES AND LOCAL GOVERNMENTS DE-**
17 **SCRIBED.**—A State or unit of local government described
18 in this subsection is any State or local government that—

19 (1) has in effect any law, policy, or procedure
20 in contravention of subsection (a) or (b) of section
21 642 of the Illegal Immigration Reform and Immig-
22 rant Responsibility Act of 1996 (8 U.S.C. 1373);
23 or

24 (2) prohibits State or local law enforcement of-
25 ficials from gathering information regarding the citi-

4

1 zenship or immigration status, lawful or unlawful, of
2 any individual.

Passed the House of Representatives July 23, 2015.

Attest: KAREN L. HAAS,
Clerk.

II

114TH CONGRESS
1ST SESSION

S. 129

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2015

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

A BILL

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Repeal Executive Amnesty Act of 2015”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Severability.

TITLE I—PAROLE AUTHORITY

2

- Sec. 101. Parole reform.
- Sec. 102. Adjustment of status limited to aliens admitted to the United States.
- Sec. 103. Presence in the United States pursuant to parole added to priority date.
- Sec. 104. Admission and lawful presence required for employment authorization.

TITLE II—LIMITATION ON EXECUTIVE OVERREACH

- Sec. 201. Denial of funds for implementation of unauthorized actions.
- Sec. 202. Prohibition on hiring by U.S. Citizenship and Immigration Services.

TITLE III—UNACCOMPANIED ALIEN CHILDREN

- Sec. 301. Repatriation of unaccompanied alien children.
- Sec. 302. Special immigrant juvenile status for immigrants unable to reunite with either parent.
- Sec. 303. Modifications to preferential availability for asylum for unaccompanied alien minors.
- Sec. 304. Unaccompanied alien child defined.

TITLE IV—ELIGIBILITY CRITERIA FOR ALIENS TO RECEIVE CERTAIN BENEFITS

- Sec. 401. Aliens without lawful status ineligible to receive social security and medicare benefits.
- Sec. 402. Applying citizenship and immigration status eligibility criteria for Federal programs to Affordable Care Act benefits.
- Sec. 403. Aliens paroled into the United States ineligible for Federal public benefits.

TITLE V—STATE AND LOCAL ENFORCEMENT OF THE IMMIGRATION LAWS

- Sec. 501. Definitions.
- Sec. 502. Immigration law enforcement by States and localities.
- Sec. 503. Immunity.
- Sec. 504. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 505. State Criminal Alien Assistance Program (SCAAP).
- Sec. 506. Limitation on State receipt of Federal funding.
- Sec. 507. ICE detainees.
- Sec. 508. Preservation of the Secure Communities program and removal of deportable aliens identified under the interoperable law enforcement and intelligence electronic data system.

TITLE VI—ASYLUM REFORM AND BORDER PROTECTION

- Sec. 601. Clarification of intent regarding taxpayer-provided counsel.
- Sec. 602. Credible fear interviews.
- Sec. 603. Recording expedited removal and credible fear interviews.
- Sec. 604. Safe third country.

TITLE VII—MISCELLANEOUS

- Sec. 701. Suspension of effectiveness of certain laws.
- Sec. 702. Temporary protected status reform.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
 3 provision to any person or circumstance, is held invalid,
 4 the remainder of this Act, and the application of such pro-
 5 vision to other persons not similarly situated or to other
 6 circumstances, shall not be affected by such invalidation.

7 **TITLE I—PAROLE AUTHORITY**

8 **SEC. 101. PAROLE REFORM.**

9 (a) **IN GENERAL.**—Paragraph (5) of section 212(d)
 10 (8 U.S.C. 1182(d)) is amended to read as follows:

11 “(5) **HUMANITARIAN AND PUBLIC INTEREST PA-**
 12 **ROLE.**—

13 “(A) **IN GENERAL.**—Subject to the provisions of
 14 this paragraph and section 214(f)(2), the Secretary
 15 of Homeland Security, in the sole discretion of the
 16 Secretary of Homeland Security, may on a case-by-
 17 case basis parole an alien into the United States
 18 temporarily, under such conditions as the Secretary
 19 of Homeland Security may prescribe, only—

20 “(i) for an urgent humanitarian reason (as
 21 described under subparagraph (B)); or

22 “(ii) for a reason deemed strictly in the
 23 public interest (as described under subpara-
 24 graph (C)).

25 “(B) **HUMANITARIAN PAROLE.**—The Secretary
 26 of Homeland Security may parole an alien based on

1 an urgent humanitarian reason described in this
2 subparagraph only if—

3 “(i) the alien has a medical emergency and
4 the alien cannot obtain necessary treatment in
5 the foreign state in which the alien is residing
6 or the medical emergency is life-threatening and
7 there is insufficient time for the alien to be ad-
8 mitted through the normal visa process;

9 “(ii) the alien is needed in the United
10 States in order to donate an organ or other tis-
11 sue for transplant into a close family member;
12 or

13 “(iii) the alien has a close family member
14 in the United States whose death is imminent
15 and the alien could not arrive in the United
16 States in time to see such family member alive
17 if the alien were to be admitted through the
18 normal visa process.

19 “(C) **PUBLIC INTEREST PAROLE.**—The Sec-
20 retary of Homeland Security may parole an alien
21 based on a reason deemed strictly in the public in-
22 terest described in this subparagraph only if the
23 alien has assisted the United States Government in
24 a matter, such as a criminal investigation, espio-
25 nage, or other similar law enforcement activity, and

1 either the alien's presence in the United States is re-
2 quired by the Government or the alien's life would
3 be threatened if the alien were not permitted to
4 come to the United States.

5 “(D) **LIMITATIONS ON THE USE OF PAROLE AU-**
6 **THORITY.—**

7 “(i) **ALIENS INELIGIBLE FOR REFUGEE**
8 **STATUS.—**The Secretary of Homeland Security
9 may not use the parole authority under this
10 paragraph to permit to come to the United
11 States aliens who have applied for and have
12 been found to be ineligible for refugee status or
13 any alien to whom the provisions of this para-
14 graph do not apply.

15 “(ii) **ALIENS PRESENT IN THE UNITED**
16 **STATES INELIGIBLE FOR PAROLE.—**The Sec-
17 retary of Homeland Security may not parole
18 into the United States an alien who—

19 “(I) is physically present in the
20 United States; and

21 “(II)(aa) has not been admitted to the
22 United States; or

23 “(bb) was lawfully admitted to the
24 United States as a nonimmigrant and re-

1 mained in the United States unlawfully
2 after the period of authorized stay ended.

3 “(iii) **LIMITATION ON WORK AUTHORIZA-**
4 **TION AND ADJUSTMENT OF STATUS.**—In the
5 case of an alien who is present in the United
6 States pursuant to a grant of parole under this
7 paragraph, the Secretary of Homeland Security
8 may not—

9 “(I) grant employment authorization
10 to the alien; or

11 “(II) admit the alien to the United
12 States as a nonimmigrant or as an alien
13 admitted for lawful permanent residence.

14 “(E) **PAROLE NOT AN ADMISSION.**—Parole of
15 an alien under this paragraph shall not be consid-
16 ered an admission of the alien into the United
17 States. When the purposes of the parole of an alien
18 have been served, as determined by the Secretary of
19 Homeland Security, the alien shall immediately re-
20 turn or be returned to the custody from which the
21 alien was paroled and the alien shall be considered
22 for admission to the United States on the same
23 basis as other similarly situated applicants for ad-
24 mission.

“(F) **REPORT TO CONGRESS.**—Not later than 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives a report describing the number and categories of aliens paroled into the United States under this paragraph. Each such report shall contain information and data concerning the number and categories of aliens paroled, the duration of parole, and the current status of aliens paroled during the preceding fiscal year.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

19 SEC. 102. ADJUSTMENT OF STATUS LIMITED TO ALIENS AD-
20 MITTED TO THE UNITED STATES.

Subsection (a) of section 245 of the Immigration and
Nationality Act (8 U.S.C. 1255) is amended by striking
“or paroled”.

1 **SEC. 103. PRESENCE IN THE UNITED STATES PURSUANT TO**
2 **PAROLE ADDED TO PRIORITY DATE.**

3 Section 203(e) of the Immigration and Nationality
4 Act (8 U.S.C. 1153(e)) is amended—

5 (1) in paragraph (3), by striking the period at
6 the end and inserting “, in accordance with the re-
7 quirement under paragraph (4).”; and

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

9 “(4) In the case of an applicant for a visa
10 under this section who is present in the United
11 States pursuant to a grant of parole under section
12 212(d)(5) for a period of time after making such ap-
13 plication, the time period during which the applicant
14 is present in the United States pursuant to such a
15 grant of parole shall be added to the applicant’s pri-
16 ority date.”.

17 **SEC. 104. ADMISSION AND LAWFUL PRESENCE REQUIRED**
18 **FOR EMPLOYMENT AUTHORIZATION.**

19 Paragraph (3) of section 274A(h) of the Immigration
20 and Nationality Act (8 U.S.C. 1324a(h)) is amended—

21 (1) by inserting “an alien otherwise admitted to
22 the United States and present in the United States
23 with a lawful immigration status, who is” before
24 “authorized to be so employed by this Act”; and

25 (2) by striking “or by the Attorney General”.

**TITLE II—LIMITATION ON
EXECUTIVE OVERREACH**

**SEC. 201. DENIAL OF FUNDS FOR IMPLEMENTATION OF UN-
AUTHORIZED ACTIONS.**

Notwithstanding any other provision of law, no funds or fees made available to the Secretary of Homeland Security, or to the head of any other Federal agency, may be used to implement, administer, enforce, or carry out (including through the issuance of any regulations) any of the policy changes set forth in the following memoranda:

(1) The memorandum from the Director of U.S. Immigration and Customs Enforcement entitled “Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens” (March 2, 2011).

(2) The memorandum from the Director of U.S. Immigration and Customs Enforcement entitled “Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens” (June 17, 2011).

(3) The memorandum from the Director of U.S. Immigration and Customs Enforcement entitled “Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs” (June 17, 2011).

1 (4) The U.S. Citizenship and Immigration Serv-
2 ices policy memorandum entitled “Revised Guidance
3 for the Referral of Cases and Issuance of Notices to
4 Appear (NTAs) in Cases Involving Inadmissible and
5 Removable Aliens” (November 17, 2011).

6 (5) The memorandum from the Principal Legal
7 Advisor of U.S. Immigration and Customs Enforce-
8 ment entitled “Case-by-Case Review of Incoming
9 and Certain Pending Cases” (November 17, 2011).

10 (6) The recommendations included in the report
11 from the Director of U.S. Immigration and Customs
12 Enforcement entitled “ICE Response to the Task
13 Force on Secure Communities Findings and Rec-
14 ommendations” (April 27, 2012).

15 (7) The memorandum from the Secretary of
16 Homeland Security entitled “Exercising Prosecu-
17 torial Discretion with Respect to Individuals Who
18 Came to the United States as Children” (June 15,
19 2012).

20 (8) The memorandum from the Director of
21 U.S. Immigration and Customs Enforcement enti-
22 tled “Civil Immigration Enforcement: Guidance on
23 the Use of Detainers in the Federal, State, Local,
24 and Tribal Criminal Justice Systems” (December
25 21, 2012).

1 (9) The U.S. Citizenship and Immigration Serv-
2 ices policy memorandum entitled “Adjudication of
3 Adjustment of Status Applications for Individuals
4 Admitted to the United States Under the Visa Waiv-
5 er Program” (November 14, 2013).

6 (10) The memorandum from the Secretary of
7 Homeland Security entitled “Southern Border and
8 Approaches Campaign” (November 20, 2014).

9 (11) The memorandum from the Secretary of
10 Homeland Security entitled “Policies for the Appre-
11 hension, Detention and Removal of Undocumented
12 Immigrants” (November 20, 2014).

13 (12) The memorandum from the Secretary of
14 Homeland Security entitled “Secure Communities”
15 (November 20, 2014).

16 (13) The memorandum from the Secretary of
17 Homeland Security entitled “Exercising Prosecu-
18 torial Discretion with Respect to Individuals Who
19 Came to the United States as Children and with Re-
20 spect to Certain Individuals Who Are the Parents of
21 U.S. Citizens or Permanent Residents” (November
22 20, 2014).

23 (14) The memorandum from the Secretary of
24 Homeland Security entitled “Expansion of the Pro-
25 visional Waiver Program” (November 20, 2014).

1 (15) The memorandum from the Secretary of
2 Homeland Security entitled “Policies Supporting
3 U.S. High-Skilled Businesses and Workers” (No-
4 vember 20, 2014).

5 (16) The memorandum from the Secretary of
6 Homeland Security entitled “Families of U.S.
7 Armed Forces Members and Enlistees” (November
8 20, 2014).

9 (17) The memorandum from the Secretary of
10 Homeland Security entitled “Directive to Provide
11 Consistency Regarding Advance Parole” (November
12 20, 2014).

13 (18) The memorandum from the Secretary of
14 Homeland Security entitled “Policies to Promote
15 and Increase Access to U.S. Citizenship” (November
16 20, 2014).

17 (19) The memorandum from the President enti-
18 tled “Modernizing and Streamlining the U.S. Immig-
19 grant Visa System for the 21st Century” (November
20 21, 2014).

21 (20) The memorandum from the President enti-
22 tled “Creating Welcoming Communities and Fully
23 Integrating Immigrants and Refugees” (November
24 21, 2014).

1 **SEC. 202. PROHIBITION ON HIRING BY U.S. CITIZENSHIP**
 2 **AND IMMIGRATION SERVICES.**

3 The head of U.S. Citizenship and Immigration Serv-
 4 ices may not appoint an individual to any position in U.S.
 5 Citizenship and Immigration Services until after the date
 6 that the President rescinds each memorandum described
 7 in paragraphs (10) through (20) of section 201.

8 **TITLE III—UNACCOMPANIED**
 9 **ALIEN CHILDREN**

10 **SEC. 301. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
 11 **DREN.**

12 (a) **IN GENERAL.**—Section 235 of the William Wil-
 13 berforce Trafficking Victims Protection Reauthorization
 14 Act of 2008 (8 U.S.C. 1232) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (2)—

17 (i) by amending the heading to read
 18 as follows: “**RULES FOR UNACCOMPANIED**
 19 **ALIEN CHILDREN.**”;

20 (ii) in subparagraph (A);

21 (I) in the matter preceding clause
 22 (i), by striking “who is a national or
 23 habitual resident of a country that is
 24 contiguous with the United States”;

25 (II) in clause (i), by inserting
 26 “and” at the end;

1 (III) in clause (ii), by striking “;
2 and” and inserting a period; and

3 (IV) by striking clause (iii);
4 (iii) in subparagraph (B)—

5 (I) in the matter preceding clause
6 (i), by striking “(8 U.S.C. 1101 et
7 seq.) may—” and inserting “(8
8 U.S.C. 1101 et seq.)—”;

9 (II) in clause (i), by inserting be-
10 fore “permit such child to withdraw”
11 the following: “may”; and

12 (III) in clause (ii), by inserting
13 before “return such child” the fol-
14 lowing: “shall”; and

15 (iv) in subparagraph (C)—

16 (I) by amending the heading to
17 read as follows: “**AGREEMENTS WITH**
18 **FOREIGN COUNTRIES.**”; and

19 (II) in the matter preceding
20 clause (i), by striking “The Secretary
21 of State shall negotiate agreements
22 between the United States and coun-
23 tries contiguous to the United States”
24 and inserting “The Secretary of State
25 may negotiate agreements between the

1 United States and any foreign country
2 that the Secretary determines appro-
3 priate”; and

4 (B) in paragraph (5)(D)—

5 (i) in the matter preceding clause (i),
6 by striking “, except for an unaccompanied
7 alien child from a contiguous country sub-
8 ject to the exceptions under subsection
9 (a)(2),” and inserting “who does not meet
10 the criteria listed in paragraph (2)(A)”;
11 and

12 (ii) in clause (i), by inserting before
13 the semicolon at the end the following: “,
14 which shall include a hearing before an im-
15 migration judge not later than 14 days
16 after being screened under paragraph (4)”;

17 (2) in subsection (b)—

18 (A) in paragraph (2)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “48 hours” and in-
21 serting “7 days”;

22 (ii) in subparagraph (A), by inserting
23 before the semicolon the following: “be-
24 lieved not to meet the criteria listed in sub-
25 section (a)(2)(A)”;

1 (iii) in subparagraph (B), by inserting
2 before the period the following: “and does
3 not meet the criteria listed in subsection
4 (a)(2)(A)”;

5 (B) in paragraph (3), by striking “an un-
6 accompanied alien child in custody shall” and
7 all that follows, and inserting the following: “an
8 unaccompanied alien child in custody—

9 “(A) in the case of a child who does not
10 meet the criteria listed in subsection (a)(2)(A),
11 shall transfer the custody of such child to the
12 Secretary of Health and Human Services not
13 later than 30 days after determining that such
14 child is an unaccompanied alien child who does
15 not meet such criteria; or

16 “(B) in the case of child who meets the
17 criteria listed in subsection (a)(2)(A), may
18 transfer the custody of such child to the Sec-
19 retary of Health and Human Services after de-
20 termining that such child is an unaccompanied
21 alien child who meets such criteria.”;

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

23 “(5) **INFORMATION SHARING.**—The Secretary
24 of Health and Human Services shall share with the
25 Secretary of Homeland Security any information re-

1 quested on a child who has been determined to be
 2 an unaccompanied alien child and who is or has
 3 been in the custody of the Secretary of Health and
 4 Human Services, including the location of the child
 5 and any person to whom custody of the child has
 6 been transferred, for any legitimate law enforcement
 7 objective, including enforcement of the immigration
 8 laws.”; and

9 (4) in subsection (c)—

10 (A) in paragraph (3), by inserting at the
 11 end the following:

12 “(D) **INFORMATION ABOUT INDIVIDUALS**
 13 **WITH WHOM CHILDREN ARE PLACED.**—

14 “(i) **INFORMATION TO BE PROVIDED**
 15 **TO HOMELAND SECURITY.**—Before placing
 16 a child with an individual, the Secretary of
 17 Health and Human Services shall provide
 18 to the Secretary of Homeland Security, re-
 19 garding the individual with whom the child
 20 will be placed, the following information:

21 “(I) The name of the individual.

22 “(II) The social security number
 23 of the individual.

24 “(III) The date of birth of the in-
 25 dividual.

1 “(IV) The location of the individ-
2 ual’s residence where the child will be
3 placed.

4 “(V) The immigration status of
5 the individual, if known.

6 “(VI) Contact information for
7 the individual.

8 “(ii) **SPECIAL RULE.**—In the case of a
9 child who was apprehended on or after
10 June 15, 2012, and before the date of the
11 enactment of the Repeal Executive Am-
12 nesty Act of 2015, who the Secretary of
13 Health and Human Services placed with
14 an individual, the Secretary shall provide
15 the information listed in clause (i) to the
16 Secretary of Homeland Security not later
17 than 90 days after the date of the enact-
18 ment of the Repeal Executive Amnesty Act
19 of 2015.

20 “(iii) **ACTIVITIES OF THE SECRETARY**
21 **OF HOMELAND SECURITY.**—Not later than
22 30 days after receiving the information
23 listed in clause (i), the Secretary of Home-
24 land Security shall—

1 “(I) in the case that the immi-
 2 gration status of an individual with
 3 whom a child is placed is unknown,
 4 investigate the immigration status of
 5 that individual; and

6 “(II) upon determining that an
 7 individual with whom a child is placed
 8 is unlawfully present in the United
 9 States, initiate removal proceedings
 10 pursuant to chapter 4 of title II of the
 11 Immigration and Nationality Act (8
 12 U.S.C. 1221 et seq.).”; and

13 (B) in paragraph (5)—

14 (i) by inserting after “to the greatest
 15 extent practicable” the following: “(at no
 16 expense to the Government)”; and

17 (ii) by striking “have counsel to rep-
 18 resent them” and inserting “have access to
 19 counsel to represent them”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
 21 this section shall apply to any unauthorized alien child ap-
 22 prehended on or after June 15, 2012.

1 **SEC. 302. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
 2 **MIGRANTS UNABLE TO REUNITE WITH EI-**
 3 **THIER PARENT.**

4 Section 101(a)(27)(J)(i) of the Immigration and Na-
 5 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
 6 striking “1 or both of the immigrant’s parents” and in-
 7 serting “either of the immigrant’s parents”.

8 **SEC. 303. MODIFICATIONS TO PREFERENTIAL AVAIL-**
 9 **ABILITY FOR ASYLUM FOR UNACCOMPANIED**
 10 **ALIEN MINORS.**

11 Section 208 of the Immigration and Nationality Act
 12 (8 U.S.C. 1158) is amended—

13 (1) by striking subsection (a)(2)(E); and

14 (2) by striking subsection (b)(3)(C).

15 **SEC. 304. UNACCOMPANIED ALIEN CHILD DEFINED.**

16 Section 462(g)(2) of the Homeland Security Act of
 17 2002 (6 U.S.C. 279(g)(2)) is amended to read as follows:

18 “(2) The term ‘unaccompanied alien child’—

19 “(A) means an alien who—

20 “(i) has no lawful immigration status
 21 in the United States;

22 “(ii) has not attained 18 years of age;

23 and

24 “(iii) with respect to whom—

25 “(I) there is no parent or legal
 26 guardian in the United States;

1 “(II) no parent or legal guardian
2 in the United States is available to
3 provide care and physical custody; or

4 “(III) no sibling over 18 years of
5 age, aunt, uncle, grandparent, or
6 cousin over 18 years of age is avail-
7 able to provide care and physical cus-
8 tody; except that

9 “(B) such term shall cease to include an
10 alien if at any time a parent, legal guardian,
11 sibling over 18 years of age, aunt, uncle, grand-
12 parent, or cousin over 18 years of age of the
13 alien is found in the United States and is avail-
14 able to provide care and physical custody (and
15 the Secretary of Homeland Security and the
16 Secretary of Health and Human Services shall
17 revoke accordingly any prior designation of the
18 alien under this paragraph).”.

1 **TITLE IV—ELIGIBILITY CRI-**
 2 **TERIA FOR ALIENS TO RE-**
 3 **CEIVE CERTAIN BENEFITS**

4 **SEC. 401. ALIENS WITHOUT LAWFUL STATUS INELIGIBLE**
 5 **TO RECEIVE SOCIAL SECURITY AND MEDI-**
 6 **CARE BENEFITS.**

7 Section 401(b) of the Personal Responsibility and
 8 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
 9 1611(b)) is amended—

10 (1) in paragraph (2), by adding at the end the
 11 following: “For purposes of this paragraph, the term
 12 ‘alien who is lawfully present in the United States’
 13 means an alien who has been admitted to the United
 14 States, and whose period of lawful admission has not
 15 expired, and does not include an alien who is present
 16 in the United States pursuant to a grant of parole
 17 under section 212(d)(5) of the Immigration and Na-
 18 tionality Act (8 U.S.C. 1182(d)(5)).”; and

19 (2) in paragraph (3), by adding at the end the
 20 following: “For purposes of this paragraph, the term
 21 ‘alien who is lawfully present in the United States’
 22 has the meaning given such term in paragraph (2).”.

1 **SEC. 402. APPLYING CITIZENSHIP AND IMMIGRATION STA-**
 2 **TUS ELIGIBILITY CRITERIA FOR FEDERAL**
 3 **PROGRAMS TO AFFORDABLE CARE ACT BEN-**
 4 **EFITS.**

5 (a) **APPLYING QUALIFIED ALIEN ELIGIBILITY CRI-**
 6 **TERIA TO ACA BENEFITS.—**

7 (1) **TEMPORARY HIGH RISK HEALTH INSUR-**
 8 **ANCE POOL PROGRAM.**—Section 1101(d)(1) of the
 9 Patient Protection and Affordable Care Act (42
 10 U.S.C. 18001(d)(1)) is amended by striking “or is
 11 lawfully present” and all that follows through “sec-
 12 tion 1411)” and inserting “or is a qualified alien (as
 13 defined in section 431 of the Personal Responsibility
 14 and Work Opportunity Reconciliation Act of 1996 (8
 15 U.S.C. 1641)), as determined in accordance with
 16 section 1411”.

17 (2) **ELIGIBILITY TO PARTICIPATE IN EX-**
 18 **CHANGES.**—Section 1312(f)(3) of such Act (42
 19 U.S.C. 18032(f)(3)) is amended—

20 (A) in the paragraph heading, by inserting
 21 “**CERTAIN**” after “**LIMITED TO**”; and

22 (B) by striking “an alien lawfully present
 23 in the United States” and inserting “an alien
 24 who is a qualified alien (as defined in section
 25 431 of the Personal Responsibility and Work

1 Opportunity Reconciliation Act of 1996 (8
2 U.S.C. 1641))”.

3 (3) **STATE HEALTH PROGRAMS FOR LOW-IN-**
4 **COME INDIVIDUALS NOT ELIGIBLE FOR MEDICAID.**—
5 Section 1331(e)(1)(B) of such Act (42 U.S.C.
6 18051(e)(1)(B)) is amended by striking “lawfully
7 present in the United States” and inserting “who is
8 a qualified alien (as defined in section 431 of the
9 Personal Responsibility and Work Opportunity Rec-
10 onciliation Act of 1996 (8 U.S.C. 1641))”.

11 (4) **TAX CREDIT PROVIDING PREMIUM ASSIST-**
12 **ANCE FOR COVERAGE UNDER QUALIFIED HEALTH**
13 **PLANS.**—Section 36B of the Internal Revenue of
14 1986 is amended—

15 (A) in subsection (c)(1)(B)—

16 (i) in the heading, by striking “**INDI-**
17 **VIDUALS LAWFULLY PRESENT IN THE**
18 **UNITED STATES**” and inserting “**QUALI-**
19 **FIED ALIENS**”; and

20 (ii) in clause (ii), by striking “an alien
21 lawfully present in the United States” and
22 inserting “an alien who is a qualified alien
23 (as defined in section 431 of the Personal
24 Responsibility and Work Opportunity Rec-

1 conciliation Act of 1996 (8 U.S.C. 1641))”;

2 and

3 (B) in subsection (e)(2), by striking “law-
4 fully present in the United States” and insert-
5 ing “who is a qualified alien (as defined in sec-
6 tion 431 of the Personal Responsibility and
7 Work Opportunity Reconciliation Act of 1996
8 (8 U.S.C. 1641))”.

9 (5) **REDUCED COST-SHARING FOR CERTAIN IN-**
10 **DIVIDUALS UNDER QUALIFIED HEALTH PLANS.**—
11 Section 1402(e)(2) of the Patient Protection and Af-
12 fordable Care Act (42 U.S.C. 18071(e)(2)) is
13 amended by striking “lawfully present in the United
14 States” and inserting “who is a qualified alien (as
15 defined in section 431 of the Personal Responsibility
16 and Work Opportunity Reconciliation Act of 1996 (8
17 U.S.C. 1641))”.

18 (6) **ELIGIBILITY DETERMINATIONS.**—Section
19 1411 of the Patient Protection and Affordable Care
20 Act (42 U.S.C. 18081) is amended—

21 (A) in subsection (a)(1), by striking “an
22 alien lawfully present in the United States” and
23 inserting “a qualified alien (as defined in sec-
24 tion 431 of the Personal Responsibility and

1 Work Opportunity Reconciliation Act of 1996
 2 (8 U.S.C. 1641))””; and

3 (B) in subsection (c)(2)(B)—

4 (i) in clause (i)(I), by striking “an
 5 alien lawfully present in the United
 6 States” and inserting “a qualified alien (as
 7 defined in section 431 of the Personal Re-
 8 sponsibility and Work Opportunity Rec-
 9 onciliation Act of 1996 (8 U.S.C. 1641))”;
 10 and

11 (ii) in clause (ii)(II), by striking “an
 12 alien lawfully present in the United
 13 States” and inserting “a qualified alien (as
 14 defined in section 431 of the Personal Re-
 15 sponsibility and Work Opportunity Rec-
 16 onciliation Act of 1996 (8 U.S.C. 1641))”.

17 (7) **ADVANCE DETERMINATION AND PAYMENT**
 18 **OF PREMIUM TAX CREDITS AND COST-SHARING RE-**
 19 **DUCTIONS.**—Section 1412(d) of the Patient Protec-
 20 tion and Affordable Care Act (42 U.S.C. 18082(d))
 21 is amended—

22 (A) in the heading, by striking “**LAW-**
 23 **FULLY PRESENT**” and inserting “**CITIZENS,**
 24 **NATIONALS, OR QUALIFIED ALIENS**”; and

1 (B) by striking “not lawfully present in the
 2 United States” and inserting “not citizens or
 3 nationals of the United States or aliens who are
 4 qualified aliens (as defined in section 431 of the
 5 Personal Responsibility and Work Opportunity
 6 Reconciliation Act of 1996 (8 U.S.C. 1641))”.

7 (8) **MINIMUM ESSENTIAL COVERAGE REQUIRE-**
 8 **MENT.**—Section 5000A(d)(3) of the Internal Rev-
 9 enue Code of 1986 is amended—

10 (A) in the heading, by striking “**LAWFULLY**
 11 **PRESENT**” and inserting “**CITIZENS, NATION-**
 12 **ALS, OR QUALIFIED ALIENS**”; and

13 (B) by striking “an alien lawfully present
 14 in the United States” and inserting “a qualified
 15 alien (as defined in section 431 of the Personal
 16 Responsibility and Work Opportunity Reconcili-
 17 ation Act of 1996 (8 U.S.C. 1641))”.

18 (9) **MEDICAID POPULATION.**—Section
 19 1903(v)(1) of the Social Security Act is amended by
 20 striking “who is not lawfully admitted for permanent
 21 residence or otherwise permanently residing in the
 22 United States under color of law” and inserting
 23 “who is not a qualified alien (as defined in section
 24 431 of the Personal Responsibility and Work Oppor-
 25 tunity Reconciliation Act of 1996 (8 U.S.C. 1641))”.

1 (b) CLARIFICATION THAT CERTAIN ACA BENEFITS
2 TREATED AS FEDERAL PUBLIC BENEFITS.—Section
3 401(c) of the Personal Responsibility and Work Oppor-
4 tunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)) is
5 amended by adding at the end the following new para-
6 graph:

7 “(3) In applying paragraph (1), the following
8 assistance and benefits are treated as health benefits
9 described in paragraph (1)(B):

10 “(A) Enrollment under the temporary high
11 risk health insurance pool program under sec-
12 tion 1101 of the Patient Protection and Afford-
13 able Care Act (42 U.S.C. 18001).

14 “(B) Participation in an Exchange estab-
15 lished under title I of the Patient Protection
16 and Affordable Care Act.

17 “(C) Participation in the health program
18 established under section 1331(a) of the Pa-
19 tient Protection and Affordable Care Act (42
20 U.S.C. 18051).

21 “(D) Allowance of a tax credit under sec-
22 tion 36B of the Internal Revenue Code of 1986.

23 “(E) Reduction of cost-sharing under
24 qualified health plans under section 1402 of the

1 Patient Protection and Affordable Care Act (42
2 U.S.C. 18071).

3 “(F) Provision of advance payments under
4 section 1412 of the Patient Protection and Af-
5 fordable Care Act (42 U.S.C. 18082).”.

6 (c) **CLARIFICATION THAT CERTAIN ACA BENEFITS**
7 **TREATED AS FEDERAL MEANS-TESTED PUBLIC BENE-**
8 **FITS.**—Section 403(c) of the Personal Responsibility and
9 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
10 1613(c)) is amended by adding at the end the following
11 new paragraph:

12 “(3) In applying this section, assistance and
13 benefits described in section 401(c)(3) are treated as
14 Federal means-tested public benefits to which sub-
15 section (a) applies.”.

16 (d) **EFFECTIVE DATE.**—

17 (1) **IN GENERAL.**—Subject to paragraph (2),
18 the amendments made by this section shall apply to
19 coverage months beginning more than 120 days
20 after the date of the enactment of this Act.

21 (2) **TRANSITION FOR CURRENT ENROLLEES.**—

22 In the case of an individual who is being provided
23 assistance or benefits described in paragraph (3) of
24 section 401(c) of the Personal Responsibility and
25 Work Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1611(c)), as added by subsection (b), as of
 2 the date of the enactment of this Act, the amend-
 3 ments made by this section (other than the amend-
 4 ments made by subsection (a)(8)) shall not apply
 5 with respect to such assistance or benefits provided
 6 to such individual for coverage months before Janu-
 7 ary of the year after the date of enactment of this
 8 Act.

9 **SEC. 403. ALIENS PAROLED INTO THE UNITED STATES IN-**
 10 **ELIGIBLE FOR FEDERAL PUBLIC BENEFITS.**

11 Section 431(b) of the Personal Responsibility and
 12 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
 13 1641(b)) is amended by striking paragraph (4).

14 **TITLE V—STATE AND LOCAL EN-**
 15 **FORCEMENT OF THE IMMI-**
 16 **GRATION LAWS**

17 **SEC. 501. DEFINITIONS.**

18 In this title:

19 (1) **SECRETARY.**—The term “Secretary” means
 20 the Secretary of Homeland Security.

21 (2) **STATE.**—The term “State” has the mean-
 22 ing given to such term in section 101(a)(36) of the
 23 Immigration and Nationality Act (8 U.S.C.
 24 1101(a)(36)).

1 **SEC. 502. IMMIGRATION LAW ENFORCEMENT BY STATES**
2 **AND LOCALITIES.**

3 Law enforcement personnel of a State, or of a polit-
4 ical subdivision of a State, may investigate, identify, ap-
5 prehend, arrest, detain, or transfer to Federal custody
6 aliens for the purposes of enforcing the immigration laws
7 of the United States to the same extent as Federal law
8 enforcement personnel. Law enforcement personnel of a
9 State, or of a political subdivision of a State, may also
10 investigate, identify, apprehend, arrest, or detain aliens
11 for the purposes of enforcing the immigration laws of a
12 State or of a political subdivision of State. Law enforce-
13 ment personnel of a State, or of a political subdivision of
14 a State, may not remove aliens from the United States.

15 **SEC. 503. IMMUNITY.**

16 Notwithstanding any other provision of law, a law en-
17 forcement officer of a State or local law enforcement agen-
18 cy who is acting within the scope of the officer's official
19 duties shall be immune, to the same extent as a Federal
20 law enforcement officer, from personal liability arising out
21 of the performance of any duty described in this title, in-
22 cluding the authorities to investigate, identify, apprehend,
23 arrest, detain, or transfer to Federal custody, an alien for
24 the purposes of enforcing the immigration laws of the
25 United States (as defined in section 101(a)(17) of the Im-
26 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or

1 the immigration laws of a State or a political subdivision
2 of a State.

3 **SEC. 504. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
4 **PORTABLE ALIENS IN THE UNITED STATES**
5 **APPREHENDED BY STATE OR LOCAL LAW EN-**
6 **FORCEMENT.**

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

10 **“SEC. 240D. CUSTODY OF INADMISSIBLE AND DEPORTABLE**
11 **ALIENS PRESENT IN THE UNITED STATES.**

12 “(a) TRANSFER OF CUSTODY BY STATE AND LOCAL
13 OFFICIALS.—If a State, or a political subdivision of a
14 State, exercising authority with respect to the apprehen-
15 sion or arrest of an inadmissible or deportable alien sub-
16 mits to the Secretary of Homeland Security a request that
17 the alien be taken into Federal custody, notwithstanding
18 any other provision of law, regulation, or policy the Sec-
19 retary—

20 “(1) shall take the alien into custody not later
21 than 48 hours after the request has been issued fol-
22 lowing the conclusion of the State or local charging
23 process or dismissal process, or if no State or local
24 charging or dismissal process is required, the Sec-
25 retary shall issue a detainer and take the alien into

1 custody not later than 48 hours after the alien is ap-
2 prehended, in order to determine whether the alien
3 should be detained, placed in removal proceedings,
4 released, or removed; and

5 “(2) shall request that the relevant State or
6 local law enforcement agency temporarily hold the
7 alien in their custody or transport the alien for
8 transfer to Federal custody.

9 “(b) **POLICY ON DETENTION IN FEDERAL, CON-**
10 **TRACT, STATE, OR LOCAL DETENTION FACILITIES.**—In
11 carrying out section 241(g)(1), the Attorney General or
12 Secretary of Homeland Security shall ensure that an alien
13 arrested under this title shall be held in custody, pending
14 the alien’s examination under this section, in a Federal,
15 contract, State, or local prison, jail, detention center, or
16 other comparable facility. Notwithstanding any other pro-
17 vision of law, regulation or policy, such facility is adequate
18 for detention, if—

19 “(1) such a facility is the most suitably located
20 Federal, contract, State, or local facility available for
21 such purpose under the circumstances;

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

1 “(3) the facility satisfies the standards for the
2 housing, care, and security of persons held in cus-
3 tody by a United States Marshal.

4 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
5 Security shall reimburse a State, or a political subdivision
6 of a State, for all reasonable expenses, as determined by
7 the Secretary, incurred by the State, or political subdivi-
8 sion, as a result of the incarceration and transportation
9 of an alien who is inadmissible or deportable as described
10 in subsections (a) and (b). Compensation provided for
11 costs incurred under such subsections shall be the average
12 cost of incarceration of a prisoner in the relevant State,
13 as determined by the chief executive officer of a State,
14 or of a political subdivision of a State, plus the cost of
15 transporting the alien from the point of apprehension to
16 the place of detention, and to the custody transfer point
17 if the place of detention and place of custody are different.

18 “(d) **SECURE FACILITIES.**—The Secretary of Home-
19 land Security shall ensure that aliens incarcerated pursu-
20 ant to this title are held in facilities that provide an appro-
21 priate level of security.

22 “(e) **TRANSFER.**—

23 “(1) **IN GENERAL.**—In carrying out this sec-
24 tion, the Secretary of Homeland Security shall es-
25 tablish a regular circuit and schedule for the prompt

1 transfer of apprehended aliens from the custody of
 2 States, and political subdivisions of a State, to Fed-
 3 eral custody.

4 “(2) **CONTRACTS.**—The Secretary may enter
 5 into contracts, including appropriate private con-
 6 tracts, to implement this subsection.”.

7 (b) **CLERICAL AMENDMENT.**—The table of contents
 8 of such Act is amended by inserting after the item relating
 9 to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the
 United States.”.

10 **SEC. 505. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

11 **(SCAAP).**

12 Subparagraph (A) of section 241(i)(3) of the Immi-
 13 gration and Nationality Act (8 U.S.C. 1231(i)(3)) is
 14 amended by inserting “charged with or” before “con-
 15 victed”.

16 **SEC. 506. LIMITATION ON STATE RECEIPT OF FEDERAL**

17 **FUNDING.**

18 (a) **IN GENERAL.**—A State or political subdivision of
 19 a State that has in place a law or policy described in sub-
 20 section (b) may not receive—

21 (1) grants made under subpart 1 of part E of
 22 title I of the Omnibus Crime Control and Safe
 23 Streets Act of 1968 (42 U.S.C. 3750 et seq.);

1 (2) grants made under part Q of title I of the
 2 Omnibus Crime Control and Safe Streets Act of
 3 1968 (42 U.S.C. 3796dd et seq.); or

4 (3) compensation under section 241(i) of the
 5 Immigration and Nationality Act (8 U.S.C. 1231(i)).

6 (b) **LAW OR POLICY DESCRIBED.**—A law or policy
 7 is described in this subsection if the law or policy—

8 (1) is in contravention of section 642(a) of the
 9 Illegal Immigration Reform and Immigrant Respon-
 10 sibility Act of 1996 (8 U.S.C. 1373(a));

11 (2) prohibits or restricts law enforcement offi-
 12 cers of that State or political subdivision from col-
 13 lecting information relating to an individual’s immi-
 14 gration status; or

15 (3) prohibits or restricts compliance with, or
 16 the honoring of detainers issued by Immigration and
 17 Customs Enforcement.

18 **SEC. 507. ICE DETAINERS.**

19 Section 287(d) of the Immigration and Nationality
 20 Act (8 U.S.C. 1357(d)) is amended in the matter pre-
 21 ceding paragraph (1), by striking “law relating to con-
 22 trolled substances,” and inserting “law,”.

1 **SEC. 508. PRESERVATION OF THE SECURE COMMUNITIES**
 2 **PROGRAM AND REMOVAL OF DEPORTABLE**
 3 **ALIENS IDENTIFIED UNDER THE INTEROPER-**
 4 **ABLE LAW ENFORCEMENT AND INTEL-**
 5 **LIGENCE ELECTRONIC DATA SYSTEM.**

6 Section 202 of the Enhanced Border Security and
 7 Visa Entry Reform Act of 2002 (8 U.S.C. 1722) is amend-
 8 ed—

9 (1) in subsection (a)(2), by adding at the end
 10 the following: “Compliance with the requirements of
 11 this paragraph shall include, at a minimum, the op-
 12 eration of the Secure Communities program, as in
 13 effect on November 19, 2014.”; and

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

15 “(c) **REQUIRED ACTION.**—Upon receiving notice
 16 under the interoperable law enforcement and intelligence
 17 electronic data system established under subsection (a)
 18 that a deportable alien is in the custody of Federal, State,
 19 or local law enforcement, the Secretary of Homeland Secu-
 20 rity shall, following the conclusion of the charging process,
 21 dismissal process, or completion of the alien’s sentence,
 22 as appropriate, issue a detainer, take the alien into cus-
 23 tody, and initiate removal proceedings under section 238
 24 or 240 of the Immigration and Nationality Act (8 U.S.C.
 25 1228, 1229a), as appropriate.”.

1 **TITLE VI—ASYLUM REFORM AND**
 2 **BORDER PROTECTION**

3 **SEC. 601. CLARIFICATION OF INTENT REGARDING TAX-**
 4 **PAYER-PROVIDED COUNSEL.**

5 Section 292 of the Immigration and Nationality Act
 6 (8 U.S.C. 1362) is amended—

7 (1) by inserting “(a) **IN GENERAL.**—” before
 8 “In any removal”;

9 (2) by striking “(at no expense to the Govern-
 10 ment)” and

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

12 “(b) **NO EXPENSE TO THE GOVERNMENT.**—Notwith-
 13 standing any other provision of law, in no instance shall
 14 the Government bear any expense for counsel for any per-
 15 son in removal proceedings or in any appeal proceedings
 16 before the Attorney General from any such removal pro-
 17 ceedings.”.

18 **SEC. 602. CREDIBLE FEAR INTERVIEWS.**

19 Section 235(b)(1)(B)(v) of the Immigration and Na-
 20 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
 21 striking “208.” and inserting “208, and it is more prob-
 22 able than not that the statements made by the alien in
 23 support of the alien’s claim are true.”.

1 **SEC. 603. RECORDING EXPEDITED REMOVAL AND CRED-**
2 **IBLE FEAR INTERVIEWS.**

3 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
4 rity shall establish quality assurance procedures and take
5 steps to effectively ensure that questions by employees of
6 the Department of Homeland Security exercising expe-
7 dited removal authority under section 235(b) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
9 in a uniform manner, and that both these questions and
10 the answers provided in response to them are recorded in
11 a uniform fashion.

12 (b) **FACTORS RELATING TO SWORN STATEMENTS.**—
13 Where practicable, any sworn or signed written statement
14 taken of an alien as part of the record of a proceeding
15 under section 235(b)(1)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
17 panied by a recording of the interview which served as the
18 basis for that sworn statement.

19 (c) **INTERPRETERS.**—The Secretary shall ensure that
20 a competent interpreter, not affiliated with the govern-
21 ment of the country from which the alien may claim asy-
22 lum, is used when the interviewing officer does not speak
23 a language understood by the alien and there is no other
24 Federal, State, or local government employee available
25 who is able to interpret effectively, accurately, and impar-
26 tially.

1 (d) **RECORDINGS IN IMMIGRATION PROCEEDINGS.**—

2 Recordings of interviews of aliens subject to expedited re-
3 moval shall be included in the record of proceeding and
4 shall be considered as evidence in any further proceedings
5 involving the alien.

6 (e) **NO PRIVATE RIGHT OF ACTION.**—Nothing in this
7 section shall be construed to create any right, benefit,
8 trust, or responsibility, whether substantive or procedural,
9 enforceable in law or equity by a party against the United
10 States, its departments, agencies, instrumentalities, enti-
11 ties, officers, employees, or agents, or any person, nor does
12 this section create any right of review in any administra-
13 tive, judicial, or other proceeding.

14 **SEC. 604. SAFE THIRD COUNTRY.**

15 Section 208(a)(2)(A) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

17 (1) by striking “Attorney General” and insert-
18 ing “Secretary of Homeland Security”; and

19 (2) by striking “removed, pursuant to a bilat-
20 eral or multilateral agreement, to” and inserting
21 “removed to”.

1 **TITLE VII—MISCELLANEOUS**

2 **SEC. 701. SUSPENSION OF EFFECTIVENESS OF CERTAIN**
 3 **LAWS.**

4 (a) **WAIVER OF INADMISSIBILITY OF ALIENS UNLAW-**
 5 **FULLY PRESENT.**—Section 212(a)(9)(B)(v) of the Immi-
 6 gration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(v))
 7 is suspended during the period beginning on the date of
 8 the enactment of this Act and ending on January 20,
 9 2017.

10 (b) **DESIGNATION FOR TEMPORARY PROTECTED**
 11 **STATUS.**—No foreign state may be designated or redesign-
 12 nated under section 244(b) of the Immigration and Na-
 13 tionality Act (8 U.S.C. 1254a(b)) during the period begin-
 14 ning on the date of the enactment of this Act and ending
 15 on January 20, 2017. The preceding sentence shall not
 16 be construed to affect any extension of a designation
 17 under paragraph (3)(C) of such section, if the designation
 18 was made prior to the date of the enactment of this Act.

19 **SEC. 702. TEMPORARY PROTECTED STATUS REFORM.**

20 Section 244 of the Immigration and Nationality Act
 21 (8 U.S.C. 1254a) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (3), by striking subpara-
 24 graphs (B) and (C) and redesignating subpara-
 25 graph (D) as subparagraph (B); and

1 (B) in paragraph (5), by striking “to deny
2 temporary protected status to an alien based on
3 the alien’s immigration status or”;

4 (2) in subsection (b)—

5 (A) in paragraph (3)—

6 (i) in subparagraph (A), by striking “,
7 and any extended period of designation,”;

8 (ii) in subparagraph (B), by striking
9 “or, if later, the expiration of the most re-
10 cent previous extension under subpara-
11 graph (C)”;

12 (iii) in subparagraph (C), by striking
13 “is extended for” and all that follows, and
14 inserting “may be extended for one addi-
15 tional period of up to 18 months, in the
16 discretion of the Attorney General.”;

17 (B) in paragraph (5)(B), by striking the
18 second sentence;

19 (3) in subsection (c)(1)(A)—

20 (A) in clause (iii), by striking “and” at the
21 end;

22 (B) in clause (iv), by striking the period at
23 the end and inserting “; and”;

24 (C) by adding after clause (iv) the fol-
25 lowing:

1 “(v) the alien had lawful immigration
2 status in the United States on the effective
3 date of the most recent designation of that
4 state.”; and

5 (4) in subsection (g), by striking “aliens who
6 are or may become otherwise deportable or have
7 been paroled into the United States” and inserting
8 “aliens who may become otherwise deportable”.

○

EXHIBIT E-4

II

114TH CONGRESS
1ST SESSION

S. 1640

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2015

Mr. SESSIONS (for himself, Mr. COTTON, Mr. PERDUE, Mr. VITTER, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Michael Davis, Jr. and
5 Danny Oliver in Honor of State and Local Law Enforce-
6 ment Act”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

- Sec. 101. Definitions and severability.
- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
- Sec. 104. Technology access.
- Sec. 105. State and local law enforcement provision of information about apprehended aliens.
- Sec. 106. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 107. Increased Federal detention space.
- Sec. 108. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 109. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 110. Immunity.
- Sec. 111. Criminal alien identification program.
- Sec. 112. Clarification of congressional intent.
- Sec. 113. State criminal alien assistance program (SCAAP).
- Sec. 114. State violations of enforcement of immigration laws.
- Sec. 115. Clarifying the authority of ICE detainees.

TITLE II—NATIONAL SECURITY

- Sec. 201. Removal of, and denial of benefits to, terrorist aliens.
- Sec. 202. Terrorist bar to good moral character.
- Sec. 203. Terrorist bar to naturalization.
- Sec. 204. Denaturalization for terrorists.
- Sec. 205. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 206. Background and security checks.
- Sec. 207. Technical amendments relating to the Intelligence Reform and Terrorism Prevention Act of 2004.

TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony.
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.
- Sec. 303. Espionage clarification.
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 306. Conforming amendment to the definition of racketeering activity.
- Sec. 307. Conforming amendments for the aggravated felony definition.
- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.
- Sec. 309. Precluding withholding of removal for aggravated felons.
- Sec. 310. Inadmissibility and deportability of drunk drivers.
- Sec. 311. Detention of dangerous aliens.
- Sec. 312. Grounds of inadmissibility and deportability for alien gang members.

3

- Sec. 313. Extension of identity theft offenses.
- Sec. 314. Laundering of monetary instruments.
- Sec. 315. Penalties for illegal entry or presence.
- Sec. 316. Illegal reentry.
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.
- Sec. 318. Forfeiture.
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
- Sec. 321. Protecting immigrants from convicted sex offenders.
- Sec. 322. Penalties for failure to obey removal orders.
- Sec. 323. Pardons.
- Sec. 324. Convictions.

TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.
- Sec. 402. Visa information sharing.
- Sec. 403. Restricting waiver of visa interviews.
- Sec. 404. Non-interview of certain ineligible visa applicants.
- Sec. 405. Visa refusal and revocation.
- Sec. 406. Funding for the visa security program.
- Sec. 407. Expeditious expansion of visa security program to high-risk posts.
- Sec. 408. Expedited clearance and placement of Department of Homeland Security personnel at overseas embassies and consular posts.
- Sec. 409. Accreditation requirements.
- Sec. 410. Visa fraud.
- Sec. 411. Background checks.
- Sec. 412. Number of designated school officials.
- Sec. 413. Reporting requirement.
- Sec. 414. Flight schools not certified by FAA.
- Sec. 415. Revocation of accreditation.
- Sec. 416. Report on risk assessment.
- Sec. 417. Implementation of GAO recommendations.
- Sec. 418. Implementation of SEVIS II.
- Sec. 419. Definitions.

TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT OFFICERS

- Sec. 501. ICE immigration enforcement agents.
- Sec. 502. ICE detention enforcement officers.
- Sec. 503. Ensuring the safety of ICE officers and agents.
- Sec. 504. ICE Advisory Council.
- Sec. 505. Pilot program for electronic field processing.
- Sec. 506. Additional ICE deportation officers and support staff.
- Sec. 507. Additional ICE prosecutors.

TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS

- Sec. 601. Timely repatriation.
- Sec. 602. Encouraging aliens to depart voluntarily.
- Sec. 603. Deterring aliens ordered removed from remaining in the United States unlawfully.

Sec. 604. Reinstatement of removal orders.
 Sec. 605. Clarification with respect to definition of admission.
 Sec. 606. Reports to Congress.
 Sec. 607. Certain activities restricted.
 Sec. 608. GAO study on deaths in custody.
 Sec. 609. Removal proceedings.
 Sec. 610. Eliminating backlog in the immigration court system.
 Sec. 611. Proper filing of income taxes required for good moral character.

1 TITLE I—IMMIGRATION LAW EN- 2 FORCEMENT BY STATES AND 3 LOCALITIES

4 SEC. 101. DEFINITIONS AND SEVERABILITY.

5 (a) **STATE DEFINED.**—For the purposes of this title,
 6 the term “State” has the meaning given to such term in
 7 section 101(a)(36) of the Immigration and Nationality Act
 8 (8 U.S.C. 1101(a)(36)).

9 (b) **SECRETARY DEFINED.**—For the purpose of this
 10 title, the term “Secretary” means the Secretary of Home-
 11 land Security.

12 (c) **SEVERABILITY.**—If any provision of this title, or
 13 the application of such provision to any person or cir-
 14 cumstance, is held invalid, the remainder of this title, and
 15 the application of such provision to other persons not simi-
 16 larly situated or to other circumstances, shall not be af-
 17 fected by such invalidation.

18 SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES 19 AND LOCALITIES.

20 (a) **IN GENERAL.**—Subject to section 274A(h)(2) of
 21 the Immigration and Nationality Act (8 U.S.C.

1 1324a(h)(2)), States, or political subdivisions of States,
2 may enact, implement and enforce criminal penalties that
3 penalize the same conduct that is prohibited in the crimi-
4 nal provisions of immigration laws (as defined in section
5 101(a)(17) of the Immigration and Nationality Act (8
6 U.S.C. 1101(a)(17))), as long as the criminal penalties do
7 not exceed the relevant Federal criminal penalties (without
8 regard to ancillary issues such as the availability of proba-
9 tion or pardon). States, or political subdivisions of States,
10 may enact, implement and enforce civil penalties that pe-
11 nalize the same conduct that is prohibited in the civil pro-
12 visions of immigration laws (as defined in such section
13 101(a)(17)), as long as the civil penalties do not exceed
14 the relevant Federal civil penalties.

15 (b) **LAW ENFORCEMENT PERSONNEL.**—Subject to
16 section 274A(h)(2) of the Immigration and Nationality
17 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of
18 a State, or of a political subdivision of a State, may inves-
19 tigate, identify, apprehend, arrest, detain, or transfer to
20 Federal custody aliens for the purposes of enforcing the
21 immigration laws of the United States to the same extent
22 as Federal law enforcement personnel. Law enforcement
23 personnel of a State, or of a political subdivision of a
24 State, may also investigate, identify, apprehend, arrest, or
25 detain aliens for the purposes of enforcing the immigration

1 laws of a State or of a political subdivision of State, as
2 long as those immigration laws are permissible under this
3 section. Law enforcement personnel of a State, or of a po-
4 litical subdivision of a State, may not admit aliens to or
5 remove them from the United States.

6 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
7 **TIONAL CRIME INFORMATION CENTER DATA-**
8 **BASE.**

9 (a) **PROVISION OF INFORMATION TO THE NCIC.**—
10 Not later than 180 days after the date of the enactment
11 of this Act and periodically thereafter as updates may re-
12 quire, the Secretary shall provide the National Crime In-
13 formation Center of the Department of Justice with all
14 information that the Secretary may possess regarding any
15 alien against whom a final order of removal has been
16 issued, any alien who has entered into a voluntary depar-
17 ture agreement, any alien who has overstayed their au-
18 thorized period of stay, and any alien whose visa has been
19 revoked. The National Crime Information Center shall
20 enter such information into the Immigration Violators File
21 of the National Crime Information Center database, re-
22 gardless of whether—

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

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

1 (3) sufficient identifying information is avail-
2 able with respect to the alien.

3 (b) **INCLUSION OF INFORMATION IN THE NCIC**
4 **DATABASE.—**

5 (1) **IN GENERAL.**—Section 534(a) of title 28,
6 United States Code, is amended—

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

9 (B) by redesignating paragraph (4) as
10 paragraph (5); and

11 (C) by inserting after paragraph (3) the
12 following:

13 “(4) acquire, collect, classify, and preserve
14 records of violations by aliens of the immigration
15 laws of the United States, regardless of whether any
16 such alien has received notice of the violation or
17 whether sufficient identifying information is avail-
18 able with respect to any such alien or whether any
19 such alien has already been removed from the
20 United States; and”.

21 (2) **EFFECTIVE DATE.**—The Attorney General
22 and the Secretary shall ensure that the amendment
23 made by paragraph (1) is implemented by not later
24 than 6 months after the date of the enactment of
25 this Act.

1 **SEC. 104. TECHNOLOGY ACCESS.**

2 States shall have access to Federal programs or tech-
3 nology directed broadly at identifying inadmissible or de-
4 portable aliens.

5 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
6 **SION OF INFORMATION ABOUT APPRE-**
7 **HENDED ALIENS.**

8 (a) **PROVISION OF INFORMATION.**—In compliance
9 with section 642(a) of the Illegal Immigration Reform and
10 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
11 and section 434 of the Personal Responsibility and Work
12 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
13 each State, and each political subdivision of a State, shall
14 provide the Secretary of Homeland Security in a timely
15 manner with the information specified in subsection (b)
16 with respect to each alien apprehended in the jurisdiction
17 of the State, or in the political subdivision of the State,
18 who is believed to be inadmissible or deportable.

19 (b) **INFORMATION REQUIRED.**—The information re-
20 ferred to in subsection (a) is as follows:

- 21 (1) The alien's name.
- 22 (2) The alien's address or place of residence.
- 23 (3) A physical description of the alien.
- 24 (4) The date, time, and location of the encoun-
25 ter with the alien and reason for stopping, detaining,
26 apprehending, or arresting the alien.

1 (5) If applicable, the alien's driver's license
2 number and the State of issuance of such license.

3 (6) If applicable, the type of any other identi-
4 fication document issued to the alien, any designa-
5 tion number contained on the identification docu-
6 ment, and the issuing entity for the identification
7 document.

8 (7) If applicable, the license plate number,
9 make, and model of any automobile registered to, or
10 driven by, the alien.

11 (8) A photo of the alien, if available or readily
12 obtainable.

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

15 (10) If applicable, the phone number and email
16 address pertaining to the alien.

17 (c) **ANNUAL REPORT ON REPORTING.**—The Sec-
18 retary shall maintain and annually submit to the Congress
19 a detailed report listing the States, or the political subdivi-
20 sions of States, that have provided information under sub-
21 section (a) in the preceding year.

22 (d) **REIMBURSEMENT.**—The Secretary shall reim-
23 burse States, and political subdivisions of a State, for all
24 reasonable costs, as determined by the Secretary, incurred

1 by the State, or the political subdivision of a State, as
2 a result of providing information under subsection (a).

3 (e) **CONSTRUCTION.**—Nothing in this section shall re-
4 quire law enforcement officials of a State, or of a political
5 subdivision of a State, to provide the Secretary with infor-
6 mation related to a victim of a crime or witness to a crimi-
7 nal offense.

8 (f) **EFFECTIVE DATE.**—This section shall take effect
9 on the date that is 120 days after the date of the enact-
10 ment of this Act and shall apply with respect to aliens
11 apprehended on or after such date.

12 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
13 **POLICE AGENCIES THAT ASSIST IN THE EN-**
14 **FORCEMENT OF IMMIGRATION LAWS.**

15 (a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING**
16 **AND PROCESSING CERTAIN ALIENS.**—From amounts
17 made available to make grants under this section, the Sec-
18 retary shall make grants to States, and to political subdivi-
19 sions of States, for procurement of equipment, technology,
20 facilities, and other products that facilitate and are di-
21 rectly related to investigating, apprehending, arresting,
22 detaining, or transporting aliens who are inadmissible or
23 deportable, including additional administrative costs in-
24 curred under this title.

1 (b) **ELIGIBILITY.**—To be eligible to receive a grant
2 under this section, a State, or a political subdivision of
3 a State, must have the authority to, and shall have a writ-
4 ten policy and a practice to, assist in the enforcement of
5 the immigration laws of the United States in the course
6 of carrying out the routine law enforcement duties of such
7 State or political subdivision of a State. Entities covered
8 under this section may not have any policy or practice that
9 prevents local law enforcement from inquiring about a sus-
10 pect's immigration status.

11 (c) **GAO AUDIT.**—Not later than 3 years after the
12 date of the enactment of this Act, the Comptroller General
13 of the United States shall conduct an audit of funds dis-
14 tributed to States, and to political subdivisions of a State,
15 under subsection (a).

16 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

17 (a) **CONSTRUCTION OR ACQUISITION OF DETENTION**
18 **FACILITIES.**—

19 (1) **IN GENERAL.**—The Secretary shall con-
20 struct or acquire, in addition to existing facilities for
21 the detention of aliens, detention facilities in the
22 United States, for aliens detained pending removal
23 from the United States or a decision regarding such
24 removal. Each facility shall have a number of beds
25 necessary to effectuate the purposes of this title.

1 (2) **DETERMINATIONS.**—The location of any de-
 2 tention facility built or acquired in accordance with
 3 this subsection shall be determined by the Secretary.

4 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
 5 Section 241(g)(1) of the Immigration and Nationality Act
 6 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
 7 pend” and inserting “shall expend”.

8 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
 9 **PORTABLE ALIENS IN THE UNITED STATES**
 10 **APPREHENDED BY STATE OR LOCAL LAW EN-**
 11 **FORCEMENT.**

12 (a) **STATE APPREHENSION.**—

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

17 **“CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS**
 18 **PRESENT IN THE UNITED STATES**

19 **“SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE**
 20 **AND LOCAL OFFICIALS.**—If a State, or a political subdivi-
 21 sion of the State, exercising authority with respect to the
 22 apprehension or arrest of an inadmissible or deportable
 23 alien submits to the Secretary of Homeland Security a re-
 24 quest that the alien be taken into Federal custody, not-
 25 withstanding any other provision of law, regulation, or pol-
 26 icy the Secretary shall—

1 “(1) request that the relevant State or local law
2 enforcement agency temporarily hold the alien in
3 their custody or transport the alien for transfer to
4 Federal custody; and

5 “(2) if the State or local law enforcement agen-
6 cy is unable to transport the alien for transfer to
7 Federal custody, take the alien into custody not
8 later than 48 hours (excluding Saturdays, Sundays,
9 and holidays) after the alien’s release from the cus-
10 tody of the State or political subdivision of the
11 State.

12 “(b) **POLICY ON DETENTION IN FEDERAL, CON-**
13 **TRACT, STATE, OR LOCAL DETENTION FACILITIES.**—In
14 carrying out section 241(g)(1), the Attorney General or
15 Secretary of Homeland Security shall ensure that an alien
16 arrested under this title shall be held in custody, pending
17 the alien’s examination under this section, in a Federal,
18 contract, State, or local prison, jail, detention center, or
19 other comparable facility. Notwithstanding any other pro-
20 vision of law, regulation or policy, such facility is adequate
21 for detention, if—

22 “(1) such a facility is the most suitably located
23 Federal, contract, State, or local facility available for
24 such purpose under the circumstances;

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

3 “(3) the facility satisfies the standards for the
4 housing, care, and security of persons held in cus-
5 tody by a United States Marshal.

6 “(c) **REIMBURSEMENT.**—The Secretary of Homeland
7 Security shall reimburse a State, and a political subdivi-
8 sion of a State, for all reasonable expenses, as determined
9 by the Secretary, incurred by the State, or political sub-
10 division, as a result of the incarceration and transpor-
11 tation of an alien who is inadmissible or deportable as de-
12 scribed in subsections (a) and (b). Compensation provided
13 for costs incurred under such subsections shall be the av-
14 erage cost of incarceration of a prisoner in the relevant
15 State, as determined by the chief executive officer of a
16 State, or of a political subdivision of a State, plus the cost
17 of transporting the alien from the point of apprehension
18 to the place of detention, and to the custody transfer point
19 if the place of detention and place of custody are different.

20 “(d) **SECURE FACILITIES.**—The Secretary of Home-
21 land Security shall ensure that aliens incarcerated pursu-
22 ant to this title are held in facilities that provide an appro-
23 priate level of security.

24 “(e) **TRANSFER.**—

1 “(1) **IN GENERAL.**—In carrying out this sec-
 2 tion, the Secretary of Homeland Security shall es-
 3 tablish a regular circuit and schedule for the prompt
 4 transfer of apprehended aliens from the custody of
 5 States, and political subdivisions of a State, to Fed-
 6 eral custody.

7 “(2) **CONTRACTS.**—The Secretary may enter
 8 into contracts, including appropriate private con-
 9 tracts, to implement this subsection.”.

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

“Sec. 240D. Custody of inadmissible and deportable aliens present in the
 United States.”.

13 (b) **GAO AUDIT.**—Not later than 3 years after the
 14 date of the enactment of this Act, the Comptroller General
 15 of the United States shall conduct an audit of compensa-
 16 tion to States, and to political subdivisions of a State, for
 17 the incarceration of inadmissible or deportable aliens
 18 under section 240D(a) of the Immigration and Nationality
 19 Act (as added by subsection (a)(1)).

20 (c) **EFFECTIVE DATE.**—Section 240D of the Immi-
 21 gration and Nationality Act, as added by subsection (a),
 22 shall take effect on the date of the enactment of this Act,
 23 except that subsection (e) of such section shall take effect

1 on the date that is 120 day after the date of the enactment
2 of this Act.

3 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
4 **MENT PERSONNEL RELATING TO THE EN-**
5 **FORCEMENT OF IMMIGRATION LAWS.**

6 (a) **ESTABLISHMENT OF TRAINING MANUAL AND**
7 **POCKET GUIDE.**—Not later than 180 days after the date
8 of the enactment of this Act, the Secretary shall estab-
9 lish—

10 (1) a training manual for law enforcement per-
11 sonnel of a State, or of a political subdivision of a
12 State, to train such personnel in the investigation,
13 identification, apprehension, arrest, detention, and
14 transfer to Federal custody of inadmissible and de-
15 portable aliens in the United States (including the
16 transportation of such aliens across State lines to
17 detention centers and the identification of fraudulent
18 documents); and

19 (2) an immigration enforcement pocket guide
20 for law enforcement personnel of a State, or of a po-
21 litical subdivision of a State, to provide a quick ref-
22 erence for such personnel in the course of duty.

23 (b) **AVAILABILITY.**—The training manual and pocket
24 guide established in accordance with subsection (a) shall

1 be made available to all State and local law enforcement
2 personnel.

3 (c) **APPLICABILITY.**—Nothing in this section shall be
4 construed to require State or local law enforcement per-
5 sonnel to carry the training manual or pocket guide with
6 them while on duty.

7 (d) **COSTS.**—The Secretary shall be responsible for
8 any costs incurred in establishing the training manual and
9 pocket guide.

10 (e) **TRAINING FLEXIBILITY.**—

11 (1) **IN GENERAL.**—The Secretary shall make
12 training of State and local law enforcement officers
13 available through as many means as possible, includ-
14 ing through residential training at the Center for
15 Domestic Preparedness, onsite training held at State
16 or local police agencies or facilities, online training
17 courses by computer, teleconferencing, and video-
18 tape, or the digital video display (DVD) of a train-
19 ing course or courses. E-learning through a secure,
20 encrypted distributed learning system that has all its
21 servers based in the United States, is scalable, sur-
22 vivable, and can have a portal in place not later than
23 30 days after the date of the enactment of this Act,
24 shall be made available by the Federal Law Enforce-

1 ment Training Center Distributed Learning Pro-
2 gram for State and local law enforcement personnel.

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

7 (3) **CLARIFICATION.**—Nothing in this title or
8 any other provision of law shall be construed as
9 making any immigration-related training a require-
10 ment for, or prerequisite to, any State or local law
11 enforcement officer to assist in the enforcement of
12 Federal immigration laws.

13 (4) **PRIORITY.**—In carrying out this subsection,
14 priority funding shall be given for existing web-based
15 immigration enforcement training systems.

16 **SEC. 110. IMMUNITY.**

17 Notwithstanding any other provision of law, a law en-
18 forcement officer of a State or local law enforcement agen-
19 cy who is acting within the scope of the officer's official
20 duties shall be immune, to the same extent as a Federal
21 law enforcement officer, from personal liability arising out
22 of the performance of any duty described in this title, in-
23 cluding the authorities to investigate, identify, apprehend,
24 arrest, detain, or transfer to Federal custody, an alien for
25 the purposes of enforcing the immigration laws of the

1 United States (as defined in section 101(a)(17) of the Im-
2 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or
3 the immigration laws of a State or a political subdivision
4 of a State.

5 **SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

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

7 (1) **IN GENERAL.**—The Secretary shall continue
8 to operate and implement a program that—

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

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

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

15 (2) **EXPANSION.**—The program shall be ex-
16 tended to all States. Any State that receives Federal
17 funds for the incarceration of criminal aliens (pursu-
18 ant to the State Criminal Alien Assistance Program
19 authorized under section 241(i) of the Immigration
20 and Nationality Act (8 U.S.C. 1231(i)) or other
21 similar program) shall—

22 (A) cooperate with officials of the program;

23 (B) expeditiously and systematically iden-
24 tify criminal aliens in its prison and jail popu-
25 lations; and

1 (C) promptly convey such information to
2 officials of such program as a condition of re-
3 ceiving such funds.

4 (b) **AUTHORIZATION FOR DETENTION AFTER COM-**
5 **PLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law
6 enforcement officers of a State, or of a political subdivision
7 of a State, are authorized to—

8 (1) hold a criminal alien for a period of up to
9 48 hours (excluding Saturdays, Sundays, and holi-
10 days) after the alien has completed the alien's sen-
11 tence under State or local law in order to effectuate
12 the transfer of the alien to Federal custody when the
13 alien is inadmissible or deportable; or

14 (2) issue a detainer that would allow aliens who
15 have served a prison sentence under State or local
16 law to be detained by the State or local prison or jail
17 until the Secretary can take the alien into custody.

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

1 (d) **EFFECTIVE DATE.**—This section shall take effect
2 of the date of the enactment of this Act, except that sub-
3 section (a)(2) shall take effect on the date that is 180 days
4 after such date.

5 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

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

8 (1) in paragraph (1) by striking “may enter”
9 and all that follows through the period at the end
10 and inserting the following: “shall enter into a writ-
11 ten agreement with a State, or any political subdivi-
12 sion of a State, upon request of the State or political
13 subdivision, pursuant to which an officer or em-
14 ployee of the State or subdivision, who is determined
15 by the Secretary to be qualified to perform a func-
16 tion of an immigration officer in relation to the in-
17 vestigation, apprehension, or detention of aliens in
18 the United States (including the transportation of
19 such aliens across State lines to detention centers),
20 may carry out such function at the expense of the
21 State or political subdivision and to extent consistent
22 with State and local law. No request from a bona
23 fide State or political subdivision or bona fide law
24 enforcement agency shall be denied absent a compel-
25 ling reason. No limit on the number of agreements

1 under this subsection may be imposed. The Sec-
2 retary shall process requests for such agreements
3 with all due haste, and in no case shall take not
4 more than 90 days from the date the request is
5 made until the agreement is consummated.”;

6 (2) by redesignating paragraph (2) as para-
7 graph (5) and paragraphs (3) through (10) as para-
8 graphs (7) through (14), respectively;

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

11 “(2) An agreement under this subsection shall accom-
12 modate a requesting State or political subdivision with re-
13 spect to the enforcement model or combination of models,
14 and shall accommodate a patrol model, task force model,
15 jail model, any combination thereof, or any other reason-
16 able model the State or political subdivision believes is best
17 suited to the immigration enforcement needs of its juris-
18 diction.

19 “(3) No Federal program or technology directed
20 broadly at identifying inadmissible or deportable aliens
21 shall substitute for such agreements, including those es-
22 tablishing a jail model, and shall operate in addition to
23 any agreement under this subsection.

24 “(4)(A) No agreement under this subsection shall be
25 terminated absent a compelling reason.

1 “(B)(i) The Secretary shall provide a State or polit-
2 ical subdivision written notice of intent to terminate at
3 least 180 days prior to date of intended termination, and
4 the notice shall fully explain the grounds for termination,
5 along with providing evidence substantiating the Sec-
6 retary’s allegations.

7 “(ii) The State or political subdivision shall have a
8 cause of action against the Secretary in a United States
9 District Court within the State regarding the termination
10 of the agreement, and if the ruling is against the State
11 or political subdivision, to appeal the ruling to the Federal
12 Circuit Court of Appeals and, if the ruling is against the
13 State or political subdivision, to the Supreme Court.

14 “(C) The agreement shall remain in full effect during
15 the course of any and all legal proceedings.”; and

16 (4) by inserting after paragraph (5) (as redesign-
17 nated) the following:

18 “(6) The Secretary of Homeland Security shall make
19 training of State and local law enforcement officers avail-
20 able through as many means as possible, including
21 through residential training at the Center for Domestic
22 Preparedness and the Federal Law Enforcement Training
23 Center, onsite training held at State or local police agen-
24 cies or facilities, online training courses by computer, tele-
25 conferencing, and videotape, or the digital video display

1 (DVD) of a training course or courses. Distance learning
 2 through a secure, encrypted distributed learning system
 3 that has all its servers based in the United States, is scal-
 4 able, survivable, and can have a portal in place not later
 5 than 30 days after the date of the enactment of this Act,
 6 shall be made available by the COPS Office of the Depart-
 7 ment of Justice and the Federal Law Enforcement Train-
 8 ing Center Distributed Learning Program for State and
 9 local law enforcement personnel. Preference shall be given
 10 to private sector-based web-based immigration enforce-
 11 ment training programs for which the Federal Govern-
 12 ment has already provided support to develop.”.

13 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
 14 **(SCAAP).**

15 Section 241(i) of the Immigration and Nationality
 16 Act (8 U.S.C. 1231(i)) is amended—

17 (1) by striking “Attorney General” the first
 18 place such term appears and inserting “Secretary of
 19 Homeland Security”;

20 (2) by striking “Attorney General” each place
 21 such term appears thereafter and inserting “Sec-
 22 retary”; and

23 (3) in paragraph (3)(A), by inserting “charged
 24 with or” before “convicted”.

1 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**
 2 **GRATION LAWS.**

3 (a) **IN GENERAL.**—Section 642 of the Illegal Immi-
 4 gration Reform and Immigrant Responsibility Act of 1996
 5 (8 U.S.C. 1373) is amended—

6 (1) by striking “Immigration and Naturaliza-
 7 tion Service” each place it appears and inserting
 8 “Department of Homeland Security”;

9 (2) in subsection (a), by striking “may” and in-
 10 serting “shall”;

11 (3) in subsection (b)—

12 (A) by striking “no person or agency may”
 13 and inserting “a person or agency shall not”;

14 (B) by striking “doing any of the following
 15 with respect to information” and inserting “un-
 16 dertaking any of the following law enforcement
 17 activities”; and

18 (C) by striking paragraphs (1) through (3)
 19 and inserting the following:

20 “(1) Notifying the Federal Government regard-
 21 ing the presence of inadmissible and deportable
 22 aliens who are encountered by law enforcement per-
 23 sonnel of a State or political subdivision of a State.

24 “(2) Complying with requests for information
 25 from Federal law enforcement.

1 “(3) Issuing policies in the form of a resolu-
2 tions, ordinances, administrative actions, general or
3 special orders, or departmental policies that violate
4 Federal law or restrict a State or political subdivi-
5 sion of a State from complying with Federal law or
6 coordinating with Federal law enforcement.”; and

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

8 “(d) COMPLIANCE.—

9 “(1) IN GENERAL.—A State, or a political sub-
10 division of a State, that has in effect a statute, pol-
11 icy, or practice that prohibits law enforcement offi-
12 cers of the State, or of a political subdivision of the
13 State, from assisting or cooperating with Federal
14 immigration law enforcement in the course of car-
15 rying out the officers’ routine law enforcement du-
16 ties shall not be eligible to receive—

17 “(A) any of the funds that would otherwise
18 be allocated to the State or political subdivision
19 under section 241(i) of the Immigration and
20 Nationality Act (8 U.S.C. 1231(i)) or the ‘Cops
21 on the Beat’ program under part Q of title I of
22 the Omnibus Crime Control and Safe Streets
23 Act of 1968 (42 U.S.C. 3796dd et seq.); or

24 “(B) any other law enforcement or Depart-
25 ment of Homeland Security grant.

1 “(2) **ANNUAL DETERMINATION.**—The Secretary
2 shall determine annually which State or political
3 subdivision of a State are not in compliance with
4 this section and shall report such determinations to
5 Congress on March 1 of each year.

6 “(3) **REPORTS.**—The Attorney General shall
7 issue a report concerning the compliance of any par-
8 ticular State or political subdivision at the request of
9 the House or Senate Judiciary Committee. Any ju-
10 risdiction that is found to be out of compliance shall
11 be ineligible to receive Federal financial assistance
12 as provided in paragraph (1) for a minimum period
13 of 1 year, and shall only become eligible again after
14 the Attorney General certifies that the jurisdiction is
15 in compliance.

16 “(4) **REALLOCATION.**—Any funds that are not
17 allocated to a State or to a political subdivision of
18 a State, due to the failure of the State, or of the po-
19 litical subdivision of the State, to comply with sub-
20 section (c) shall be reallocated to States, or to polit-
21 ical subdivisions of States, that comply with such
22 subsection.

23 “(e) **CONSTRUCTION.**—Nothing in this section shall
24 require law enforcement officials from States, or from po-

1 litical subdivisions of States, to report or arrest victims
2 or witnesses of a criminal offense.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act, except that subsection (d) of section 642 of
6 the Illegal Immigration Reform and Immigrant Responsi-
7 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
8 tion, shall take effect beginning one year after the date
9 of the enactment of this Act.

10 **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

11 (a) **IN GENERAL.**—Except as otherwise provided by
12 Federal law or rule of procedure, the Secretary of Home-
13 land Security shall execute all lawful writs, process, and
14 orders issued under the authority of the United States,
15 and shall command all necessary assistance to execute the
16 Secretary’s duties.

17 (b) **STATE AND LOCAL COOPERATION WITH DHS**
18 **DETAINERS.**—A State, or a political subdivision of a
19 State, that has in effect a statute or policy or practice
20 providing that it not comply with any Department of
21 Homeland Security detainer ordering that it temporarily
22 hold an alien in their custody so that the alien may be
23 taken into Federal custody, or transport the alien for
24 transfer to Federal custody, shall not be eligible to re-
25 ceive—

1 (1) any of the funds that would otherwise be al-
2 located to the State or political subdivision under
3 section 241(i) of the Immigration and Nationality
4 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
5 program under part Q of title I of the Omnibus
6 Crime Control and Safe Streets Act of 1968 (42
7 U.S.C. 3796dd et seq.); or

8 (2) any other law enforcement or Department
9 of Homeland Security grant.

10 (c) **IMMUNITY.**—A State or a political subdivision of
11 a State acting in compliance with a Department of Home-
12 land Security detainer who temporarily holds aliens in its
13 custody so that they may be taken into Federal custody,
14 or transports the aliens for transfer to Federal custody,
15 shall be considered to be acting under color of Federal
16 authority for purposes of determining its liability, and im-
17 munity from suit, in civil actions brought by the aliens
18 under Federal or State law.

19 (d) **PROBABLE CAUSE.**—It is the sense of Congress
20 that the Department of Homeland Security has probable
21 cause to believe that an alien is inadmissible or deportable
22 when it issues a detainer regarding such alien under the
23 standards in place on the date of introduction of this Act.

1 **TITLE II—NATIONAL SECURITY**

2 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
 3 **RORIST ALIENS.**

4 (a) **ASYLUM.**—Section 208(b)(2)(A) of the Immigra-
 5 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
 6 amended—

7 (1) by inserting “or the Secretary of Homeland
 8 Security” after “if the Attorney General”; and

9 (2) by amending clause (v) to read as follows:

10 “(v) the alien is described in subpara-
 11 graph (B)(i) or (F) of section 212(a)(3),
 12 unless, in the case of an alien described in
 13 subparagraph (IV) of section
 14 212(a)(3)(B)(i), the Secretary of Home-
 15 land Security or the Attorney General de-
 16 termines, in the discretion of the Secretary
 17 or the Attorney General, that there are not
 18 reasonable grounds for regarding the alien
 19 as a danger to the security of the United
 20 States; or”.

21 (b) **CANCELLATION OF REMOVAL.**—Section
 22 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-
 23 ed—

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

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

3 (c) **VOLUNTARY DEPARTURE.**—Section
 4 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is
 5 amended by striking “deportable under section
 6 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-
 7 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

8 (d) **RESTRICTION ON REMOVAL.**—Section
 9 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
 10 amended—

11 (1) in the matter preceding clause (i), by insert-
 12 ing “or the Secretary of Homeland Security” after
 13 “Attorney General” each place it appears;

14 (2) in clause (iii), by striking “or” at the end;

15 (3) in clause (iv), by striking the period at the
 16 end and inserting a semicolon;

17 (4) by striking the flush matter that follows
 18 after clause (iv); and

19 (5) by inserting after clause (iv) the following:

20 “(v) the alien is described in subpara-
 21 graph (B)(i) or (F) of section 212(a)(3);
 22 or”.

23 (e) **RECORD OF ADMISSION.**—

24 (1) **IN GENERAL.**—Section 249 of such Act (8
 25 U.S.C. 1259) is amended to read as follows:

1 “RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN
2 THE CASE OF CERTAIN ALIENS WHO ENTERED THE
3 UNITED STATES PRIOR TO JANUARY 1, 1972

4 “SEC. 249. The Secretary of Homeland Security, in
5 the discretion of the Secretary and under such regulations
6 as the Secretary may prescribe, may enter a record of law-
7 ful admission for permanent residence in the case of any
8 alien, if no such record is otherwise available and the
9 alien—

10 “(1) entered the United States before January
11 1, 1972;

12 “(2) has continuously resided in the United
13 States since such entry;

14 “(3) has been a person of good moral character
15 since such entry;

16 “(4) is not ineligible for citizenship;

17 “(5) is not described in paragraph (1)(A)(iv),
18 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

19 “(6) did not, at any time, without reasonable
20 cause fail or refuse to attend or remain in attend-
21 ance at a proceeding to determine the alien’s inad-
22 missibility or deportability.

23 Such recordation shall be effective as of the date of ap-
24 proval of the application or as of the date of entry if such
25 entry occurred prior to July 1, 1924.”.

(2) **CLERICAL AMENDMENT.**—The table of contents for such Act is amended by amending the item relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to January 1, 1972.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3), and 249 of the Immigration and Nationality Act, as so amended, shall apply to—

9 (1) all aliens in removal, deportation, or exclu-
10 sion proceedings;

11 (2) all applications pending on, or filed after,
12 the date of the enactment of this Act; and

(3) with respect to aliens and applications described in paragraph (1) or (2) of this subsection, acts and conditions constituting a ground for exclusion, deportation, or removal occurring or existing before, on, or after the date of the enactment of this Act.

19 SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) DEFINITION OF GOOD MORAL CHARACTER.—
Section 101(f) of the Immigration and Nationality Act (8
U.S.C. 1101(f)) is amended—

(1) in the matter preceding paragraph (1), by
striking “who, during the period for which good

1 moral character is required to be established, is,”
2 and inserting “who is”;

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

5 “(2) one who the Secretary of Homeland Secu-
6 rity or Attorney General determines to have been at
7 any time an alien described in section 212(a)(3) or
8 237(a)(4), which determination may be based upon
9 any relevant information or evidence, including clas-
10 sified, sensitive, or national security information;”;

11 (3) in paragraph (8), by striking “subsection
12 (a)(43));” and inserting “subsection (a)(43)), re-
13 gardless whether the crime was classified as an ag-
14 gravated felony at the time of conviction;”; and

15 (4) in the matter following paragraph (9), by
16 striking the first sentence and inserting the fol-
17 lowing: “The fact that any person is not within any
18 of the foregoing classes shall not preclude a discre-
19 tionary finding for other reasons that such a person
20 is or was not of good moral character. The Secretary
21 or the Attorney General shall not be limited to the
22 applicant’s conduct during the period for which good
23 moral character is required, but may take into con-
24 sideration as a basis for determination the appli-
25 cant’s conduct and acts at any time.”.

1 (b) **AGGRAVATED FELONS**.—Section 509(b) of the
 2 Immigration Act of 1990 (8 U.S.C. 1101 note) is amended
 3 to read as follows:

4 “(b) **EFFECTIVE DATE**.—The amendment made by
 5 subsection (a) shall take effect on November 29, 1990,
 6 and shall apply to convictions occurring before, on or after
 7 such date.”.

8 (c) **TECHNICAL CORRECTION TO THE INTELLIGENCE**
 9 **REFORM ACT**.—Section 5504(2) of the Intelligence Re-
 10 form and Terrorism Prevention Act of 2004 (Public Law
 11 108–458) is amended by striking “adding at the end” and
 12 inserting “inserting after paragraph (8)”.

13 (d) **EFFECTIVE DATE**.—The amendments made by
 14 subsections (a) and (b) shall take effect on the date of
 15 enactment of this Act, shall apply to any act that occurred
 16 before, on, or after such date and shall apply to any appli-
 17 cation for naturalization or any other benefit or relief, or
 18 any other case or matter under the immigration laws
 19 pending on or filed after such date. The amendments
 20 made by subsection (c) shall take effect as if enacted in
 21 the Intelligence Reform and Terrorism Prevention Act of
 22 2004 (Public Law 108–458).

23 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

24 (a) **NATURALIZATION OF PERSONS ENDANGERING**
 25 **THE NATIONAL SECURITY**.—Section 316 of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1427) is amended by
2 adding at the end the following:

3 “(g) **PERSONS ENDANGERING THE NATIONAL SECU-**
4 **RITY.**—No person shall be naturalized who the Secretary
5 of Homeland Security determines to have been at any time
6 an alien described in section 212(a)(3) or 237(a)(4). Such
7 determination may be based upon any relevant informa-
8 tion or evidence, including classified, sensitive, or national
9 security information.”.

10 (b) **CONCURRENT NATURALIZATION AND REMOVAL**
11 **PROCEEDINGS.**—Section 318 of the Immigration and Na-
12 tionality Act (8 U.S.C. 1429) is amended by striking
13 “other Act;” and inserting “other Act; and no application
14 for naturalization shall be considered by the Secretary of
15 Homeland Security or any court if there is pending
16 against the applicant any removal proceeding or other pro-
17 ceeding to determine the applicant’s inadmissibility or de-
18 portability, or to determine whether the applicant’s lawful
19 permanent resident status should be rescinded, regardless
20 of when such proceeding was commenced: *Provided*, That
21 the findings of the Attorney General in terminating re-
22 moval proceedings or in canceling the removal of an alien
23 pursuant to the provisions of this Act, shall not be deemed
24 binding in any way upon the Secretary of Homeland Secu-
25 rity with respect to the question of whether such person

1 has established his eligibility for naturalization as required
2 by this title;”.

3 (c) **PENDING DENATURALIZATION OR REMOVAL**
4 **PROCEEDINGS.**—Section 204(b) of the Immigration and
5 Nationality Act (8 U.S.C. 1154(b)) is amended by adding
6 at the end the following: “No petition shall be approved
7 pursuant to this section if there is any administrative or
8 judicial proceeding (whether civil or criminal) pending
9 against the petitioner that could (whether directly or indi-
10 rectly) result in the petitioner’s denaturalization or the
11 loss of the petitioner’s lawful permanent resident status.”.

12 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sec-
13 tions 216(e) and section 216A(e) of the Immigration and
14 Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are
15 each amended by striking the period at the end and insert-
16 ing “, if the alien has had the conditional basis removed
17 pursuant to this section.”.

18 (e) **DISTRICT COURT JURISDICTION.**—Subsection
19 336(b) of the Immigration and Nationality Act (8 U.S.C.
20 1447(b)) is amended to read as follows:

21 “(b) If there is a failure to render a final administra-
22 tive decision under section 335 before the end of the 180-
23 day period after the date on which the Secretary of Home-
24 land Security completes all examinations and interviews
25 conducted under such section, as such terms are defined

1 by the Secretary of Homeland Security pursuant to regu-
2 lations, the applicant may apply to the district court for
3 the district in which the applicant resides for a hearing
4 on the matter. Such court shall only have jurisdiction to
5 review the basis for delay and remand the matter to the
6 Secretary of Homeland Security for the Secretary's deter-
7 mination on the application."

8 (f) **CONFORMING AMENDMENT.**—Section 310(c) of
9 the Immigration and Nationality Act (8 U.S.C. 1421(c))
10 is amended—

11 (1) by inserting “, not later than the date that
12 is 120 days after the Secretary of Homeland Secu-
13 rity's final determination,” after “seek”; and

14 (2) by striking the second sentence and insert-
15 ing the following: “The burden shall be upon the pe-
16 titioner to show that the Secretary's denial of the
17 application was not supported by facially legitimate
18 and bona fide reasons. Except in a proceeding under
19 section 340, notwithstanding any other provision of
20 law (statutory or nonstatutory), including section
21 2241 of title 28, United States Code, or any other
22 habeas corpus provision, and sections 1361 and
23 1651 of such title, no court shall have jurisdiction
24 to determine, or to review a determination of the
25 Secretary made at any time regarding, whether, for

1 purposes of an application for naturalization, an
2 alien is a person of good moral character, whether
3 the alien understands and is attached to the prin-
4 ciples of the Constitution of the United States, or
5 whether an alien is well disposed to the good order
6 and happiness of the United States.”.

7 (g) **EFFECTIVE DATE.**—The amendments made by
8 this section shall take effect on the date of enactment of
9 this Act, shall apply to any act that occurred before, on,
10 or after such date, and shall apply to any application for
11 naturalization or any other case or matter under the immi-
12 gration laws pending on, or filed after, such date.

13 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

14 (a) **IN GENERAL.**—Section 340 of the Immigration
15 and Nationality Act is amended—

16 (1) by redesignating subsections (f) through (h)
17 as subsections (g) through (i), respectively; and

18 (2) by inserting after subsection (e) the fol-
19 lowing:

20 “(f)(1) If a person who has been naturalized partici-
21 pates in any act described in paragraph (2), the Attorney
22 General is authorized to find that, as of the date of such
23 naturalization, such person was not attached to the prin-
24 ciples of the Constitution of the United States and was
25 not well disposed to the good order and happiness of the

1 United States at the time of naturalization, and upon such
2 finding shall set aside the order admitting such person to
3 citizenship and cancel the certificate of naturalization as
4 having been obtained by concealment of a material fact
5 or by willful misrepresentation, and such revocation and
6 setting aside of the order admitting such person to citizen-
7 ship and such canceling of certificate of naturalization
8 shall be effective as of the original date of the order and
9 certificate, respectively.

10 “(2) The acts described in this paragraph are the fol-
11 lowing:

12 “(A) Any activity a purpose of which is the op-
13 position to, or the control or overthrow of, the Gov-
14 ernment of the United States by force, violence, or
15 other unlawful means.

16 “(B) Engaging in a terrorist activity (as de-
17 fined in clauses (iii) and (iv) of section
18 212(a)(3)(B)).

19 “(C) Incitement of terrorist activity under cir-
20 cumstances indicating an intention to cause death or
21 serious bodily harm.

22 “(D) Receiving military-type training (as de-
23 fined in section 2339D(c)(1) of title 18, United
24 States Code) from or on behalf of any organization
25 that, at the time the training was received, was a

1 terrorist organization (as defined in section
2 212(a)(3)(B)(vi)).”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to acts that occur on
6 or after such date.

7 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
8 **FOR NATIONAL SECURITY PURPOSES.**

9 (a) **SPECIAL AGRICULTURAL WORKERS.**—Section
10 210(b)(6) of the Immigration and Nationality Act (8
11 U.S.C. 1160(b)(6)) is amended—

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

15 (2) in subparagraph (A), by striking “Depart-
16 ment of Justice,” and inserting “Department of
17 Homeland Security,”;

18 (3) by redesignating subparagraphs (C) and
19 (D) as subparagraphs (D) and (E), respectively;

20 (4) by inserting after subparagraph (B) the fol-
21 lowing:

22 “(C) **AUTHORIZED DISCLOSURES.**—

23 “(i) **CENSUS PURPOSE.**—The Sec-
24 retary of Homeland Security may provide,
25 in his discretion, for the furnishing of in-

1 formation furnished under this section in
2 the same manner and circumstances as
3 census information may be disclosed under
4 section 8 of title 13, United States Code.

5 “(ii) **NATIONAL SECURITY PUR-**
6 **POSE.**—The Secretary of Homeland Secu-
7 rity may provide, in his discretion, for the
8 furnishing, use, publication, or release of
9 information furnished under this section in
10 any investigation, case, or matter, or for
11 any purpose, relating to terrorism, national
12 intelligence or the national security.”; and

13 (5) in subparagraph (D), as redesignated, by
14 striking “Service” and inserting “Department of
15 Homeland Security”.

16 (b) **ADJUSTMENT OF STATUS UNDER THE IMMIGRA-**
17 **TION REFORM AND CONTROL ACT OF 1986.**—Section
18 245A(c)(5) of the Immigration and Nationality Act (8
19 U.S.C. 1255a(c)(5)), is amended—

20 (1) by striking “Attorney General” each place
21 such term appears and inserting “Secretary of
22 Homeland Security”;

23 (2) in subparagraph (A), by striking “Depart-
24 ment of Justice,” and inserting “Department of
25 Homeland Security,”;

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

3 “(C) **AUTHORIZED DISCLOSURES.**—

4 “(i) **CENSUS PURPOSE.**—The Sec-
 5 retary of Homeland Security may provide,
 6 in his discretion, for the furnishing of in-
 7 formation furnished under this section in
 8 the same manner and circumstances as
 9 census information may be disclosed under
 10 section 8 of title 13, United States Code.

11 “(ii) **NATIONAL SECURITY PUR-**
 12 **POSE.**—The Secretary of Homeland Secu-
 13 rity may provide, in his discretion, for the
 14 furnishing, use, publication, or release of
 15 information furnished under this section in
 16 any investigation, case, or matter, or for
 17 any purpose, relating to terrorism, national
 18 intelligence or the national security.”; and

19 (4) in subparagraph (D)(i), striking “Service”
 20 and inserting “Department of Homeland Security”.

21 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

22 (a) **REQUIREMENT TO COMPLETE BACKGROUND AND**
 23 **SECURITY CHECKS.**—Section 103 of the Immigration and
 24 Nationality Act (8 U.S.C. 1103) is amended by adding
 25 at the end the following:

1 “(h) Notwithstanding any other provision of law
2 (statutory or nonstatutory), including but not limited to
3 section 309 of Public Law 107–173, sections 1361 and
4 1651 of title 28, United States Code, and section 706(1)
5 of title 5, United States Code, neither the Secretary of
6 Homeland Security, the Attorney General, nor any court
7 may—

8 “(1) grant, or order the grant of or adjudica-
9 tion of an application for adjustment of status to
10 that of an alien lawfully admitted for permanent res-
11 idence;

12 “(2) grant, or order the grant of or adjudica-
13 tion of an application for United States citizenship
14 or any other status, relief, protection from removal,
15 employment authorization, or other benefit under
16 the immigration laws;

17 “(3) grant, or order the grant of or adjudica-
18 tion of, any immigrant or nonimmigrant petition; or

19 “(4) issue or order the issuance of any docu-
20 mentation evidencing or related to any such grant,
21 until such background and security checks as the
22 Secretary may in his discretion require have been
23 completed or updated to the satisfaction of the Sec-
24 retary.

1 “(i) Notwithstanding any other provision of law (stat-
2 utory or nonstatutory), including but not limited to section
3 309 of Public Law 107–173, sections 1361 and 1651 of
4 title 28, United States Code, and section 706(1) of title
5 5, United States Code, neither the Secretary of Homeland
6 Security nor the Attorney General may be required to—

7 “(1) grant, or order the grant of or adjudica-
8 tion of an application for adjustment of status to
9 that of an alien lawfully admitted for permanent res-
10 idence,

11 “(2) grant, or order the grant of or adjudica-
12 tion of an application for United States citizenship
13 or any other status, relief, protection from removal,
14 employment authorization, or other benefit under
15 the immigration laws,

16 “(3) grant, or order the grant of or adjudica-
17 tion of, any immigrant or nonimmigrant petition, or

18 “(4) issue or order the issuance of any docu-
19 mentation evidencing or related to any such grant,
20 until any suspected or alleged materially false infor-
21 mation, material misrepresentation or omission, con-
22 cealment of a material fact, fraud or forgery, coun-
23 terfeiting, or alteration, or falsification of a docu-
24 ment, as determined by the Secretary, relating to
25 the adjudication of an application or petition for any

1 status (including the granting of adjustment of sta-
2 tus), relief, protection from removal, or other benefit
3 under this subsection has been investigated and re-
4 solved to the Secretary's satisfaction.

5 “(j) Notwithstanding any other provision of law (stat-
6 utory or nonstatutory), including section 309 of the En-
7 hanced Border Security and Visa Entry Reform Act (8
8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
9 States Code, and section 706(1) of title 5, United States
10 Code, no court shall have jurisdiction to require any of
11 the acts in subsection (h) or (i) to be completed by a cer-
12 tain time or award any relief for failure to complete or
13 delay in completing such acts.”.

14 (b) **CONSTRUCTION.**—

15 (1) **IN GENERAL.**—Chapter 4 of title III of the
16 Immigration and Nationality Act (8 U.S.C. 1501 et
17 seq.) is amended by adding at the end the following:

18 “**CONSTRUCTION**

19 “**SEC. 362. (a) IN GENERAL.**—Nothing in this Act
20 or any other law, except as provided in subsection (d),
21 shall be construed to require the Secretary of Homeland
22 Security, the Attorney General, the Secretary of State, the
23 Secretary of Labor, or a consular officer to grant any ap-
24 plication, approve any petition, or grant or continue any
25 relief, protection from removal, employment authorization,

1 or any other status or benefit under the immigration laws
2 by, to, or on behalf of—

3 “(1) any alien deemed by the Secretary to be
4 described in section 212(a)(3) or section 237(a)(4);
5 or

6 “(2) any alien with respect to whom a criminal
7 or other proceeding or investigation is open or pend-
8 ing (including, but not limited to, issuance of an ar-
9 rest warrant, detainer, or indictment), where such
10 proceeding or investigation is deemed by the official
11 described in subsection (a) to be material to the
12 alien’s eligibility for the status or benefit sought.

13 “(b) **DENIAL OR WITHHOLDING OF ADJUDICA-**
14 **TION.**—An official described in subsection (a) may, in the
15 discretion of the official, deny (with respect to an alien
16 described in paragraph (1) or (2) of subsection (a)) or
17 withhold adjudication of pending resolution of the inves-
18 tigation or case (with respect to an alien described in sub-
19 section (a)(2) of this section) any application, petition, re-
20 lief, protection from removal, employment authorization,
21 status or benefit.

22 “(c) **JURISDICTION.**—Notwithstanding any other pro-
23 vision of law (statutory or nonstatutory), including section
24 309 of the Enhanced Border Security and Visa Entry Re-
25 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title

1 28, United States Code, and section 706(1) of title 5,
 2 United States Code, no court shall have jurisdiction to re-
 3 view a decision to deny or withhold adjudication pursuant
 4 to subsection (b) of this section.

5 “(d) **WITHHOLDING OF REMOVAL AND TORTURE**
 6 **CONVENTION.**—This section does not limit or modify the
 7 applicability of section 241(b)(3) or the United Nations
 8 Convention Against Torture and Other Cruel, Inhuman or
 9 Degrading Treatment or Punishment, subject to any res-
 10 ervations, understandings, declarations and provisos con-
 11 tained in the United States Senate resolution of ratifica-
 12 tion of the Convention, as implemented by section 2242
 13 of the Foreign Affairs Reform and Restructuring Act of
 14 1998 (Public Law 105–277) with respect to an alien oth-
 15 erwise eligible for protection under such provisions.”.

16 (2) **CLERICAL AMENDMENT.**—The table of con-
 17 tents for such Act is amended by inserting after the
 18 item relating to section 361 the following:

“Sec. 362. Construction.”.

19 (c) **EFFECTIVE DATE.**—The amendments made by
 20 this section shall take effect on the date of the enactment
 21 of this Act and shall apply to applications for immigration
 22 benefits pending on or after such date.

1 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
 2 **TELLIGENCE REFORM AND TERRORISM PRE-**
 3 **VENTION ACT OF 2004.**

4 (a) **TRANSIT WITHOUT VISA PROGRAM.**—Section
 5 7209(d) of the Intelligence Reform and Terrorism Preven-
 6 tion Act of 2004 (8 U.S.C. 1185 note) is amended by
 7 striking “the Secretary, in conjunction with the Secretary
 8 of Homeland Security,” and inserting “the Secretary of
 9 Homeland Security, in consultation with the Secretary of
 10 State,”.

11 (b) **TECHNOLOGY ACQUISITION AND DISSEMINATION**
 12 **PLAN.**—Section 7201(c)(1) of such Act is amended by in-
 13 serting “and the Department of State” after “used by the
 14 Department of Homeland Security”.

15 **TITLE III—REMOVAL OF**
 16 **CRIMINAL ALIENS**

17 **SEC. 301. DEFINITION OF AGGRAVATED FELONY.**

18 (a) **DEFINITION OF AGGRAVATED FELONY.**—Section
 19 101(a)(43) of the Immigration and Nationality Act (8
 20 U.S.C. 1101(a)(43)) is amended—

21 (1) by striking “The term ‘aggravated felony’
 22 means—” and inserting “Notwithstanding any other
 23 provision of law, the term ‘aggravated felony’ applies
 24 to an offense described in this paragraph, whether in
 25 violation of Federal or State law, or in violation of
 26 the law of a foreign country for which the term of

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

7 (2) in subparagraph (A), by striking “murder,
8 rape, or sexual abuse of a minor;” and inserting “an
9 offense relating to murder, manslaughter, homicide,
10 rape (whether the victim was conscious or uncon-
11 scious), or any offense of a sexual nature involving
12 a victim under the age of 18 years;”;

13 (3) in subparagraph (B), by inserting “an of-
14 fense relating to” before “illicit trafficking”;

15 (4) in subparagraph (C), by inserting “an of-
16 fense relating to” before “illicit trafficking in fire-
17 arms”;

18 (5) in subparagraph (F), by inserting “an of-
19 fense relating to” before “a crime of violence”;

20 (6) in subparagraph (G), by striking “a theft
21 offense (including receipt of stolen property) or a
22 burglary offense” and inserting “an offense relating
23 to theft (including receipt of stolen property) or bur-
24 glary”;

1 (7) in subparagraph (I), by striking “or 2252”
2 and inserting “2252, or 2252A”;

3 (8) in subparagraph (N), by striking “para-
4 graph (1)(A) or (2) of” and all that follows through
5 the end and inserting “section 274(a) (relating to
6 alien smuggling);”;

7 (9) in subparagraph (O), by striking “section
8 275(a) or 276 committed by an alien who was pre-
9 viously deported on the basis of a conviction for an
10 offense described in another subparagraph of this
11 paragraph;” and inserting “section 275 or 276 for
12 which the term of imprisonment is at least 6
13 months;”;

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

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

23 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
24 MENTS.—

1 (1) **IN GENERAL.**—The amendments made by
 2 subsection (a)—

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

5 (B) shall apply to any act or conviction
 6 that occurred before, on, or after such date.

7 (2) **APPLICATION OF IIRIRA AMENDMENTS.**—

8 The amendments to section 101(a)(43) of the Immi-
 9 gration and Nationality Act (8 U.S.C. 1101(a)(43))
 10 made by section 321 of the Illegal Immigration Re-
 11 form and Immigrant Responsibility Act of 1996 (di-
 12 vision C of Public Law 104–208; 110 Stat. 3009–
 13 627) shall continue to apply, whether the conviction
 14 was entered before, on, or after September 30, 1996.

15 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**
 16 **VICTED OF AGGRAVATED FELONIES OR**
 17 **OTHER SERIOUS OFFENSES.**

18 (a) **INADMISSIBILITY ON CRIMINAL AND RELATED**
 19 **GROUND; WAIVERS.**—Section 212 of the Immigration
 20 and Nationality Act (8 U.S.C. 1182) is amended—

21 (1) in subsection (a)(2)(A)(i)—

22 (A) in subclause (I), by striking “or” at
 23 the end;

24 (B) in subclause (II), by adding “or” at
 25 the end; and

1 (C) by inserting after subclause (II) the
 2 following:

3 “(III) a violation of (or a con-
 4 spiracy or attempt to violate) an of-
 5 fense described in section 408 of title
 6 42, United States Code (relating to
 7 social security account numbers or so-
 8 cial security cards) or section 1028 of
 9 title 18, United States Code (relating
 10 to fraud and related activity in con-
 11 nection with identification documents,
 12 authentication features, and informa-
 13 tion),”;

14 (2) by adding at the end of subsection (a)(2)
 15 the following:

16 “(J) **PROCUREMENT OF CITIZENSHIP OR**
 17 **NATURALIZATION UNLAWFULLY.**—Any alien
 18 convicted of, or who admits having committed,
 19 or who admits committing acts which constitute
 20 the essential elements of, a violation of, or an
 21 attempt or a conspiracy to violate, subsection
 22 (a) or (b) of section 1425 of title 18, United
 23 States Code (relating to the procurement of
 24 citizenship or naturalization unlawfully) is inad-
 25 missible.

1 “(K) **CERTAIN FIREARM OFFENSES.**—Any
2 alien who at any time has been convicted under
3 any law of, or who admits having committed or
4 admits committing acts which constitute the es-
5 sential elements of, purchasing, selling, offering
6 for sale, exchanging, using, owning, possessing,
7 or carrying, or of attempting or conspiring to
8 purchase, sell, offer for sale, exchange, use,
9 own, possess, or carry, any weapon, part, or ac-
10 cessory which is a firearm or destructive device
11 (as defined in section 921(a) of title 18, United
12 States Code) in violation of any law is inadmis-
13 sible.

14 “(L) **AGGRAVATED FELONS.**—Any alien
15 who has been convicted of an aggravated felony
16 at any time is inadmissible.

17 “(M) **CRIMES OF DOMESTIC VIOLENCE,**
18 **STALKING, OR VIOLATION OF PROTECTION OR-**
19 **DERS, CRIMES AGAINST CHILDREN.**—

20 “(i) **DOMESTIC VIOLENCE, STALKING,**
21 **AND CHILD ABUSE.**—Any alien who at any
22 time is convicted of, or who admits having
23 committed or admits committing acts
24 which constitute the essential elements of,
25 a crime of domestic violence, a crime of

1 stalking, or a crime of child abuse, child
2 neglect, or child abandonment is inadmis-
3 sible. For purposes of this clause, the term
4 ‘crime of domestic violence’ means any
5 crime of violence (as defined in section 16
6 of title 18, United States Code) against a
7 person committed by a current or former
8 spouse of the person, by an individual with
9 whom the person shares a child in com-
10 mon, by an individual who is cohabiting
11 with or has cohabited with the person as a
12 spouse, by an individual similarly situated
13 to a spouse of the person under the domes-
14 tic or family violence laws of the jurisdic-
15 tion where the offense occurs, or by any
16 other individual against a person who is
17 protected from that individual’s acts under
18 the domestic or family violence laws of the
19 United States or any State, Indian tribal
20 government, or unit of local or foreign gov-
21 ernment.

22 “(ii) **VIOLATORS OF PROTECTION OR-**
23 **DERS.**—Any alien who at any time is en-
24 joined under a protection order issued by
25 a court and whom the court determines

1 has engaged in conduct that violates the
2 portion of a protection order that involves
3 protection against credible threats of vio-
4 lence, repeated harassment, or bodily in-
5 jury to the person or persons for whom the
6 protection order was issued is inadmissible.
7 For purposes of this clause, the term ‘pro-
8 tection order’ means any injunction issued
9 for the purpose of preventing violent or
10 threatening acts of domestic violence, in-
11 cluding temporary or final orders issued by
12 civil or criminal courts (other than support
13 or child custody orders or provisions)
14 whether obtained by filing an independent
15 action or as a independent order in an-
16 other proceeding.

17 “(iii) **WAIVER AUTHORIZED.**—The
18 waiver authority available under section
19 237(a)(7) with respect to section
20 237(a)(2)(E)(i) shall be available on a
21 comparable basis with respect to this sub-
22 paragraph.”; and

23 (3) in subsection (h)—

24 (A) by striking “The Attorney General
25 may, in his discretion, waive the application of

subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)” and inserting “The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the Secretary, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), or (M) of subsection (a)(2)”;

(B) by striking “a criminal act involving torture.” and inserting “a criminal act involving torture, or has been convicted of an aggravated felony.”;

(C) by striking “if either since the date of such admission the alien has been convicted of an aggravated felony or the alien” and inserting “if since the date of such admission the alien”; and

(D) by inserting “or Secretary of Homeland Security” after “the Attorney General” each place it appears.

(b) **DEPORTABILITY; CRIMINAL OFFENSES.**—Section

237(a)(3)(B) of the Immigration and Nationality Act (8

U.S.C. 1227(a)(3)(B)) is amended—

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

(2) in clause (iii), by inserting “or” at the end;

and

1 (3) by inserting after clause (iii) the following:

2 “(iv) of a violation of, or an attempt
3 or a conspiracy to violate, section 1425(a)
4 or (b) of title 18 (relating to the procure-
5 ment of citizenship or naturalization un-
6 lawfully),”.

7 (c) **DEPORTABILITY; OTHER CRIMINAL OFFENSES.**—
8 Section 237(a)(2) of the Immigration and Nationality Act
9 (8 U.S.C. 1227(a)(2)) is amended by adding at the end
10 the following:

11 “(G) **FRAUD AND RELATED ACTIVITY AS-**
12 **SOCIATED WITH SOCIAL SECURITY ACT BENE-**
13 **FITS AND IDENTIFICATION DOCUMENTS.**—Any
14 alien who at any time after admission has been
15 convicted of a violation of (or a conspiracy or
16 attempt to violate) section 208 of the Social Se-
17 curity Act (42 U.S.C. 408) (relating to social
18 security account numbers or social security
19 cards) or section 1028 of title 18, United States
20 Code (relating to fraud and related activity in
21 connection with identification) is deportable.”.

22 (d) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply—

24 (1) to any act that occurred before, on, or after
25 the date of the enactment of this Act; and

1 (2) to all aliens who are required to establish
2 admissibility on or after such date, and in all re-
3 moval, deportation, or exclusion proceedings that are
4 filed, pending, or reopened, on or after such date.

5 (e) **CONSTRUCTION.**—The amendments made by sub-
6 section (a) shall not be construed to create eligibility for
7 relief from removal under former section 212(c) of the Im-
8 migration and Nationality Act where such eligibility did
9 not exist before these amendments became effective.

10 **SEC. 303. ESPIONAGE CLARIFICATION.**

11 Section 212(a)(3)(A) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read
13 as follows:

14 “(A) **IN GENERAL.**—Any alien who a con-
15 sular officer, the Attorney General, or the Sec-
16 retary of Homeland Security knows, or has rea-
17 sonable ground to believe, seeks to enter the
18 United States to engage solely, principally, or
19 incidentally in, or who is engaged in, or with re-
20 spect to clauses (i) and (iii) of this subpara-
21 graph has engaged in—

22 “(i) any activity—

23 “(I) to violate any law of the
24 United States relating to espionage or
25 sabotage; or

1 “(II) to violate or evade any law
 2 prohibiting the export from the
 3 United States of goods, technology, or
 4 sensitive information;
 5 “(ii) any other unlawful activity; or
 6 “(iii) any activity a purpose of which
 7 is the opposition to, or the control or over-
 8 throw of, the Government of the United
 9 States by force, violence, or other unlawful
 10 means;
 11 is inadmissible.”.

12 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
 13 **THE POSSESSION OF FIREARMS BY, CERTAIN**
 14 **ALIENS.**

15 Section 922 of title 18, United States Code, is
 16 amended—

17 (1) in subsection (d)(5), in subparagraph (B),
 18 by striking “(y)(2)” and all that follows and insert-
 19 ing “(y), is in the United States not as an alien law-
 20 fully admitted for permanent residence;”;

21 (2) in subsection (g)(5), in subparagraph (B),
 22 by striking “(y)(2)” and all that follows and insert-
 23 ing “(y), is in the United States not as an alien law-
 24 fully admitted for permanent residence;” and

25 (3) in subsection (y)—

1 (A) in the header, by striking “**ADMITTED**
 2 **UNDER NONIMMIGRANT VISAS.—**” and insert-
 3 ing “**NOT LAWFULLY ADMITTED FOR PERMA-**
 4 **NENT RESIDENCE.—**”;

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

7 “(B) the term ‘lawfully admitted for per-
 8 manent residence’ has the same meaning as in
 9 section 101(a)(20) of the Immigration and Na-
 10 tionality Act (8 U.S.C. 1101(a)(20)).”;

11 (C) in paragraph (2), by striking “under a
 12 nonimmigrant visa” and inserting “but not law-
 13 fully admitted for permanent residence”; and

14 (D) in paragraph (3)(A), by striking “ad-
 15 mitted to the United States under a non-
 16 immigrant visa” and inserting “lawfully admit-
 17 ted to the United States but not as an alien
 18 lawfully admitted for permanent residence”.

19 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
 20 **TAIN IMMIGRATION, NATURALIZATION, AND**
 21 **PEONAGE OFFENSES.**

22 Section 3291 of title 18, United States Code, is
 23 amended by striking “No person” and all that follows
 24 through the period at the end and inserting the following:
 25 “No person shall be prosecuted, tried, or punished for a

1 violation of any section of chapters 69 (relating to nation-
2 ality and citizenship offenses) and 75 (relating to pass-
3 port, visa, and immigration offenses), or for a violation
4 of any criminal provision of section 243, 266, 274, 275,
5 276, 277, or 278 of the Immigration and Nationality Act,
6 or for an attempt or conspiracy to violate any such section,
7 unless the indictment is returned or the information is
8 filed within ten years after the commission of the of-
9 fense.”.

10 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
11 **OF RACKETEERING ACTIVITY.**

12 Section 1961(1) of title 18, United States Code, is
13 amended by striking “section 1542” through “section
14 1546 (relating to fraud and misuse of visas, permits, and
15 other documents)” and inserting “sections 1541–1548 (re-
16 lating to passports and visas)”.

17 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**
18 **VATED FELONY DEFINITION.**

19 (a) **IN GENERAL.**—Subparagraph (P) of section
20 101(a)(43) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(43)) is amended to read as follows:

22 “(P) an offense which is described in any
23 section of chapter 75 of title 18, United States
24 Code, for which the term of imprisonment is at
25 least 12 months;”.

1 (b) **EFFECTIVE DATE.**—The amendment made by
 2 subsection (a) shall take effect on the date of the enact-
 3 ment of this Act and shall apply to acts that occur before,
 4 on, or after the date of the enactment of this Act.

5 **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**
 6 **OF STATUS FOR AGGRAVATED FELONS.**

7 (a) **IN GENERAL.**—Section 209(c) of the Immigration
 8 and Nationality Act (8 U.S.C. 1159(c)) is amended by
 9 adding at the end thereof the following: “However, an
 10 alien who is convicted of an aggravated felony is not eligi-
 11 ble for a waiver or for adjustment of status under this
 12 section.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
 14 subsection (a) shall apply—

15 (1) to any act that occurred before, on, or after
 16 the date of the enactment of this Act; and

17 (2) to all aliens who are required to establish
 18 admissibility on or after such date, and in all re-
 19 moval, deportation, or exclusion proceedings that are
 20 filed, pending, or reopened, on or after such date.

21 **SEC. 309. PRECLUDING WITHHOLDING OF REMOVAL FOR**
 22 **AGGRAVATED FELONS.**

23 (a) **IN GENERAL.**—Section 241(b)(3)(B) (8 U.S.C.
 24 1231(b)(3)(B)), as amended by section 201, is further

1 amended by inserting after clause (v), as inserted by sec-
 2 tion 201, the following:

3 “(vi) the alien is convicted of an ag-
 4 gravated felony.”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
 6 subsection (a) shall apply—

7 (1) to any act that occurred before, on, or after
 8 the date of the enactment of this Act; and

9 (2) to all aliens who are required to establish
 10 admissibility on or after such date, and in all re-
 11 moval, deportation, or exclusion proceedings that are
 12 filed, pending, or reopened on or after such date.

13 **SEC. 310. INADMISSIBILITY AND DEPORTABILITY OF**
 14 **DRUNK DRIVERS.**

15 (a) **IN GENERAL.**—Section 101(a)(43) of the Immi-
 16 gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
 17 amended by this Act) is further amended—

18 (1) in subparagraph (T), by striking “and”;

19 (2) in subparagraph (U), by striking the period
 20 at the end and inserting “; and”; and

21 (3) by inserting after subparagraph (U) the fol-
 22 lowing:

23 “(V) a second or subsequent conviction for
 24 driving while intoxicated (including a conviction
 25 for driving while under the influence of or im-

1 paired by alcohol or drugs) without regard to
 2 whether the conviction is classified as a mis-
 3 demeanor or felony under State law.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall take effect on the date of the enactment
 6 of this Act and apply to convictions entered on or after
 7 such date.

8 **SEC. 311. DETENTION OF DANGEROUS ALIENS.**

9 (a) **IN GENERAL.**—Section 241(a) of the Immigra-
 10 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—

11 (1) by striking “Attorney General” each place
 12 it appears, except for the first reference in para-
 13 graph (4)(B)(i), and inserting “Secretary of Home-
 14 land Security”;

15 (2) in paragraph (1), by amending subpara-
 16 graph (B) to read as follows:

17 “(B) **BEGINNING OF PERIOD.**—The re-
 18 moval period begins on the latest of the fol-
 19 lowing:

20 “(i) The date the order of removal be-
 21 comes administratively final.

22 “(ii) If the alien is not in the custody
 23 of the Secretary on the date the order of
 24 removal becomes administratively final, the
 25 date the alien is taken into such custody.

1 “(iii) If the alien is detained or con-
2 fined (except under an immigration proc-
3 ess) on the date the order of removal be-
4 comes administratively final, the date the
5 alien is taken into the custody of the Sec-
6 retary, after the alien is released from such
7 detention or confinement.”;

8 (3) in paragraph (1), by amending subpara-
9 graph (C) to read as follows:

10 “(C) **SUSPENSION OF PERIOD.**—

11 “(i) **EXTENSION.**—The removal period
12 shall be extended beyond a period of 90
13 days and the Secretary may, in the Sec-
14 retary’s sole discretion, keep the alien in
15 detention during such extended period if—

16 “(I) the alien fails or refuses to
17 make all reasonable efforts to comply
18 with the removal order, or to fully co-
19 operate with the Secretary’s efforts to
20 establish the alien’s identity and carry
21 out the removal order, including mak-
22 ing timely application in good faith
23 for travel or other documents nec-
24 essary to the alien’s departure or con-
25 spires or acts to prevent the alien’s

1 removal that is subject to an order of
2 removal;

3 “(II) a court, the Board of Immi-
4 gration Appeals, or an immigration
5 judge orders a stay of removal of an
6 alien who is subject to an administra-
7 tively final order of removal;

8 “(III) the Secretary transfers
9 custody of the alien pursuant to law
10 to another Federal agency or a State
11 or local government agency in connec-
12 tion with the official duties of such
13 agency; or

14 “(IV) a court or the Board of
15 Immigration Appeals orders a remand
16 to an immigration judge or the Board
17 of Immigration Appeals, during the
18 time period when the case is pending
19 a decision on remand (with the re-
20 moval period beginning anew on the
21 date that the alien is ordered removed
22 on remand).

23 “(ii) **RENEWAL**.—If the removal pe-
24 riod has been extended under clause (C)(i),

1 a new removal period shall be deemed to
2 have begun on the date—

3 “(I) the alien makes all reason-
4 able efforts to comply with the re-
5 moval order, or to fully cooperate with
6 the Secretary’s efforts to establish the
7 alien’s identity and carry out the re-
8 moval order;

9 “(II) the stay of removal is no
10 longer in effect; or

11 “(III) the alien is returned to the
12 custody of the Secretary.

13 “(iii) **MANDATORY DETENTION FOR**
14 **CERTAIN ALIENS.**—In the case of an alien
15 described in section 236(c)(1), the Sec-
16 retary shall keep that alien in detention
17 during the extended period described in
18 clause (i).

19 “(iv) **SOLE FORM OF RELIEF.**—An
20 alien may seek relief from detention under
21 this subparagraph only by filing an appli-
22 cation for a writ of habeas corpus in ac-
23 cordance with chapter 153 of title 28,
24 United States Code. No alien whose period
25 of detention is extended under this sub-

1 paragraph shall have the right to seek re-
2 lease on bond.”;

3 (4) in paragraph (3)—

4 (A) by adding after “If the alien does not
5 leave or is not removed within the removal pe-
6 riod” the following: “or is not detained pursu-
7 ant to paragraph (6) of this subsection”; and

8 (B) by striking subparagraph (D) and in-
9 serting the following:

10 “(D) to obey reasonable restrictions on the
11 alien’s conduct or activities that the Secretary
12 prescribes for the alien, in order to prevent the
13 alien from absconding, for the protection of the
14 community, or for other purposes related to the
15 enforcement of the immigration laws.”;

16 (5) in paragraph (4)(A), by striking “paragraph
17 (2)” and inserting “subparagraph (B)”; and

18 (6) by striking paragraph (6) and inserting the
19 following:

20 “(6) **ADDITIONAL RULES FOR DETENTION OR**
21 **RELEASE OF CERTAIN ALIENS.—**

22 “(A) **DETENTION REVIEW PROCESS FOR**
23 **COOPERATIVE ALIENS ESTABLISHED.—**For an
24 alien who is not otherwise subject to mandatory
25 detention, who has made all reasonable efforts

1 to comply with a removal order and to cooper-
2 ate fully with the Secretary of Homeland Secu-
3 rity's efforts to establish the alien's identity and
4 carry out the removal order, including making
5 timely application in good faith for travel or
6 other documents necessary to the alien's depar-
7 ture, and who has not conspired or acted to
8 prevent removal, the Secretary shall establish
9 an administrative review process to determine
10 whether the alien should be detained or released
11 on conditions. The Secretary shall make a de-
12 termination whether to release an alien after
13 the removal period in accordance with subpara-
14 graph (B). The determination shall include con-
15 sideration of any evidence submitted by the
16 alien, and may include consideration of any
17 other evidence, including any information or as-
18 sistance provided by the Secretary of State or
19 other Federal official and any other information
20 available to the Secretary of Homeland Security
21 pertaining to the ability to remove the alien.

22 “(B) **AUTHORITY TO DETAIN BEYOND RE-**
23 **MOVAL PERIOD.**—

24 “(i) **IN GENERAL.**—The Secretary of
25 Homeland Security, in the exercise of the

1 Secretary's sole discretion, may continue to
2 detain an alien for 90 days beyond the re-
3 moval period (including any extension of
4 the removal period as provided in para-
5 graph (1)(C)). An alien whose detention is
6 extended under this subparagraph shall
7 have no right to seek release on bond.

8 “(ii) **SPECIFIC CIRCUMSTANCES.**—The
9 Secretary of Homeland Security, in the ex-
10 ercise of the Secretary's sole discretion,
11 may continue to detain an alien beyond the
12 90 days authorized in clause (i)—

13 “(I) until the alien is removed, if
14 the Secretary, in the Secretary's sole
15 discretion, determines that there is a
16 significant likelihood that the alien—

17 “(aa) will be removed in the
18 reasonably foreseeable future; or

19 “(bb) would be removed in
20 the reasonably foreseeable future,
21 or would have been removed, but
22 for the alien's failure or refusal
23 to make all reasonable efforts to
24 comply with the removal order,
25 or to cooperate fully with the

1 Secretary's efforts to establish
2 the alien's identity and carry out
3 the removal order, including
4 making timely application in
5 good faith for travel or other doc-
6 uments necessary to the alien's
7 departure, or conspires or acts to
8 prevent removal;

9 “(II) until the alien is removed,
10 if the Secretary of Homeland Security
11 certifies in writing—

12 “(aa) in consultation with
13 the Secretary of Health and
14 Human Services, that the alien
15 has a highly contagious disease
16 that poses a threat to public safe-
17 ty;

18 “(bb) after receipt of a writ-
19 ten recommendation from the
20 Secretary of State, that release
21 of the alien is likely to have seri-
22 ous adverse foreign policy con-
23 sequences for the United States;

24 “(cc) based on information
25 available to the Secretary of

1 Homeland Security (including
2 classified, sensitive, or national
3 security information, and without
4 regard to the grounds upon
5 which the alien was ordered re-
6 moved), that there is reason to
7 believe that the release of the
8 alien would threaten the national
9 security of the United States; or

10 “(dd) that the release of the
11 alien will threaten the safety of
12 the community or any person,
13 conditions of release cannot rea-
14 sonably be expected to ensure the
15 safety of the community or any
16 person, and either—

17 “(AA) the alien has
18 been convicted of one or
19 more aggravated felonies (as
20 defined in section
21 101(a)(43)(A)) or of one or
22 more crimes identified by
23 the Secretary of Homeland
24 Security by regulation, or of
25 one or more attempts or

1 conspiracies to commit any
2 such aggravated felonies or
3 such identified crimes, if the
4 aggregate term of imprison-
5 ment for such attempts or
6 conspiracies is at least 5
7 years; or

8 “(BB) the alien has
9 committed one or more
10 crimes of violence (as de-
11 fined in section 16 of title
12 18, United States Code, but
13 not including a purely polit-
14 ical offense) and, because of
15 a mental condition or per-
16 sonality disorder and behav-
17 ior associated with that con-
18 dition or disorder, the alien
19 is likely to engage in acts of
20 violence in the future; or

21 “(III) pending a certification
22 under subclause (II), so long as the
23 Secretary of Homeland Security has
24 initiated the administrative review
25 process not later than 30 days after

1 the expiration of the removal period
2 (including any extension of the re-
3 moval period, as provided in para-
4 graph (1)(C)).

5 “(iii) **NO RIGHT TO BOND HEARING.**—
6 An alien whose detention is extended under
7 this subparagraph shall have no right to
8 seek release on bond, including by reason
9 of a certification under clause (ii)(II).

10 “(C) **RENEWAL AND DELEGATION OF CER-**
11 **TIFICATION.**—

12 “(i) **RENEWAL.**—The Secretary of
13 Homeland Security may renew a certifi-
14 cation under subparagraph (B)(ii)(II)
15 every 6 months, after providing an oppor-
16 tunity for the alien to request reconsider-
17 ation of the certification and to submit
18 documents or other evidence in support of
19 that request. If the Secretary does not
20 renew a certification, the Secretary may
21 not continue to detain the alien under sub-
22 paragraph (B)(ii)(II).

23 “(ii) **DELEGATION.**—Notwithstanding
24 section 103, the Secretary of Homeland
25 Security may not delegate the authority to

1 make or renew a certification described in
2 item (bb), (cc), or (dd) of subparagraph
3 (B)(ii)(II) below the level of the Assistant
4 Secretary for Immigration and Customs
5 Enforcement.

6 “(iii) **HEARING**.—The Secretary of
7 Homeland Security may request that the
8 Attorney General or the Attorney General’s
9 designee provide for a hearing to make the
10 determination described in item (dd)(BB)
11 of subparagraph (B)(ii)(II).

12 “(D) **RELEASE ON CONDITIONS**.—If it is
13 determined that an alien should be released
14 from detention by a Federal court, the Board of
15 Immigration Appeals, or if an immigration
16 judge orders a stay of removal, the Secretary of
17 Homeland Security, in the exercise of the Sec-
18 retary’s discretion, may impose conditions on
19 release as provided in paragraph (3).

20 “(E) **REDETENTION**.—The Secretary of
21 Homeland Security, in the exercise of the Sec-
22 retary’s discretion, without any limitations
23 other than those specified in this section, may
24 again detain any alien subject to a final re-
25 moval order who is released from custody, if re-

1 removal becomes likely in the reasonably foresee-
2 able future, the alien fails to comply with the
3 conditions of release, or to continue to satisfy
4 the conditions described in subparagraph (A),
5 or if, upon reconsideration, the Secretary, in
6 the Secretary's sole discretion, determines that
7 the alien can be detained under subparagraph
8 (B). This section shall apply to any alien re-
9 turned to custody pursuant to this subpara-
10 graph, as if the removal period terminated on
11 the day of the redetention.

12 **“(F) REVIEW OF DETERMINATIONS BY**
13 **SECRETARY.**—A determination by the Secretary
14 under this paragraph shall not be subject to re-
15 view by any other agency.”.

16 **(b) DETENTION OF ALIENS DURING REMOVAL PRO-**
17 **CEEDINGS.**—

18 **(1) CLERICAL AMENDMENT.**—Section 236 of
19 the Immigration and Nationality Act (8 U.S.C.
20 1226) is amended—

21 (A) by striking “Attorney General” each
22 place it appears (except in the second place that
23 term appears in subsection (a)) and inserting
24 “Secretary of Homeland Security”;

1 (B) in subsection (a) of such Act, by in-
 2 serting “the Secretary of Homeland Security
 3 or” before “the Attorney General—”; and

4 (C) in subsection (e) by striking “Attorney
 5 General’s” and inserting “Secretary of Home-
 6 land Security’s”.

7 (2) **LENGTH OF DETENTION.**—Section 236 of
 8 such Act (8 U.S.C. 1226) is amended by adding at
 9 the end the following:

10 “(f) **LENGTH OF DETENTION.**—

11 “(1) **IN GENERAL.**—Notwithstanding any other
 12 provision of this section, an alien may be detained,
 13 and for an alien described in subsection (c) shall be
 14 detained, under this section without time limitation,
 15 except as provided in subsection (h), during the
 16 pendency of removal proceedings.

17 “(2) **CONSTRUCTION.**—The length of detention
 18 under this section shall not affect detention under
 19 section 241.”.

20 (3) **DETENTION OF CRIMINAL ALIENS.**—Section
 21 236(c)(1) of the Immigration and Nationality Act (8
 22 U.S.C. 1226(c)(1)) is amended to read as follows:

23 “(1) **CUSTODY.**—

24 “(A) **IN GENERAL.**—The Secretary of
 25 Homeland Security shall take into custody any

1 alien who is described in paragraph (2) or (3)
2 of section 212(a), section 237(a)(2), section
3 237(a)(4), or who has no lawful status in the
4 United States and has been convicted one or
5 more times for driving while intoxicated (includ-
6 ing a conviction for driving while under the in-
7 fluence or impaired by alcohol or drugs), any
8 time after the alien is released, without regard-
9 ing to whether—

10 “(i) an alien is released related to any
11 activity, offense, or conviction described in
12 this paragraph;

13 “(ii) the alien is released on parole,
14 supervised release or probation; or

15 “(iii) the alien may be arrested or im-
16 prisoned again for the same offense.

17 “(B) **SUBSEQUENT CUSTODY.**—If the ac-
18 tivity described in this paragraph does not re-
19 sult in the alien being taken into custody by
20 any person other than the Secretary of Home-
21 land Security, then when the alien is brought to
22 the attention of the Secretary or when the Sec-
23 retary determines it is practical to take such
24 alien into custody, the Secretary shall take such
25 alien into custody.”.

1 (4) **RELEASE ON BOND.**—Section 236 of the
 2 Immigration and Nationality Act (8 U.S.C. 1226),
 3 as amended by paragraph (2), is further amended by
 4 adding at the end the following:

5 “(g) **RELEASE ON BOND.**—

6 “(1) **IN GENERAL.**—An alien detained under
 7 subsection (a) may seek release on bond. No bond
 8 may be granted except to an alien who establishes
 9 by clear and convincing evidence that the alien is not
 10 a flight risk or a risk to another person or the com-
 11 munity.

12 “(2) **CERTAIN ALIENS INELIGIBLE.**—No alien
 13 detained under subsection (c) may seek release on
 14 bond.”.

15 (5) **CLERICAL AMENDMENTS.**—Section 236 of
 16 the Immigration and Nationality Act (8 U.S.C.
 17 1226) is amended—

18 (A) in subsection (a)(2)(B), by striking
 19 “conditional parole;” and inserting “recog-
 20 nizance;”; and

21 (B) in subsection (b), by striking “parole”
 22 and inserting “recognizance”.

23 (c) **SEVERABILITY.**—If any of the provisions of this
 24 section or any amendment by this section, or the applica-
 25 tion of any such provision to any person or circumstance,

1 is held to be invalid for any reason, the remainder of this
2 section and of amendments made by this section, and the
3 application of the provisions and of the amendments made
4 by this section to any other person or circumstance shall
5 not be affected by such holding.

6 (d) **EFFECTIVE DATES.**—

7 (1) **SUBSECTION (a).**—The amendments made
8 by subsection (a) shall take effect upon the date of
9 enactment of this Act, and section 241 of the Immig-
10 ration and Nationality Act, as so amended, shall in
11 addition apply to—

12 (A) all aliens subject to a final administra-
13 tive removal, deportation, or exclusion order
14 that was issued before, on, or after the date of
15 the enactment of this Act; and

16 (B) acts and conditions occurring or exist-
17 ing before, on, or after such date.

18 (2) **SUBSECTION (b).**—The amendments made
19 by subsection (b) shall take effect upon the date of
20 the enactment of this Act, and section 236 of the
21 Immigration and Nationality Act, as so amended,
22 shall in addition apply to any alien in detention
23 under provisions of such section on or after such
24 date.

1 **SEC. 312. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) **DEFINITION OF GANG MEMBER.**—Section 101(a)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)) is amended by adding at the end the following:
6 “(53)(A) The term ‘criminal gang’ means an ongoing
7 group, club, organization, or association of 5 or more per-
8 sons that has as one of its primary purposes the commis-
9 sion of 1 or more of the following criminal offenses and
10 the members of which engage, or have engaged within the
11 past 5 years, in a continuing series of such offenses, or
12 that has been designated as a criminal gang by the Sec-
13 retary of Homeland Security, in consultation with the At-
14 torney General, as meeting these criteria. The offenses de-
15 scribed, whether in violation of Federal or State law or
16 foreign law and regardless of whether the offenses oc-
17 curred before, on, or after the date of the enactment of
18 this paragraph, are the following:

19 “(i) A ‘felony drug offense’ (as defined in sec-
20 tion 102 of the Controlled Substances Act (21
21 U.S.C. 802)).

22 “(ii) An offense under section 274 (relating to
23 bringing in and harboring certain aliens), section
24 277 (relating to aiding or assisting certain aliens to
25 enter the United States), or section 278 (relating to
26 importation of alien for immoral purpose).

1 “(iii) A crime of violence (as defined in section
2 16 of title 18, United States Code).

3 “(iv) A crime involving obstruction of justice,
4 tampering with or retaliating against a witness, vic-
5 tim, or informant, or burglary.

6 “(v) Any conduct punishable under sections
7 1028 and 1029 of title 18, United States Code (re-
8 lating to fraud and related activity in connection
9 with identification documents or access devices), sec-
10 tions 1581 through 1594 of such title (relating to
11 peonage, slavery and trafficking in persons), section
12 1952 of such title (relating to interstate and foreign
13 travel or transportation in aid of racketeering enter-
14 prises), section 1956 of such title (relating to the
15 laundering of monetary instruments), section 1957
16 of such title (relating to engaging in monetary trans-
17 actions in property derived from specified unlawful
18 activity), or sections 2312 through 2315 of such title
19 (relating to interstate transportation of stolen motor
20 vehicles or stolen property).

21 “(vi) A conspiracy to commit an offense de-
22 scribed in clauses (i) through (v).

23 “(B) Notwithstanding any other provision of law (in-
24 cluding any effective date), the term applies regardless of

1 whether the conduct occurred before, on, or after the date
2 of the enactment of this paragraph.”.

3 (b) **INADMISSIBILITY.**—Section 212(a)(2) of such Act
4 (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
5 of this Act, is further amended by adding at the end the
6 following:

7 “(O) **ALIENS ASSOCIATED WITH CRIMINAL**
8 **GANGS.**—Any alien is inadmissible who a con-
9 sular officer, the Secretary of Homeland Secu-
10 rity, or the Attorney General knows or has rea-
11 son to believe—

12 “(i) to be or to have been a member
13 of a criminal gang (as defined in section
14 101(a)(53)); or

15 “(ii) to have participated in the activi-
16 ties of a criminal gang (as defined in sec-
17 tion 101(a)(53)), knowing or having reason
18 to know that such activities will promote,
19 further, aid, or support the illegal activity
20 of the criminal gang.”.

21 (c) **DEPORTABILITY.**—Section 237(a)(2) of the Im-
22 migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
23 amended by section 302(c) of this Act, is further amended
24 by adding at the end the following:

1 “(H) **ALIENS ASSOCIATED WITH CRIMINAL**
 2 **GANGS.**—Any alien is deportable who the Sec-
 3 retary of Homeland Security or the Attorney
 4 General knows or has reason to believe—

5 “(i) is or has been a member of a
 6 criminal gang (as defined in section
 7 101(a)(53)); or

8 “(ii) has participated in the activities
 9 of a criminal gang (as so defined), knowing
 10 or having reason to know that such activi-
 11 ties will promote, further, aid, or support
 12 the illegal activity of the criminal gang.”.

13 (d) **DESIGNATION.**—

14 (1) **IN GENERAL.**—Chapter 2 of title II of the
 15 Immigration and Nationality Act (8 U.S.C. 1182) is
 16 amended by inserting after section 219 the fol-
 17 lowing:

18 **“DESIGNATION**

19 **“SEC. 220. (a) IN GENERAL.**—The Secretary of
 20 Homeland Security, in consultation with the Attorney
 21 General, and the Secretary of State may designate a group
 22 or association as a criminal street gang if their conduct
 23 is described in section 101(a)(53) or if the group or asso-
 24 ciation conduct poses a significant risk that threatens the
 25 security and the public safety of United States nationals

1 or the national security, homeland security, foreign policy,
 2 or economy of the United States.

3 “(b) **EFFECTIVE DATE.**—Designations under sub-
 4 section (a) shall remain in effect until the designation is
 5 revoked after consultation between the Secretary of Home-
 6 land Security, the Attorney General, and the Secretary of
 7 State or is terminated in accordance with Federal law.”.

8 (2) **CLERICAL AMENDMENT.**—The table of con-
 9 tents for such Act is amended by inserting after the
 10 item relating to section 219 the following:

“220. Designation.”.

11 (e) **ANNUAL REPORT ON DETENTION OF CRIMINAL**
 12 **STREET GANG MEMBERS.**—Not later than March 1 of
 13 each year (beginning 1 year after the date of the enact-
 14 ment of this Act), the Secretary of Homeland Security,
 15 after consultation with the appropriate Federal agencies,
 16 shall submit to the Committee on the Judiciary of the Sen-
 17 ate and the Committee on the Judiciary of the House of
 18 Representatives a report on the number of aliens detained
 19 who are described by subparagraph (O) of section
 20 212(a)(2) and subparagraph (H) of section 237(a)(2) of
 21 the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)
 22 and 1227(a)(2)), as added by subsections (b) and (c).

23 (f) **ASYLUM CLAIMS BASED ON GANG AFFILI-**
 24 **ATION.**—

1 (1) **INAPPLICABILITY OF RESTRICTION ON RE-**
 2 **MOVAL TO CERTAIN COUNTRIES.**—Section
 3 241(b)(3)(B) of the Immigration and Nationality
 4 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
 5 matter preceding clause (i), by inserting “who is de-
 6 scribed in section 212(a)(2)(O)(i) or section
 7 237(a)(2)(H)(i) or who is” after “to an alien”.

8 (2) **INELIGIBILITY FOR ASYLUM.**—Section
 9 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
 10 (as amended by this Act) is further amended—

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

13 (B) by redesignating clause (vi) as clause
 14 (vii); and

15 (C) by inserting after clause (v) the fol-
 16 lowing:

17 “(vi) the alien is described in section
 18 212(a)(2)(O)(i) or section 237(a)(2)(H)(i)
 19 (relating to participation in criminal street
 20 gangs); or”.

21 (g) **TEMPORARY PROTECTED STATUS.**—Section 244
 22 of such Act (8 U.S.C. 1254a) is amended—

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

1 (2) in subparagraph (c)(2)(B)—

2 (A) in clause (i), by striking “States, or”
3 and inserting “States;”;

4 (B) in clause (ii), by striking the period
5 and inserting “; or”; and

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

7 “(iii) the alien is, or at any time has
8 been, an alien described in section
9 212(a)(2)(O)(i) or section
10 237(a)(2)(H)(i).”; and

11 (3) in subsection (d)—

12 (A) by striking paragraph (3); and

13 (B) in paragraph (4), by adding at the end
14 the following: “The Secretary of Homeland Se-
15 curity may detain an alien provided temporary
16 protected status under this section whenever
17 appropriate under any other provision of law.”.

18 (h) **EFFECTIVE DATE.**—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act and shall apply to acts that occur before, on,
21 or after the date of the enactment of this Act.

22 **SEC. 313. EXTENSION OF IDENTITY THEFT OFFENSES.**

23 Section 1028A of title 18, United States Code, is
24 amended by adding at the end the following:

1 “(d) **STATE OF MIND PROOF REQUIREMENT.**—In a
 2 prosecution for a violation of subsection (a)(1) predicated
 3 on a violation described in subsection (c)(2), (6), (7), (9),
 4 or (10) of this section, the Government need not prove
 5 that the defendant knew the means of identification was
 6 of another person.”.

7 **SEC. 314. LAUNDERING OF MONETARY INSTRUMENTS.**

8 (a) **ADDITIONAL PREDICATE OFFENSES.**—Section
 9 1956(c)(7)(D) of title 18, United States Code, is amend-
 10 ed—

11 (1) by inserting “section 1590 (relating to traf-
 12 ficking with respect to peonage, slavery, involuntary
 13 servitude, or forced labor),” after “section 1363 (re-
 14 lating to destruction of property within the special
 15 maritime and territorial jurisdiction),”; and

16 (2) by inserting “section 274(a) of the Immi-
 17 gration and Nationality Act (8 U.S.C. 1324(a)) (re-
 18 lating to bringing in and harboring certain aliens),”
 19 after “section 590 of the Tariff Act of 1930 (19
 20 U.S.C. 1590) (relating to aviation smuggling),”.

21 (b) **INTENT TO CONCEAL OR DISGUISE.**—Section
 22 1956(a) of title 18, United States Code, is amended—

23 (1) in paragraph (1) so that subparagraph (B)
 24 reads as follows:

25 “(B) knowing that the transaction—

1 “(i) conceals or disguises, or is intended to
 2 conceal or disguise, the nature, source, location,
 3 ownership, or control of the proceeds of some
 4 form of unlawful activity; or

5 “(ii) avoids, or is intended to avoid, a
 6 transaction reporting requirement under State
 7 or Federal law,”; and

8 (2) in paragraph (2) so that subparagraph (B)
 9 reads as follows:

10 “(B) knowing that the monetary instrument or
 11 funds involved in the transportation, transmission,
 12 or transfer represent the proceeds of some form of
 13 unlawful activity, and knowing that such transpor-
 14 tation, transmission, or transfer—

15 “(i) conceals or disguises, or is intended to
 16 conceal or disguise, the nature, source, location,
 17 ownership, or control of the proceeds of some
 18 form of unlawful activity; or

19 “(ii) avoids, or is intended to avoid, a
 20 transaction reporting requirement under State
 21 or Federal law,”.

22 **SEC. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

23 (a) **IN GENERAL.**—Section 275 of the Immigration
 24 and Nationality Act (8 U.S.C. 1325) is amended to read
 25 as follows:

1 “SEC. 275. (a) IN GENERAL.—

2 “(1) **ILLEGAL ENTRY OR PRESENCE.**—An alien
3 shall be subject to the penalties set forth in para-
4 graph (2) if the alien—

5 “(A) knowingly enters or crosses the bor-
6 der into the United States at any time or place
7 other than as designated by the Secretary of
8 Homeland Security;

9 “(B) knowingly eludes, at any time or
10 place, examination or inspection by an author-
11 ized immigration, customs, or agriculture offi-
12 cer (including by failing to stop at the com-
13 mand of such officer);

14 “(C) knowingly enters or crosses the bor-
15 der to the United States and, upon examination
16 or inspection, knowingly makes a false or mis-
17 leading representation or the knowing conceal-
18 ment of a material fact (including such rep-
19 resentation or concealment in the context of ar-
20 rival, reporting, entry, or clearance require-
21 ments of the customs laws, immigration laws,
22 agriculture laws, or shipping laws);

23 “(D) knowingly violates the terms or con-
24 ditions of the alien’s admission or parole into
25 the United States; or

1 “(E) knowingly is unlawfully present in the
2 United States (as defined in section
3 212(a)(9)(B)(ii) subject to the exceptions set
4 forth in section 212(a)(9)(B)(iii)).

5 “(2) **CRIMINAL PENALTIES.**—Any alien who
6 violates any provision under paragraph (1)—

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

10 “(B) shall, for a second or subsequent vio-
11 lation, or following an order of voluntary depar-
12 ture, be fined under such title, imprisoned not
13 more than 2 years (or not more than 6 months
14 in the case of a second or subsequent violation
15 of paragraph (1)(E)), or both;

16 “(C) if the violation occurred after the
17 alien had been convicted of 3 or more mis-
18 demeanors or for a felony, shall be fined under
19 such title, imprisoned not more than 10 years,
20 or both;

21 “(D) if the violation occurred after the
22 alien had been convicted of a felony for which
23 the alien received a term of imprisonment of
24 not less than 30 months, shall be fined under

1 such title, imprisoned not more than 15 years,
2 or both; and

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

9 “(3) **PRIOR CONVICTIONS.**—The prior convic-
10 tions described in subparagraphs (C) through (E) of
11 paragraph (2) are elements of the offenses described
12 and the penalties in such subparagraphs shall apply
13 only in cases in which the conviction or convictions
14 that form the basis for the additional penalty are—

15 “(A) alleged in the indictment or informa-
16 tion; and

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

19 “(4) **DURATION OF OFFENSE.**—An offense
20 under this subsection continues until the alien is dis-
21 covered within the United States by an immigration,
22 customs, or agriculture officer.

23 “(5) **ATTEMPT.**—Whoever attempts to commit
24 any offense under this section shall be punished in

1 the same manner as for a completion of such of-
 2 fense.

3 “(b) **IMPROPER TIME OR PLACE; CIVIL PEN-**
 4 **ALTIES.**—Any alien who is apprehended while entering, at-
 5 tempting to enter, or knowingly crossing or attempting to
 6 cross the border to the United States at a time or place
 7 other than as designated by immigration officers shall be
 8 subject to a civil penalty, in addition to any criminal or
 9 other civil penalties that may be imposed under any other
 10 provision of law, in an amount equal to—

11 “(1) not less than \$50 or more than \$250 for
 12 each such entry, crossing, attempted entry, or at-
 13 tempted crossing; or

14 “(2) twice the amount specified in paragraph
 15 (1) if the alien had previously been subject to a civil
 16 penalty under this subsection.”.

17 (b) **CLERICAL AMENDMENT.**—The table of contents
 18 for the Immigration and Nationality Act is amended by
 19 striking the item relating to section 275 and inserting the
 20 following:

“Sec. 275. Illegal entry or presence.”.

21 **SEC. 316. ILLEGAL REENTRY.**

22 Section 276 of the Immigration and Nationality Act
 23 (8 U.S.C. 1326) is amended to read as follows:

1 **“REENTRY OF REMOVED ALIEN**

2 **“SEC. 276. (a) REENTRY AFTER REMOVAL.—**Any
3 alien who has been denied admission, excluded, deported,
4 or removed, or who has departed the United States while
5 an order of exclusion, deportation, or removal is out-
6 standing, and subsequently enters, attempts to enter,
7 crosses the border to, attempts to cross the border to, or
8 is at any time found in the United States, shall be fined
9 under title 18, United States Code, imprisoned not more
10 than 2 years, or both.

11 **“(b) REENTRY OF CRIMINAL OFFENDERS.—**Not-
12 withstanding the penalty provided in subsection (a), if an
13 alien described in that subsection was convicted before
14 such removal or departure—

15 **“(1)** for 3 or more misdemeanors or for a fel-
16 ony, the alien shall be fined under title 18, United
17 States Code, imprisoned not more than 10 years, or
18 both;

19 **“(2)** for a felony for which the alien was sen-
20 tenced to a term of imprisonment of not less than
21 30 months, the alien shall be fined under such title,
22 imprisoned not less than 2 years and not more than
23 15 years, or both;

24 **“(3)** for a felony for which the alien was sen-
25 tenced to a term of imprisonment of not less than

1 60 months, the alien shall be fined under such title,
2 imprisoned not less than 4 years and not more than
3 20 years, or both; or

4 “(4) for murder, rape, kidnapping, or a felony
5 offense described in chapter 77 (relating to peonage
6 and slavery) or 113B (relating to terrorism) of such
7 title, or for 3 or more felonies of any kind, the alien
8 shall be fined under such title, imprisoned not less
9 than 5 years and not more than 25 years, or both.

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

17 “(d) **PROOF OF PRIOR CONVICTIONS.**—The prior
18 convictions described in subsection (b) are elements of the
19 crimes described, and the penalties in that subsection shall
20 apply only in cases in which the conviction or convictions
21 that form the basis for the additional penalty are—

22 “(1) alleged in the indictment or information;
23 and

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

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

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

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

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

12 “(B) had complied with all other laws and
13 regulations governing the alien’s admission into
14 the United States.

15 “(f) **LIMITATION ON COLLATERAL ATTACK ON UN-**
16 **DERLYING REMOVAL ORDER.**—In a criminal proceeding
17 under this section, an alien may not challenge the validity
18 of any prior removal order concerning the alien.

19 “(g) **REENTRY OF ALIEN REMOVED PRIOR TO COM-**
20 **PLETION OF TERM OF IMPRISONMENT.**—Any alien re-
21 moved pursuant to section 241(a)(4) who enters, attempts
22 to enter, crosses the border to, attempts to cross the bor-
23 der to, or is at any time found in, the United States shall
24 be incarcerated for the remainder of the sentence of im-
25 prisonment which was pending at the time of deportation

1 without any reduction for parole or supervised release un-
2 less the alien affirmatively demonstrates that the Sec-
3 retary of Homeland Security has expressly consented to
4 the alien's reentry. Such alien shall be subject to such
5 other penalties relating to the reentry of removed aliens
6 as may be available under this section or any other provi-
7 sion of law.

8 “(h) **DEFINITIONS.**—For purposes of this section and
9 section 275, the following definitions shall apply:

10 “(1) **CROSSES THE BORDER TO THE UNITED**
11 **STATES.**—The term ‘crosses the border’ refers to the
12 physical act of crossing the border, regardless of
13 whether the alien is free from official restraint.

14 “(2) **FELONY.**—The term ‘felony’ means any
15 criminal offense punishable by a term of imprison-
16 ment of more than 1 year under the laws of the
17 United States, any State, or a foreign government.

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

23 “(4) **REMOVAL.**—The term ‘removal’ includes
24 any denial of admission, exclusion, deportation, or

1 removal, or any agreement by which an alien stipu-
 2 lates or agrees to exclusion, deportation, or removal.

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

7 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
 8 **FRAUD OFFENSES.**

9 Chapter 75 of title 18, United States Code, is amend-
 10 ed to read as follows:

11 **“CHAPTER 75—PASSPORTS AND VISAS**

- “1541. Issuance without authority.
- “1542. False statement in application and use of passport.
- “1543. Forgery or false use of passport.
- “1544. Misuse of a passport.
- “1545. Schemes to defraud aliens.
- “1546. Immigration and visa fraud.
- “1547. Attempts and conspiracies.
- “1548. Alternative penalties for certain offenses.
- “1549. Definitions.

12 **“§ 1541. Issuance without authority**

13 “(a) **IN GENERAL.**—Whoever—

14 “(1) acting or claiming to act in any office or
 15 capacity under the United States, or a State, with-
 16 out lawful authority grants, issues, or verifies any
 17 passport or other instrument in the nature of a
 18 passport to or for any person; or

19 “(2) being a consular officer authorized to
 20 grant, issue, or verify passports, knowingly grants,
 21 issues, or verifies any such passport to or for any

1 person not owing allegiance, to the United States,
2 whether a citizen or not;
3 shall be fined under this title or imprisoned not more than
4 15 years, or both.

5 “(b) **DEFINITION.**—In this section, the term ‘State’
6 means a State of the United States, the District of Colum-
7 bia, and any commonwealth, territory, or possession of the
8 United States.

9 **“§ 1542. False statement in application and use of**
10 **passport**

11 “Whoever knowingly—

12 “(1) makes any false statement in an applica-
13 tion for passport with intent to induce or secure the
14 issuance of a passport under the authority of the
15 United States, either for his own use or the use of
16 another, contrary to the laws regulating the issuance
17 of passports or the rules prescribed pursuant to such
18 laws; or

19 “(2) uses or attempts to use, or furnishes to
20 another for use any passport the issue of which was
21 secured in any way by reason of any false statement;
22 shall be fined under this title or imprisoned not more than
23 15 years, or both.

24 **“§ 1543. Forgery or false use of passport**

25 “Whoever—

1 “(1) falsely makes, forges, counterfeits, muti-
2 lates, or alters any passport or instrument pur-
3 porting to be a passport, with intent that the same
4 may be used; or

5 “(2) knowingly uses, or attempts to use, or fur-
6 nishes to another for use any such false, forged,
7 counterfeited, mutilated, or altered passport or in-
8 strument purporting to be a passport, or any pass-
9 port validly issued which has become void by the oc-
10 currence of any condition therein prescribed invali-
11 dating the same;

12 shall be fined under this title or imprisoned not more than
13 15 years, or both.

14 **“§ 1544. Misuse of a passport**

15 “Whoever knowingly—

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

18 “(2) uses any passport in violation of the condi-
19 tions or restrictions therein contained, or in violation
20 of the laws, regulations, or rules governing the
21 issuance and use of the passport;

22 “(3) secures, possesses, uses, receives, buys,
23 sells, or distributes any passport knowing it to be
24 forged, counterfeited, altered, falsely made, procured

1 by fraud, stolen, or produced or issued without law-
2 ful authority; or

3 “(4) violates the terms and conditions of any
4 safe conduct duly obtained and issued under the au-
5 thority of the United States;

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

8 **“§ 1545. Schemes to defraud aliens**

9 “Whoever inside the United States, or in or affecting
10 interstate or foreign commerce, in connection with any
11 matter that is authorized by or arises under the immigra-
12 tion laws of the United States or any matter the offender
13 claims or represents is authorized by or arises under the
14 immigration laws of the United States, knowingly executes
15 a scheme or artifice—

16 “(1) to defraud any person, or

17 “(2) to obtain or receive money or anything else
18 of value from any person by means of false or fraud-
19 ulent pretenses, representations, or promises;

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

22 **“§ 1546. Immigration and visa fraud**

23 “Whoever knowingly—

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

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

3 “(3) mails, prepares, presents, or signs any im-
4 migration document knowing it to contain any mate-
5 rially false statement or representation;

6 “(4) secures, possesses, uses, transfers, re-
7 ceives, buys, sells, or distributes any immigration
8 document knowing it to be forged, counterfeited, al-
9 tered, falsely made, stolen, procured by fraud, or
10 produced or issued without lawful authority;

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

13 “(6) transfers or furnishes, without lawful au-
14 thority, an immigration document to another person
15 for use by a person other than the person for whom
16 the immigration document was issued or designed;
17 or

18 “(7) produces, issues, authorizes, or verifies,
19 without lawful authority, an immigration document;
20 shall be fined under this title, imprisoned not more than
21 15 years, or both.

22 **“§ 1547. Attempts and conspiracies**

23 “Whoever attempts or conspires to violate this chap-
24 ter shall be punished in the same manner as a person who
25 completes that violation.

1 **“§ 1548. Alternative penalties for certain offenses**

2 “(a) **TERRORISM.**—Whoever violates any section in
3 this chapter to facilitate an act of international terrorism
4 or domestic terrorism (as such terms are defined in section
5 2331), shall be fined under this title or imprisoned not
6 more than 25 years, or both.

7 “(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-
8 lates any section in this chapter to facilitate a drug traf-
9 ficking crime (as defined in section 929(a)) shall be fined
10 under this title or imprisoned not more than 20 years, or
11 both.

12 **“§ 1549. Definitions**

13 “In this chapter:

14 “(1) An ‘application for a United States pass-
15 port’ includes any document, photograph, or other
16 piece of evidence attached to or submitted in support
17 of the application.

18 “(2) The term ‘immigration document’ means
19 any instrument on which is recorded, by means of
20 letters, figures, or marks, matters which may be
21 used to fulfill any requirement of the Immigration
22 and Nationality Act.”.

23 **SEC. 318. FORFEITURE.**

24 Section 981(a)(1) of title 18, United States Code, is
25 amended by adding at the end the following:

1 “(I) Any property, real or personal, that has
 2 been used to commit or facilitate the commission of
 3 a violation of chapter 75, the gross proceeds of such
 4 violation, and any property traceable to any such
 5 property or proceeds.”.

6 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
 7 **ON CRIMINAL OR SECURITY GROUNDS.**

8 (a) **IN GENERAL.**—Section 238(b) of the Immigra-
 9 tion and Nationality Act (8 U.S.C. 1228(b)) is amended—
 10 (1) in paragraph (1)—

11 (A) by striking “Attorney General” and in-
 12 serting “Secretary of Homeland Security in the
 13 exercise of discretion”; and

14 (B) by striking “set forth in this sub-
 15 section or” and inserting “set forth in this sub-
 16 section, in lieu of removal proceedings under”;

17 (2) in paragraph (3), by striking “paragraph
 18 (1) until 14 calendar days” and inserting “para-
 19 graph (1) or (3) until 7 calendar days”;

20 (3) by striking “Attorney General” each place
 21 it appears in paragraphs (3) and (4) and inserting
 22 “Secretary of Homeland Security”;

23 (4) in paragraph (5)—

1 (A) by striking “described in this section”
2 and inserting “described in paragraph (1) or
3 (2)”; and

4 (B) by striking “the Attorney General may
5 grant in the Attorney General’s discretion” and
6 inserting “the Secretary of Homeland Security
7 or the Attorney General may grant, in the dis-
8 cretion of the Secretary or Attorney General, in
9 any proceeding”;

10 (5) by redesignating paragraphs (3), (4), and
11 (5) as paragraphs (4), (5), and (6), respectively; and

12 (6) by inserting after paragraph (2) the fol-
13 lowing new paragraph:

14 “(3) The Secretary of Homeland Security in
15 the exercise of discretion may determine inadmis-
16 sibility under section 212(a)(2) (relating to criminal
17 offenses) or section 212(a)(3) (related to security
18 grounds) and issue an order of removal pursuant to
19 the procedures set forth in this subsection, in lieu of
20 removal proceedings under section 240, with respect
21 to an alien who—

22 “(A) has not been admitted or paroled;

23 “(B) has not been found to have a credible
24 fear of persecution pursuant to the procedures
25 set forth in section 235(b)(1)(B); and

1 “(C) is not eligible for a waiver of inadmis-
2 sibility or relief from removal.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act but shall not apply to aliens who are
6 in removal proceedings under section 240 of the Immigra-
7 tion and Nationality Act as of such date.

8 **SEC. 320. INCREASED PENALTIES BARRING THE ADMIS-**
9 **SION OF CONVICTED SEX OFFENDERS FAIL-**
10 **ING TO REGISTER AND REQUIRING DEPORTA-**
11 **TION OF SEX OFFENDERS FAILING TO REG-**
12 **ISTER.**

13 (a) **INADMISSIBILITY.**—Section 212(a)(2)(A)(i) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)(A)(i)), as amended by section 302(a) of this
16 Act, is further amended—

17 (1) in subclause (II), by striking “or” at the
18 end;

19 (2) in subclause (III), by adding “or” at the
20 end; and

21 (3) by inserting after subclause (III) the fol-
22 lowing:

23 “(IV) a violation of section 2250
24 of title 18, United States Code (relat-

1 ing to failure to register as a sex of-
 2 fender),”.

3 (b) **DEPORTABILITY.**—Section 237(a)(2) of such Act
 4 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and
 5 311(c) of this Act, is further amended—

6 (1) in subparagraph (A), by striking clause (v);
 7 and

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

9 “(I) **FAILURE TO REGISTER AS A SEX OF-**
 10 **FENDER.**—Any alien convicted of, or who ad-
 11 mits having committed, or who admits commit-
 12 ting acts which constitute the essential elements
 13 of a violation of section 2250 of title 18, United
 14 States Code (relating to failure to register as a
 15 sex offender) is deportable.”.

16 (c) **EFFECTIVE DATE.**—The amendments made by
 17 this section shall take effect on the date of the enactment
 18 of this Act and shall apply to acts that occur before, on,
 19 or after the date of the enactment of this Act.

20 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED**
 21 **SEX OFFENDERS.**

22 (a) **IMMIGRANTS.**—Section 204(a)(1) of the Immigra-
 23 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-
 24 ed—

1 (1) in subparagraph (A), by amending clause
2 (viii) to read as follows:

3 “(viii) Clause (i) shall not apply to a citizen of the
4 United States who has been convicted of an offense de-
5 scribed in subparagraph (A), (I), or (K) of section
6 101(a)(43) or any offense defined in section 111 of the
7 Adam Walsh Child Protection and Safety Act of 2006 (42
8 U.S.C. 16911), unless the Secretary of Homeland Secu-
9 rity, in the Secretary’s sole and unreviewable discretion,
10 determines that the citizen poses no risk to the alien with
11 respect to whom a petition described in clause (i) is filed.”;
12 and

13 (2) in subparagraph (B)(i)—

14 (A) by redesignating the second subclause

15 (I) as subclause (II); and

16 (B) by amending such subclause (II) to
17 read as follows:

18 “(II) Subclause (I) shall not apply in the case of an
19 alien admitted for permanent residence who has been con-
20 victed of an offense described in subparagraph (A), (I),
21 or (K) of section 101(a)(43), unless the Secretary of
22 Homeland Security, in the Secretary’s sole and
23 unreviewable discretion, determines that the alien lawfully
24 admitted for permanent residence poses no risk to the

1 alien with respect to whom a petition described in sub-
 2 clause (I) is filed.”.

3 (b) **NONIMMIGRANTS**.—Section 101(a)(15)(K) of
 4 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-
 5 ing “204(a)(1)(A)(viii)(I)” each place such term appears
 6 and inserting “204(a)(1)(A)(viii)”.

7 (c) **EFFECTIVE DATE**.—The amendments made by
 8 this section shall take effect on the date of the enactment
 9 of this Act and shall apply to petitions filed on or after
 10 such date.

11 **SEC. 322. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
 12 **DERS.**

13 (a) **IN GENERAL**.—Section 243(a) of the Immigra-
 14 tion and Nationality Act (8 U.S.C. 1253(a)) is amended—

15 (1) in the matter preceding subparagraph (A)
 16 of paragraph (1), by inserting “212(a) or” before
 17 “237(a),”; and

18 (2) by striking paragraph (3).

19 (b) **EFFECTIVE DATE**.—The amendments made by
 20 subsection (a) shall take effect on the date of the enact-
 21 ment of this Act and shall apply to acts that are described
 22 in subparagraphs (A) through (D) of section 243(a)(1) of
 23 the Immigration and Nationality Act (8 U.S.C.
 24 1253(a)(1)) that occur on or after the date of the enact-
 25 ment of this Act.

1 **SEC. 323. PARDONS.**

2 (a) **DEFINITION.**—Section 101(a) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)), as amended by
4 section 312(a) of this Act, is further amended by adding
5 at the end the following:

6 “(54) The term ‘pardon’ means a full and uncondi-
7 tional pardon granted by the President of the United
8 States, Governor of any of the several States or constitu-
9 tionally recognized body.”.

10 (b) **DEPORTABILITY.**—Section 237(a) of such Act (8
11 U.S.C. 1227(a)) is amended—

12 (1) in paragraph (2)(A), by striking clause (vi);

13 and

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

15 “(8) **PARDONS.**—In the case of an alien who
16 has been convicted of a crime and is subject to re-
17 moval due to that conviction, if the alien, subsequent
18 to receiving the criminal conviction, is granted a
19 pardon, the alien shall not be deportable by reason
20 of that criminal conviction.”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply to a pardon granted before,
24 on, or after such date.

1 **SEC. 324. CONVICTIONS.**

2 (a) **IN GENERAL.**—Section 212(a)(2) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1182(a)(2)) is
4 amended by adding at the end the following subparagraph:

5 “(J) **CONVICTIONS.**—

6 “(i) **IN GENERAL.**—For purposes of
7 determining whether an underlying crimi-
8 nal offense constitutes a ground of inad-
9 missibility under this subsection, all stat-
10 utes or common law offenses are divisible
11 so long as any of the conduct encompassed
12 by the statute constitutes an offense that
13 is a ground of inadmissibility.

14 “(ii) **OTHER EVIDENCE.**—If the con-
15 viction records do not conclusively establish
16 whether a crime constitutes a ground of in-
17 admissibility, the Attorney General or the
18 Secretary of Homeland Security may con-
19 sider other evidence related to the convic-
20 tion that clearly establishes that the con-
21 duct for which the alien was engaged con-
22 stitutes a ground of inadmissibility.”.

23 (b) **CRIMINAL OFFENSES.**—Section 237(a)(2) of the
24 Immigration and Nationality Act (8 U.S.C. 1227(a)(2))
25 is amended by adding at the end the following subpara-
26 graph:

1 “(G) **CRIMINAL OFFENSES.**—

2 “(i) **IN GENERAL.**—For purposes of
3 determining whether an underlying crimi-
4 nal offense constitutes a ground of deport-
5 ability under this subsection, all statutes or
6 common law offenses are divisible so long
7 as any of the conduct encompassed by the
8 statute constitutes an offense that is a
9 ground of deportability.

10 “(ii) **OTHER EVIDENCE.**—If the con-
11 viction records do not conclusively establish
12 whether a crime constitutes a ground of
13 deportability, the Attorney General or the
14 Secretary of Homeland Security may con-
15 sider other evidence related to the convic-
16 tion that clearly establishes that the con-
17 duct for which the alien was engaged con-
18 stitutes a ground of deportability.”.

19 (c) **FINALITY OF SENTENCES FOR IMMIGRATION**
20 **PURPOSES.**—Section 101(a)(48) of the Immigration and
21 Nationality Act (8 U.S.C. 1101(a)(48)) is amended by
22 adding at the end the following subparagraph:

23 “(C) Any modification, clarification, vacatur, or any
24 other such similar action with respect to an alien’s convic-
25 tion, other than a full and complete pardon, made after

1 the initiation of any proceedings to remove the alien from
 2 the United States shall have no effect for the purposes
 3 of this Act.”.

4 **TITLE IV—VISA SECURITY**

5 **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

6 (a) **IN GENERAL.**—Section 222(g) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “Attorney General” and in-
 10 serting “Secretary”; and

11 (B) by inserting “and any other non-
 12 immigrant visa issued by the United States that
 13 is in the possession of the alien” after “such
 14 visa”; and

15 (2) in paragraph (2)(A), by striking “(other
 16 than the visa described in paragraph (1)) issued in
 17 a consular office located in the country of the alien’s
 18 nationality” and inserting “(other than a visa de-
 19 scribed in paragraph (1)) issued in a consular office
 20 located in the country of the alien’s nationality or
 21 foreign residence”.

22 (b) **EFFECTIVE DATE.**—The amendment made by
 23 subsection (a) shall take effect on the date of the enact-
 24 ment of this Act and shall apply to a visa issued before,
 25 on, or after such date.

1 **SEC. 402. VISA INFORMATION SHARING.**

2 (a) **IN GENERAL.**—Section 222(f) of the Immigration
3 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

4 (1) by striking “issuance or refusal” and insert-
5 ing “issuance, refusal, or revocation”;

6 (2) in paragraph (2), in the matter preceding
7 subparagraph (A), by striking “and on the basis of
8 reciprocity”;

9 (3) in paragraph (2)(A)—

10 (A) by inserting “(i)” after “for the pur-
11 pose of”; and

12 (B) by striking “illicit weapons; or” and
13 inserting “illicit weapons, or (ii) determining a
14 person’s deportability or eligibility for a visa,
15 admission, or other immigration benefit;”;

16 (4) in paragraph (2)(B)—

17 (A) by striking “for the purposes” and in-
18 serting “for one of the purposes”; and

19 (B) by striking “or to deny visas to per-
20 sons who would be inadmissible to the United
21 States.” and inserting “; or”; and

22 (5) in paragraph (2), by adding at the end the
23 following:

24 “(C) with regard to any or all aliens in the
25 database specified data elements from each
26 record, if the Secretary of State determines that

1 it is in the national interest to provide such in-
 2 formation to a foreign government.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
 4 subsection (a) shall take effect 60 days after the date of
 5 the enactment of the Act.

6 **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

7 Section 222(h) of the Immigration and Nationality
 8 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

9 (1) in paragraph (1)(C), by inserting “, in con-
 10 sultation with the Secretary of Homeland Security,”
 11 after “if the Secretary”;

12 (2) in paragraph (1)(C)(i), by inserting “,
 13 where such national interest shall not include facili-
 14 tation of travel of foreign nationals to the United
 15 States, reduction of visa application processing
 16 times, or the allocation of consular resources” before
 17 the semicolon at the end; and

18 (3) in paragraph (2)—

19 (A) by striking “or” at the end of subpara-
 20 graph (E);

21 (B) by striking the period at the end of
 22 subparagraph (F) and inserting “; or”; and

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

24 “(G) is an individual—

1 “(i) determined to be in a class of
 2 aliens determined by the Secretary of
 3 Homeland Security to be threats to na-
 4 tional security;

5 “(ii) identified by the Secretary of
 6 Homeland Security as a person of concern;
 7 or

8 “(iii) applying for a visa in a visa cat-
 9 egory with respect to which the Secretary
 10 of Homeland Security has determined that
 11 a waiver of the visa interview would create
 12 a high risk of degradation of visa program
 13 integrity.”.

14 **SEC. 404. NON-INTERVIEW OF CERTAIN INELIGIBLE VISA**
 15 **APPLICANTS.**

16 (a) **IN GENERAL.**—Section 222(h)(1) of the Immi-
 17 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is
 18 amended by inserting “the alien is determined by the Sec-
 19 retary of State to be ineligible for a visa based upon review
 20 of the application or” after “unless”.

21 (b) **GUIDANCE.**—Not later than 90 days after the
 22 date of the enactment of this Act, the Secretary of State
 23 shall issue guidance to consular officers on the standards
 24 and processes for implementing the authority to deny visa
 25 applications without interview in cases where the alien is

1 determined by the Secretary of State to be ineligible for
 2 a visa based upon review of the application.

3 (c) **REPORTS.**—Not less frequently than once each
 4 quarter, the Secretary of State shall submit to the Con-
 5 gress a report on the denial of visa applications without
 6 interview, including—

7 (1) the number of such denials; and

8 (2) a post-by-post breakdown of such denials.

9 **SEC. 405. VISA REFUSAL AND REVOCATION.**

10 (a) **AUTHORITY OF THE SECRETARY OF HOMELAND**
 11 **SECURITY AND THE SECRETARY OF STATE.**—

12 (1) **IN GENERAL.**—Section 428 of the Home-
 13 land Security Act of 2002 (6 U.S.C. 236) is amend-
 14 ed by striking subsections (b) and (c) and inserting
 15 the following:

16 “(b) **AUTHORITY OF THE SECRETARY OF HOMELAND**
 17 **SECURITY.**—

18 “(1) **IN GENERAL.**—Notwithstanding section
 19 104(a) of the Immigration and Nationality Act (8
 20 U.S.C. 1104(a)) or any other provision of law, and
 21 except as provided in subsection (c) and except for
 22 the authority of the Secretary of State under sub-
 23 paragraphs (A) and (G) of section 101(a)(15) of the
 24 Immigration and Nationality Act (8 U.S.C.
 25 1101(a)(15)), the Secretary—

1 “(A) shall have exclusive authority to issue
2 regulations, establish policy, and administer and
3 enforce the provisions of the Immigration and
4 Nationality Act (8 U.S.C. 1101 et seq.) and all
5 other immigration or nationality laws relating
6 to the functions of consular officers of the
7 United States in connection with the granting
8 and refusal of a visa; and

9 “(B) may refuse or revoke any visa to any
10 alien or class of aliens if the Secretary, or des-
11 ignee, determines that such refusal or revoca-
12 tion is necessary or advisable in the security or
13 foreign policy interests of the United States.

14 “(2) **EFFECT OF REVOCATION.**—The revocation
15 of any visa under paragraph (1)(B)—

16 “(A) shall take effect immediately; and

17 “(B) shall automatically cancel any other
18 valid visa that is in the alien’s possession.

19 “(3) **JUDICIAL REVIEW.**—Notwithstanding any
20 other provision of law, including section 2241 of title
21 28, United States Code, or any other habeas corpus
22 provision, and sections 1361 and 1651 of such title,
23 no court shall have jurisdiction to review a decision
24 by the Secretary of Homeland Security to refuse or
25 revoke a visa, and no court shall have jurisdiction to

1 hear any claim arising from, or any challenge to,
2 such a refusal or revocation.

3 “(c) **AUTHORITY OF THE SECRETARY OF STATE.**—

4 “(1) **IN GENERAL.**—The Secretary of State may
5 direct a consular officer to refuse a visa requested
6 by an alien if the Secretary of State determines such
7 refusal to be necessary or advisable in the security
8 or foreign policy interests of the United States.

9 “(2) **LIMITATION.**—No decision by the Sec-
10 retary of State to approve a visa may override a de-
11 cision by the Secretary of Homeland Security under
12 subsection (b).”.

13 (2) **CONFORMING AMENDMENT.**—Section
14 237(a)(1)(B) of the Immigration and Nationality
15 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-
16 ing “under section 221(i)”.

17 (3) **EFFECTIVE DATE.**—The amendment made
18 by paragraph (1) shall take effect on the date of the
19 enactment of this Act and shall apply to visa refus-
20 als and revocations occurring before, on, or after
21 such date.

22 (b) **TECHNICAL CORRECTIONS TO THE HOMELAND**
23 **SECURITY ACT.**—Section 428(a) of the Homeland Secu-
24 rity Act of 2002 (6 U.S.C. 236(a)) is amended by—

1 (1) striking “subsection” and inserting “sec-
2 tion”; and

3 (2) striking “consular office” and inserting
4 “consular officer”.

5 **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

6 (a) **IN GENERAL.**—The Department of State and Re-
7 lated Agency Appropriations Act, 2005 (title IV of division
8 B of Public Law 108–447) is amended, in the fourth para-
9 graph under the heading “Diplomatic and Consular Pro-
10 grams”, by striking “Beginning” and all that follows
11 through the period at the end and inserting the following:
12 “Beginning in fiscal year 2005 and thereafter, the Sec-
13 retary of State is authorized to charge surcharges related
14 to consular services in support of enhanced border security
15 that are in addition to the immigrant visa fees in effect
16 on January 1, 2004: *Provided*, That funds collected pursu-
17 ant to this authority shall be credited to the appropriation
18 for U.S. Immigration and Customs Enforcement for the
19 fiscal year in which the fees were collected, and shall be
20 available until expended for the funding of the Visa Secu-
21 rity Program established by the Secretary of Homeland
22 Security under section 428(e) of the Homeland Security
23 Act of 2002 (Public Law 107–296): *Provided further*, That
24 such surcharges shall be 10 percent of the fee assessed
25 on immigrant visa applications.”.

1 (b) **REPAYMENT OF APPROPRIATED FUNDS.**—Twen-
2 ty percent of the funds collected each fiscal year under
3 the heading “Diplomatic and Consular Programs” in the
4 Department of State and Related Agency Appropriations
5 Act, 2005 (title IV of division B of Public Law 108–447),
6 as amended by subsection (a), shall be deposited into the
7 general fund of the Treasury as repayment of funds ap-
8 propriated pursuant to section 407(c) of this Act until the
9 entire appropriated sum has been repaid.

10 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**
11 **PROGRAM TO HIGH-RISK POSTS.**

12 (a) **IN GENERAL.**—Section 428(i) of the Homeland
13 Security Act of 2002 (6 U.S.C. 236(i)) is amended to read
14 as follows:

15 “(i) **VISA ISSUANCE AT DESIGNATED HIGH-RISK**
16 **POSTS.**—Notwithstanding any other provision of law, the
17 Secretary of Homeland Security shall conduct an on-site
18 review of all visa applications and supporting documenta-
19 tion before adjudication at the top 30 visa-issuing posts
20 designated jointly by the Secretaries of State and Home-
21 land Security as high-risk posts.”.

22 (b) **ASSIGNMENT OF PERSONNEL.**—Not later than
23 one year after the date of enactment of this section, the
24 Secretary of Homeland Security shall assign personnel to
25 the visa-issuing posts referenced in section 428(i) of the

1 Homeland Security Act of 2002 (6 U.S.C. 236(i)), as
 2 amended by this section, and communicate such assign-
 3 ments to the Secretary of State.

4 (c) **APPROPRIATIONS.**—There is authorized to be ap-
 5 propriated \$60,000,000 for each of the fiscal years 2015
 6 and 2016, which shall be used to expedite the implementa-
 7 tion of section 428(i) of the Homeland Security Act, as
 8 amended by this section.

9 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**
 10 **PARTMENT OF HOMELAND SECURITY PER-**
 11 **SONNEL AT OVERSEAS EMBASSIES AND CON-**
 12 **SULAR POSTS.**

13 Section 428 of the Homeland Security Act of 2002
 14 (6 U.S.C. 236) is amended by adding at the end the fol-
 15 lowing:

16 “(j) **EXPEDITED CLEARANCE AND PLACEMENT OF**
 17 **DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT**
 18 **OVERSEAS EMBASSIES AND CONSULAR POSTS.**—Notwith-
 19 standing any other provision of law, and the processes set
 20 forth in National Security Defense Directive 38 (dated
 21 June 2, 1982) or any successor Directive, the Chief of
 22 Mission of a post to which the Secretary of Homeland Se-
 23 curity has assigned personnel under subsection (e) or (i)
 24 shall ensure, not later than one year after the date on
 25 which the Secretary of Homeland Security communicates

1 such assignment to the Secretary of State, that such per-
 2 sonnel have been stationed and accommodated at post and
 3 are able to carry out their duties.”.

4 **SEC. 409. ACCREDITATION REQUIREMENTS.**

5 (a) COLLEGES, UNIVERSITIES, AND LANGUAGE
 6 TRAINING PROGRAMS.—Section 101(a) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

8 (1) in paragraph (15)(F)(i)—

9 (A) by striking “section 214(l) at an estab-
 10 lished college, university, seminary, conserv-
 11 atory, academic high school, elementary school,
 12 or other academic institution or in an accred-
 13 ited language training program in the United
 14 States” and inserting “section 214(m) at an ac-
 15 credited college, university, or language training
 16 program, or at an established seminary, con-
 17 servatory, academic high school, elementary
 18 school, or other academic institution in the
 19 United States”;

20 (B) by striking “Attorney General” each
 21 place such term appears and inserting “Sec-
 22 retary of Homeland Security”; and

23 (C) by striking “and if any such institution
 24 of learning or place of study fails to make re-
 25 ports promptly the approval shall be with-

1 drawn,” and inserting “and if any such institu-
2 tion of learning of place of study fails to make
3 reports promptly or fails to comply with any ac-
4 creditation requirement (including deadlines for
5 submitting accreditation applications or obtain-
6 ing accreditation) the approval shall be with-
7 drawn,”; and

8 (2) by amending paragraph (52) to read as fol-
9 lows:

10 “(52) Except as provided in section 214(m)(4), the
11 term ‘accredited college, university, or language training
12 program’ means a college, university, or language training
13 program that is accredited by an accrediting agency recog-
14 nized by the Secretary of Education.”.

15 (b) **OTHER ACADEMIC INSTITUTIONS.**—Section
16 214(m) of the Immigration and Nationality Act (8 U.S.C.
17 1184(m)) is amended by adding at the end the following:

18 “(3) The Secretary of Homeland Security shall re-
19 quire accreditation of an academic institution (except for
20 seminaries or other religious institutions) for purposes of
21 section 101(a)(15)(F) if—

22 “(A) that institution is not already required to
23 be accredited under section 101(a)(15)(F)(i); and

1 “(B) an appropriate accrediting agency recog-
2 nized by the Secretary of Education is able to pro-
3 vide such accreditation.

4 “(4) The Secretary of Homeland Security, in the Sec-
5 retary’s discretion, may waive the accreditation require-
6 ment in paragraph (3) or section 101(a)(15)(F)(i) with
7 respect to an institution if such institution—

8 “(A) is otherwise in compliance with the re-
9 quirements of section 101(a)(15)(F)(i); and

10 “(B) has been a candidate for accreditation for
11 at least 1 year and continues to progress toward ac-
12 creditation by an accrediting agency recognized by
13 the Secretary of Education.”.

14 (c) **EFFECTIVE DATE.**—

15 (1) **IN GENERAL.**—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall—

18 (A) take effect on the date that is 180
19 days after the date of enactment of this Act;
20 and

21 (B) apply with respect to applications for
22 nonimmigrant visas that are filed on or after
23 the effective date described in subparagraph
24 (A).

1 (2) **TEMPORARY EXCEPTION.**—During the 3-
 2 year period beginning on the effective date described
 3 in paragraph (1)(A), an institution that is newly re-
 4 quired to be accredited under this section may con-
 5 tinue to participate in the Student and Exchange
 6 Visitor Program notwithstanding the institution’s
 7 lack of accreditation if the institution—

8 (A) was certified under the Student and
 9 Exchange Visitor Program on such date;

10 (B) submitted an application for accredita-
 11 tion to an accrediting agency recognized by the
 12 Secretary of Education during the 6-month pe-
 13 riod ending on such date; and

14 (C) continues to progress toward accredita-
 15 tion by such accrediting agency.

16 **SEC. 410. VISA FRAUD.**

17 (a) **TEMPORARY SUSPENSION OF SEVIS ACCESS.**—
 18 Section 641(d) of the Illegal Immigration Reform and Im-
 19 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is
 20 amended—

21 (1) in paragraph (1)(A), by striking “institu-
 22 tion,” and inserting “institution,”; and

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

24 “(3) **EFFECT OF REASONABLE SUSPICION OF**
 25 **FRAUD.**—If the Secretary of Homeland Security has

1 reasonable suspicion that an owner of, or a des-
2 ignated school official at, an approved institution of
3 higher education, an other approved educational in-
4 stitution, or a designated exchange visitor program
5 has committed fraud or attempted to commit fraud
6 relating to any aspect of the Student and Exchange
7 Visitor Program (SEVP), the Secretary may imme-
8 diately suspend, without notice, such official's or
9 such school's access to the Student and Exchange
10 Visitor Information System (SEVIS), including the
11 ability to issue Form I-20s, pending a final deter-
12 mination by the Secretary with respect to the insti-
13 tution's certification under the Student and Ex-
14 change Visitor Program.”.

15 (b) **EFFECT OF CONVICTION FOR VISA FRAUD.**—
16 Such section 641(d), as amended by subsection (a)(2), is
17 further amended by adding at the end the following:

18 “(4) **PERMANENT DISQUALIFICATION FOR**
19 **FRAUD.**—A designated school official at, or an owner
20 of, an approved institution of higher education, an
21 other approved educational institution, or a des-
22 ignated exchange visitor program who is convicted
23 for fraud relating to any aspect of the Student and
24 Exchange Visitor Program shall be permanently dis-
25 qualified from filing future petitions and from hav-

1 ing an ownership interest or a management role, in-
 2 cluding serving as a principal, owner, officer, board
 3 member, general partner, designated school official,
 4 or any other position of substantive authority for the
 5 operations or management of the institution, in any
 6 United States educational institution that enrolls
 7 nonimmigrant alien students described in subpara-
 8 graph (F) or (M) of section 101(a)(15) the Immig-
 9 ration and Nationality Act (8 U.S.C.
 10 1101(a)(15)).”.

11 **SEC. 411. BACKGROUND CHECKS.**

12 (a) **IN GENERAL.**—Section 641(d) of the Illegal Im-
 13 migration Reform and Immigrant Responsibility Act of
 14 1996 (8 U.S.C. 1372(d)), as amended by section 411(b)
 15 of this Act, is further amended by adding at the end the
 16 following:

17 “(5) **BACKGROUND CHECK REQUIREMENT.**—

18 “(A) **IN GENERAL.**—An individual may not
 19 serve as a designated school official or be grant-
 20 ed access to SEVIS unless the individual is a
 21 national of the United States or an alien law-
 22 fully admitted for permanent residence and dur-
 23 ing the most recent 3-year period—

24 “(i) the Secretary of Homeland Secu-
 25 rity has—

1 “(I) conducted a thorough back-
2 ground check on the individual, in-
3 cluding a review of the individual’s
4 criminal and sex offender history and
5 the verification of the individual’s im-
6 migration status; and

7 “(II) determined that the indi-
8 vidual has not been convicted of any
9 violation of United States immigration
10 law and is not a risk to national secu-
11 rity of the United States; and

12 “(ii) the individual has successfully
13 completed an on-line training course on
14 SEVP and SEVIS, which has been devel-
15 oped by the Secretary.

16 “(B) **INTERIM DESIGNATED SCHOOL OFFI-**
17 **CIAL.—**

18 “(i) **IN GENERAL.—**An individual may
19 serve as an interim designated school offi-
20 cial during the period that the Secretary is
21 conducting the background check required
22 by subparagraph (A)(i)(I).

23 “(ii) **REVIEWS BY THE SECRETARY.—**
24 If an individual serving as an interim des-
25 ignated school official under clause (i) does

1 not successfully complete the background
 2 check required by subparagraph (A)(i)(I),
 3 the Secretary shall review each Form I-20
 4 issued by such interim designated school
 5 official.

6 “(6) ~~FE~~**E**.—The Secretary is authorized to col-
 7 lect a fee from an approved school for each back-
 8 ground check conducted under paragraph (6)(A)(i).
 9 The amount of such fee shall be equal to the average
 10 amount expended by the Secretary to conduct such
 11 background checks.”.

12 (b) **EFFECTIVE DATE**.—The amendment made by
 13 subsection (a) shall take effect on the date that is 1 year
 14 after the date of the enactment of this Act.

15 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

16 Section 641(d) of the Illegal Immigration Reform and
 17 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)),
 18 as amended by section 412(a) of this Act, is further
 19 amended by adding at the end the following:

20 “(7) **NUMBER OF DESIGNATED SCHOOL OFFI-**
 21 **CIALS**.—School officials may nominate as many Des-
 22 ignated School Officials (DSOs) in addition to the
 23 school’s Principal Designated School Official
 24 (PDSO) as they determine necessary to adequately
 25 provide recommendations to students enrolled at the

1 school regarding maintenance of nonimmigrant sta-
2 tus under subparagraph (F) or (M) of section
3 101(a)(15) and to support timely and complete rec-
4 ordkeeping and reporting to the Secretary of Home-
5 land Security, as required by this section, except
6 that a school may not have less than one DSO per
7 every 200 students who have nonimmigrant status
8 pursuant to subparagraph (F), (J), or (M) of such
9 section. School officials shall not permit a DSO or
10 PDSO nominee access to SEVIS until the Secretary
11 approves the nomination.”.

12 **SEC. 413. REPORTING REQUIREMENT.**

13 Section 442(a) of the Homeland Security Act of 2002
14 (6 U.S.C. 252(a)) is amended—

15 (1) by redesignating paragraph (5) as para-
16 graph (6); and

17 (2) by inserting after paragraph (4) the fol-
18 lowing:

19 “(5) **STUDENT AND EXCHANGE VISITOR PRO-**
20 **GRAM.**—In administering the program under para-
21 graph (4), the Secretary shall, not later than one
22 year after the date of the enactment of this para-
23 graph, prescribe regulations to require an institution
24 or exchange visitor program sponsor participating in
25 the Student Exchange Visitor Program to ensure

1 that each student or exchange visitor who has non-
2 immigrant status pursuant to subparagraph (F),
3 (J), or (M) of section 101(a)(15) of the Immigration
4 and Nationality Act (8 U.S.C. 1101(a)(15)) enrolled
5 at the institution or attending the exchange visitor
6 program is reported to the Department within 10
7 days of—

8 “(A) transferring to another institution or
9 program;

10 “(B) changing academic majors; or

11 “(C) any other changes to information re-
12 quired to be maintained in the system described
13 in paragraph (4).”.

14 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

15 (a) **IN GENERAL.**—Except as provided in subsection
16 (b), the Secretary of Homeland Security shall prohibit any
17 flight school in the United States from accessing SEVIS
18 or issuing a Form I-20 to an alien seeking a student visa
19 pursuant to subparagraph (F)(i) or (M)(i) of section
20 101(a)(15) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(15)) if the flight school has not been cer-
22 tified to the satisfaction of the Secretary and by the Fed-
23 eral Aviation Administration pursuant to part 141 or part
24 142 of title 14, Code of Federal Regulations (or similar
25 successor regulations).

1 (b) **TEMPORARY EXCEPTION.**—During the 5-year pe-
2 riod beginning on the date of the enactment of this Act,
3 the Secretary may waive the requirement under subsection
4 (a) that a flight school be certified by the Federal Aviation
5 Administration if such flight school—

6 (1) was certified under the Student and Ex-
7 change Visitor Program on the date of the enact-
8 ment of this Act;

9 (2) submitted an application for certification
10 with the Federal Aviation Administration during the
11 1-year period beginning on such date; and

12 (3) continues to progress toward certification by
13 the Federal Aviation Administration.

14 **SEC. 415. REVOCATION OF ACCREDITATION.**

15 At the time an accrediting agency or association is
16 required to notify the Secretary of Education and the ap-
17 propriate State licensing or authorizing agency of the final
18 denial, withdrawal, suspension, or termination of accredi-
19 tation of an institution pursuant to section 496 of the
20 Higher Education Act of 1965 (20 U.S.C. 1099b), such
21 accrediting agency or association shall notify the Secretary
22 of Homeland Security of such determination and the Sec-
23 retary of Homeland Security shall immediately terminate
24 the school's Student and Exchange Visitor Program
25 (SEVP) certification and prohibit the school from access-

1 ing the Student and Exchange Visitor Information System
2 (SEVIS).

3 **SEC. 416. REPORT ON RISK ASSESSMENT.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Secretary of Homeland Security shall
6 submit to the Committee on the Judiciary of the Senate
7 and the Committee on the Judiciary of the House of Rep-
8 resentatives a report that contains the risk assessment
9 strategy that will be employed by the Secretary to identify,
10 investigate, and take appropriate action against schools
11 and school officials that are facilitating the issuance of
12 Form I-20 and the maintenance of student visa status
13 in violation of the immigration laws of the United States.

14 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

15 Not later than 180 days after the date of the enact-
16 ment of this act, the Secretary of Homeland Security shall
17 submit to the Committee on the Judiciary of the Senate
18 and the Committee on the Judiciary of the House of Rep-
19 resentatives a report that describes—

20 (1) the process in place to identify and assess
21 risks in the SEVP;

22 (2) a risk assessment process to allocate
23 SEVP's resources based on risk;

1 (3) the procedures in place for consistently en-
2 suring a school's eligibility, including consistently
3 verifying in lieu of letters;

4 (4) how SEVP identified and addressed missing
5 school case files;

6 (5) a plan to develop and implement a process
7 to monitor State licensing and accreditation status
8 of all SEVP-certified schools;

9 (6) whether all flight schools that have not been
10 certified to the satisfaction of the Secretary and by
11 the Federal Aviation Administration have been re-
12 moved from the program and have been restricted
13 from accessing SEVIS;

14 (7) the standard operating procedures that gov-
15 ern coordination among SEVP, the U.S. Immigra-
16 tion and Customs Enforcement (ICE) Counterter-
17 rorism and Criminal Exploitation Unit, and ICE
18 field offices; and

19 (8) the established criteria for referring cases of
20 a potentially criminal nature from SEVP to the
21 counterterrorism and intelligence community.

22 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

23 Not later than 2 years after the date of the enact-
24 ment of this Act, the Secretary of Homeland Security shall
25 complete the deployment of both phases of the 2nd genera-

tion Student and Exchange Visitor Information System
(commonly known as “SEVIS II”).

SEC. 419. DEFINITIONS.

(a) **DEFINITIONS.**—For purposes of this title:

(1) **SEVIS.**—The term “SEVIS” means the
Student and Exchange Visitor Information System
of the Department of Homeland Security.

(2) **SEVP.**—The term “SEVP” means the Stu-
dent and Exchange Visitor Program of the Depart-
ment of Homeland Security.

**TITLE V—AID TO U.S. IMMIGRA-
TION AND CUSTOMS EN-
FORCEMENT OFFICERS**

SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.

(a) **IN GENERAL.**—The Secretary of Homeland Secu-
rity shall authorize all immigration enforcement agents
and deportation officers of the Department of Homeland
Security who have successfully completed basic immigra-
tion law enforcement training to exercise the powers con-
ferred by—

(1) section 287(a)(5)(A) of the Immigration
and Nationality Act to arrest for any offense against
the United States;

(2) section 287(a)(5)(B) of such Act to arrest
for any felony;

1 (3) section 274(a) of such Act to arrest for
2 bringing in, transporting, or harboring certain
3 aliens, or inducing them to enter;

4 (4) section 287(a) of such Act to execute war-
5 rants of arrest for administrative immigration viola-
6 tions issued under section 236 of the Act or to exe-
7 cute warrants of criminal arrest issued under the
8 authority of the United States; and

9 (5) section 287(a) of such Act to carry fire-
10 arms, provided that they are individually qualified by
11 training and experience to handle and safely operate
12 the firearms they are permitted to carry, maintain
13 proficiency in the use of such firearms, and adhere
14 to the provisions of the enforcement standard gov-
15 erning the use of force.

16 (b) **ARREST POWERS.**—Section 287(a)(2) of the Im-
17 migration and Nationality Act (8 U.S.C. 1357(a)(2)) is
18 amended by striking “regulation and is likely to escape
19 before a warrant can be obtained for his arrest,” and in-
20 serting “regulation,”.

21 (c) **PAY.**—Immigration enforcement agents shall be
22 paid on the same scale as Immigration and Customs En-
23 forcement deportation officers and shall receive the same
24 benefits.

1 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

2 (a) **AUTHORIZATION.**—The Secretary of Homeland
3 Security is authorized to hire 2,500 Immigration and Cus-
4 toms Enforcement detention enforcement officers.

5 (b) **DUTIES.**—Immigration and Customs Enforce-
6 ment detention enforcement officers who have successfully
7 completed detention enforcement officers' basic training
8 shall be responsible for—

9 (1) taking and maintaining custody of any per-
10 son who has been arrested by an immigration offi-
11 cer;

12 (2) transporting and guarding immigration de-
13 tainees;

14 (3) securing Department of Homeland Security
15 detention facilities; and

16 (4) assisting in the processing of detainees.

17 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**
18 **AGENTS.**

19 (a) **BODY ARMOR.**—The Secretary of Homeland Se-
20 curity shall ensure that every Immigration and Customs
21 Enforcement deportation officer and immigration enforce-
22 ment agent on duty is issued high-quality body armor that
23 is appropriate for the climate and risks faced by the agent.
24 Enough body armor must be purchased to cover every
25 agent in the field.

1 (b) **WEAPONS.**—Such Secretary shall ensure that Im-
2 migration and Customs Enforcement deportation officers
3 and immigration enforcement agents are equipped with
4 weapons that are reliable and effective to protect them-
5 selves, their fellow agents, and innocent third parties from
6 the threats posed by armed criminals. Such weapons shall
7 include, at a minimum, standard-issue handguns, M–4 (or
8 equivalent) rifles, and Tasers.

9 (c) **EFFECTIVE DATE.**—This section shall take effect
10 90 days after the date of the enactment of this Act.

11 **SEC. 504. ICE ADVISORY COUNCIL.**

12 (a) **ESTABLISHMENT.**—An ICE Advisory Council
13 shall be established not later than 3 months after the date
14 of the enactment of this Act.

15 (b) **MEMBERSHIP.**—The ICE Advisor Council shall
16 be comprised of 7 members.

17 (c) **APPOINTMENT.**—Members shall to be appointed
18 in the following manner:

19 (1) One member shall be appointed by the
20 President.

21 (2) One member shall be appointed by the
22 Chairman of the Judiciary Committee of the House
23 of Representatives.

24 (3) One member shall be appointed by the
25 Chairman of the Judiciary Committee of the Senate.

1 (4) One member shall be appointed by the
2 Local 511, the ICE prosecutor's union.

3 (5) Three members shall be appointed by the
4 National Immigration and Customs Enforcement
5 Council.

6 (d) **TERM.**—Members shall serve renewable, 2-year
7 terms.

8 (e) **VOLUNTARY.**—Membership shall be voluntary and
9 non-remunerated, except that members will receive reim-
10 bursement from the Secretary of Homeland Security for
11 travel and other related expenses.

12 (f) **RETALIATION PROTECTION.**—Members who are
13 employed by the Secretary of Homeland Security shall be
14 protected from retaliation by their supervisors, managers,
15 and other Department of Homeland Security employees
16 for their participation on the Council.

17 (g) **PURPOSE.**—The purpose of the Council is to ad-
18 vise the Congress and the Secretary of Homeland Security
19 on issues including the following:

20 (1) The current status of immigration enforce-
21 ment efforts, including prosecutions and removals,
22 the effectiveness of such efforts, and how enforce-
23 ment could be improved.

24 (2) The effectiveness of cooperative efforts be-
25 tween the Secretary of Homeland Security and other

1 law enforcement agencies, including additional types
2 of enforcement activities that the Secretary should
3 be engaged in, such as State and local criminal task
4 forces.

5 (3) Personnel, equipment, and other resource
6 needs of field personnel.

7 (4) Improvements that should be made to the
8 organizational structure of the Department of
9 Homeland Security, including whether the position
10 of immigration enforcement agent should be merged
11 into the deportation officer position.

12 (5) The effectiveness of specific enforcement
13 policies and regulations promulgated by the Sec-
14 retary of Homeland Security, and whether other en-
15 forcement priorities should be considered.

16 (h) **REPORTS.**—The Council shall provide quarterly
17 reports to the Chairmen and Ranking Members of the Ju-
18 diciary Committees of the Senate and the House of Rep-
19 resentatives and to the Secretary of Homeland Security.
20 The Council members shall meet directly with the Chair-
21 men and Ranking Members (or their designated represent-
22 atives) and with the Secretary to discuss their reports
23 every 6 months.

1 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
2 **ESSING.**

3 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
4 rity shall establish a pilot program in at least five of the
5 ten Immigration and Customs Enforcement field offices
6 with the largest removal caseloads to allow Immigration
7 and Customs deportation officers and immigration en-
8 forcement agents to—

9 (1) electronically process and serve charging
10 documents, including Notices to Appear, while in the
11 field; and

12 (2) electronically process and place detainers
13 while in the field.

14 (b) **DUTIES.**—The pilot program described in sub-
15 section (a) shall be designed to allow deportation officers
16 and immigration enforcement agents to use handheld or
17 vehicle-mounted computers to—

18 (1) enter any required data, including personal
19 information about the alien subject and the reason
20 for issuing the document;

21 (2) apply the electronic signature of the issuing
22 officer or agent;

23 (3) set the date the alien is required to appear
24 before an immigration judge, in the case of Notices
25 to Appear;

1 (4) print any documents the alien subject may
2 be required to sign, along with additional copies of
3 documents to be served on the alien; and

4 (5) interface with the ENFORCE database so
5 that all data is stored and retrievable.

6 (c) **CONSTRUCTION.**—The pilot program described in
7 subsection (a) shall be designed to replace, to the extent
8 possible, the current paperwork and data-entry process
9 used for issuing such charging documents and detainers.

10 (d) **DEADLINE.**—The Secretary shall initiate the pilot
11 program described in subsection (a) within 6 months of
12 the date of enactment of this Act.

13 (e) **REPORT.**—The Government Accountability Office
14 shall report to the Judiciary Committee of the Senate and
15 the House of Representatives no later than 18 months
16 after the date of enactment of this Act on the effectiveness
17 of the pilot program and provide recommendations for im-
18 proving it.

19 (f) **ADVISORY COUNCIL.**—The ICE Advisory Council
20 established by section 504 shall include recommendations
21 on how the pilot program should work in the first quar-
22 terly report of the Council, and shall include assessments
23 of the program and recommendations for improvement in
24 each subsequent report.

1 (g) **EFFECTIVE DATE.**—This section shall take effect
2 180 days after the date of the enactment of this Act.

3 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
4 **SUPPORT STAFF.**

5 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
6 rity shall, subject to the availability of appropriations for
7 such purpose, increase the number of positions for full-
8 time active-duty Immigration and Customs Enforcement
9 deportation officers by 5,000 above the number of full-
10 time positions for which funds were appropriated for fiscal
11 year 2013. The Secretary will determine the rate at which
12 the additional officers will be added with due regard to
13 filling the positions as expeditiously as possible without
14 making any compromises in the selection or the training
15 of the additional officers.

16 (b) **SUPPORT STAFF.**—The Secretary shall, subject
17 to the availability of appropriations for such purpose, in-
18 crease the number of positions for full-time support staff
19 for Immigration and Customs Enforcement deportation
20 officers by 700 above the number of full-time positions for
21 which funds were appropriated for fiscal year 2013.

22 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

23 The Secretary of Homeland Security shall increase
24 by 60 the number of full-time trial attorneys working for

1 the Immigration and Customs Enforcement Office of the
 2 Principal Legal Advisor.

3 **TITLE VI—MISCELLANEOUS**
 4 **ENFORCEMENT PROVISIONS**

5 **SEC. 601. TIMELY REPATRIATION.**

6 (a) **LISTING OF COUNTRIES.**—Beginning on the date
 7 that is 6 months after the date of enactment of this Act,
 8 and every 6 months thereafter, the Secretary of Homeland
 9 Security shall publish a report including the following:

10 (1) A list of the following:

11 (A) Countries that have refused or unrea-
 12 sonably delayed repatriation of an alien who is
 13 a national of that country since the date of en-
 14 actment of this Act and the total number of
 15 such aliens, disaggregated by nationality.

16 (B) Countries that have an excessive repa-
 17 triation failure rate.

18 (2) A list of each country that was included
 19 under subparagraph (B) or (C) of paragraph (1) in
 20 both the report preceding the current report and the
 21 current report.

22 (b) **SANCTIONS.**—Beginning on the date that a coun-
 23 try is included in a list under subsection (a)(2) and ending
 24 on the date that such country is not included in such list,
 25 such country shall be subject to the following:

1 (1) The Secretary of State may not issue visas
2 under section 101(a)(15)(A)(iii) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))
4 to attendants, servants, personal employees, and
5 members of their immediate families, of the officials
6 and employees of such country who receive non-
7 immigrant status under clause (i) or (ii) of section
8 101(a)(15)(A) of such Act.

9 (2) Each 6 months thereafter that the country
10 is included in that list, the Secretary of State shall
11 reduce the number of visas available under clause (i)
12 or (ii) of section 101(a)(15)(A) of the Immigration
13 and Nationality Act in a fiscal year to nationals of
14 that country by an amount equal to 10 percent of
15 the baseline visa number for such country. Except as
16 provided under section 243(d) of the Immigration
17 and Nationality Act (8 U.S.C. 1253), the Secretary
18 may not reduce the number to a level below 20 per-
19 cent of the baseline visa number.

20 (c) **WAIVERS.**—

21 (1) **NATIONAL SECURITY WAIVER.**—If the Sec-
22 retary of State submits to Congress a written deter-
23 mination that significant national security interests
24 of the United States require a waiver of the sanc-
25 tions under subsection (b), the Secretary may waive

1 any reduction below 80 percent of the baseline visa
2 number. The Secretary of Homeland Security may
3 not delegate the authority under this subsection.

4 (2) **TEMPORARY EXIGENT CIRCUMSTANCES.**—If
5 the Secretary of State submits to Congress a written
6 determination that temporary exigent circumstances
7 require a waiver of the sanctions under subsection
8 (b), the Secretary may waive any reduction below 80
9 percent of the baseline visa number during 6-month
10 renewable periods. The Secretary of Homeland Secu-
11 rity may not delegate the authority under this sub-
12 section.

13 (d) **EXEMPTION.**—The Secretary of Homeland Secu-
14 rity, in consultation with the Secretary of State, may ex-
15 empt a country from inclusion in a list under subsection
16 (a)(2) if the total number of nonrepatriations outstanding
17 is less than 10 for the preceding 3-year period.

18 (e) **UNAUTHORIZED VISA ISSUANCE.**—Any visa
19 issued in violation of this section shall be void.

20 (f) **NOTICE.**—If an alien who has been convicted of
21 a criminal offense before a Federal or State court whose
22 repatriation was refused or unreasonably delayed is to be
23 released from detention by the Secretary of Homeland Se-
24 curity, the Secretary shall provide notice to the State and
25 local law enforcement agency for the jurisdictions in which

1 the alien is required to report or is to be released. When
2 possible, and particularly in the case of violent crime, the
3 Secretary shall make a reasonable effort to provide notice
4 of such release to any crime victims and their immediate
5 family members.

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

7 (1) **REFUSED OR UNREASONABLY DELAYED.**—

8 A country is deemed to have refused or unreasonably
9 delayed the acceptance of an alien who is a citizen,
10 subject, national, or resident of such country if, not
11 later than 90 days after receiving a request to repa-
12 triate such alien from an official of the United
13 States who is authorized to make such a request, the
14 country does not accept the alien or issue valid trav-
15 el documents.

16 (2) **FAILURE RATE.**—The term “failure rate”
17 for a period means the percentage determined by di-
18 viding the total number of repatriation requests for
19 aliens who are citizens, subjects, nationals, or resi-
20 dents of a country that such country refused or un-
21 reasonably delayed during that period by the total
22 number of such requests during that period.

23 (3) **EXCESSIVE REPATRIATION FAILURE**
24 **RATE.**—The term “excessive repatriation failure
25 rate” means, with respect to a report under sub-

1 section (a), a failure rate greater than 10 percent
2 for any of the following:

3 (A) The period of the 3 full fiscal years
4 preceding the date of publication of the report.

5 (B) The period of 1 year preceding the
6 date of publication of the report.

7 (4) **NUMBER OF NON-REPATRIATIONS OUT-**
8 **STANDING.**—The term “number of non-repatriations
9 outstanding” means, for a period, the number of
10 unique aliens whose repatriation a country has re-
11 fused or unreasonably delayed and whose repatri-
12 ation has not occurred during that period.

13 (5) **BASELINE VISA NUMBER.**—The term “base-
14 line visa number” means, with respect to a country,
15 the average number of visas issued each fiscal year
16 to nationals of that country under clauses (i) and
17 (ii) of section 101(a)(15)(A) of the Immigration and
18 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3
19 full fiscal years immediately preceding the first re-
20 port under subsection (a) in which such country is
21 included in the list under subsection (a)(2).

22 (h) **GAO REPORT.**—On the date that is 1 day after
23 the date that the President submits a budget under sec-
24 tion 1105(a) of title 31, United States Code, for fiscal year
25 2016, the Comptroller General of the United States shall

1 submit a report to Congress regarding the progress of the
 2 Secretary of Homeland Security and the Secretary of
 3 State in implementation of this section and in making re-
 4 quests to repatriate aliens as appropriate.

5 **SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-**
 6 **TARILY.**

7 (a) **IN GENERAL.**—Section 240B of the Immigration
 8 and Nationality Act (8 U.S.C. 1229c) is amended—

9 (1) in subsection (a)—

10 (A) by amending paragraph (1) to read as
 11 follows:

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

19 (B) by striking paragraph (3);

20 (C) by redesignating paragraph (2) as
 21 paragraph (3);

22 (D) by adding after paragraph (1) the fol-
 23 lowing:

24 “(2) **BEFORE THE CONCLUSION OF REMOVAL**
 25 **PROCEEDINGS.**—If an alien is not described in para-

1 graph (2)(A)(iii) or (4) of section 237(a), the Attor-
2 ney General may permit the alien to voluntarily de-
3 part the United States at the alien's own expense
4 under this subsection after the initiation of removal
5 proceedings under section 240 and before the con-
6 clusion of such proceedings before an immigration
7 judge.”;

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

9 (i) by amending subparagraph (A) to
10 read as follows:

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

20 (ii) by redesignating subparagraphs
21 (B), (C), and (D) as subparagraphs (C),
22 (D), and (E), respectively;

23 (iii) by adding after subparagraph (A)
24 the following:

1 “(B) BEFORE THE CONCLUSION OF RE-
2 MOVAL PROCEEDINGS.—Permission to volun-
3 tarily depart under paragraph (2) shall not be
4 valid for any period in excess of 60 days, and
5 may be granted only after a finding that the
6 alien has the means to depart the United States
7 and intends to do so. An alien permitted to vol-
8 untarily depart under paragraph (2) shall post
9 a voluntary departure bond, in an amount nec-
10 essary to ensure that the alien will depart, to be
11 surrendered upon proof that the alien has de-
12 parted the United States within the time speci-
13 fied.”;

14 (iv) in subparagraph (C), as redesign-
15 nated, by striking “subparagraphs (C) and
16 (D)(ii)” and inserting “subparagraphs (D)
17 and (E)(ii)”;

18 (v) in subparagraph (D), as redesign-
19 nated, by striking “subparagraph (B)”
20 each place that term appears and inserting
21 “subparagraph (C)”;

22 (vi) in subparagraph (E), as redesign-
23 nated, by striking “subparagraph (B)”
24 each place that term appears and inserting
25 “subparagraph (C)”;

1 (F) in paragraph (4), by striking “para-
 2 graph (1)” and inserting “paragraphs (1) and
 3 (2)”;

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

7 (3) by amending subsection (c) to read as fol-
 8 lows:

9 “(c) **CONDITIONS ON VOLUNTARY DEPARTURE.**—

10 “(1) **VOLUNTARY DEPARTURE AGREEMENT.**—

11 Voluntary departure may only be granted as part of
 12 an affirmative agreement by the alien. A voluntary
 13 departure agreement under subsection (b) shall in-
 14 clude a waiver of the right to any further motion,
 15 appeal, application, petition, or petition for review
 16 relating to removal or relief or protection from re-
 17 moval.

18 “(2) **CONCESSIONS BY THE SECRETARY.**—In
 19 connection with the alien’s agreement to depart vol-
 20 untarily under paragraph (1), the Secretary of
 21 Homeland Security may agree to a reduction in the
 22 period of inadmissibility under subparagraph (A) or
 23 (B)(i) of section 212(a)(9).

24 “(3) **ADVISALS.**—Agreements relating to vol-
 25 untary departure granted during removal pro-

1 ceedings under section 240, or at the conclusion of
2 such proceedings, shall be presented on the record
3 before the immigration judge. The immigration
4 judge shall advise the alien of the consequences of
5 a voluntary departure agreement before accepting
6 such agreement.

7 “(4) **FAILURE TO COMPLY WITH AGREE-**
8 **MENT.—**

9 “(A) **IN GENERAL.**—If an alien agrees to
10 voluntary departure under this section and fails
11 to depart the United States within the time al-
12 lowed for voluntary departure or fails to comply
13 with any other terms of the agreement (includ-
14 ing failure to timely post any required bond),
15 the alien is—

16 “(i) ineligible for the benefits of the
17 agreement;

18 “(ii) subject to the penalties described
19 in subsection (d); and

20 “(iii) subject to an alternate order of
21 removal if voluntary departure was granted
22 under subsection (a)(2) or (b).

23 “(B) **EFFECT OF FILING TIMELY AP-**
24 **PEAL.**—If, after agreeing to voluntary depart-
25 ture, the alien files a timely appeal of the immi-

1 gration judge's decision granting voluntary de-
2 parture, the alien may pursue the appeal in-
3 stead of the voluntary departure agreement.
4 Such appeal operates to void the alien's vol-
5 untary departure agreement and the con-
6 sequences of such agreement, but precludes the
7 alien from another grant of voluntary departure
8 while the alien remains in the United States.

9 “(5) **VOLUNTARY DEPARTURE PERIOD NOT AF-**
10 **FECTED.**—Except as expressly agreed to by the Sec-
11 retary in writing in the exercise of the Secretary's
12 discretion before the expiration of the period allowed
13 for voluntary departure, no motion, appeal, applica-
14 tion, petition, or petition for review shall affect, rein-
15 state, enjoin, delay, stay, or toll the alien's obligation
16 to depart from the United States during the period
17 agreed to by the alien and the Secretary.”;

18 (4) by amending subsection (d) to read as fol-
19 lows:

20 “(d) **PENALTIES FOR FAILURE TO DEPART.**—If an
21 alien is permitted to voluntarily depart under this section
22 and fails to voluntarily depart from the United States
23 within the time period specified or otherwise violates the
24 terms of a voluntary departure agreement, the alien will
25 be subject to the following penalties:

1 “(1) **CIVIL PENALTY.**—The alien shall be liable
2 for a civil penalty of \$3,000. The order allowing vol-
3 untary departure shall specify this amount, which
4 shall be acknowledged by the alien on the record. If
5 the Secretary thereafter establishes that the alien
6 failed to depart voluntarily within the time allowed,
7 no further procedure will be necessary to establish
8 the amount of the penalty, and the Secretary may
9 collect the civil penalty at any time thereafter and
10 by whatever means provided by law. An alien will be
11 ineligible for any benefits under this chapter until
12 this civil penalty is paid.

13 “(2) **INELIGIBILITY FOR RELIEF.**—The alien
14 shall be ineligible during the time the alien remains
15 in the United States and for a period of 10 years
16 after the alien’s departure for any further relief
17 under this section and sections 240A, 245, 248, and
18 249. The order permitting the alien to depart volun-
19 tarily shall inform the alien of the penalties under
20 this subsection.

21 “(3) **REOPENING.**—The alien shall be ineligible
22 to reopen the final order of removal that took effect
23 upon the alien’s failure to depart, or upon the alien’s
24 other violations of the conditions for voluntary de-
25 parture, during the period described in paragraph

1 (2). This paragraph does not preclude a motion to
2 reopen to seek withholding of removal under section
3 241(b)(3) or protection against torture, if the mo-
4 tion—

5 “(A) presents material evidence of changed
6 country conditions arising after the date of the
7 order granting voluntary departure in the coun-
8 try to which the alien would be removed; and

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

12 (5) by amending subsection (e) to read as fol-
13 lows:

14 “(e) **ELIGIBILITY.**—

15 “(1) **PRIOR GRANT OF VOLUNTARY DEPAR-**
16 **TURE.**—An alien shall not be permitted to volun-
17 tarily depart under this section if the Secretary of
18 Homeland Security or the Attorney General pre-
19 viously permitted the alien to depart voluntarily.

20 “(2) **RULEMAKING.**—The Secretary may pro-
21 mulgate regulations to limit eligibility or impose ad-
22 ditional conditions for voluntary departure under
23 subsection (a)(1) for any class of aliens. The Sec-
24 retary or Attorney General may by regulation limit
25 eligibility or impose additional conditions for vol-

1 untary departure under subsection (a)(2) or (b) of
2 this section for any class or classes of aliens.”; and
3 (6) in subsection (f), by adding at the end the
4 following: “Notwithstanding section 242(a)(2)(D) of
5 this Act, sections 1361, 1651, and 2241 of title 28,
6 United States Code, any other habeas corpus provi-
7 sion, and any other provision of law (statutory or
8 nonstatutory), no court shall have jurisdiction to af-
9 fect, reinstate, enjoin, delay, stay, or toll the period
10 allowed for voluntary departure under this section.”.

11 (b) **RULEMAKING.**—The Secretary shall within one
12 year of the date of enactment of this Act promulgate regu-
13 lations to provide for the imposition and collection of pen-
14 alties for failure to depart under section 240B(d) of the
15 Immigration and Nationality Act (8 U.S.C. 1229c(d)).

16 (c) **EFFECTIVE DATES.**—

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

24 (2) **EXCEPTION.**—The amendment made by
25 subsection (a)(6) shall take effect on the date of the

1 enactment of this Act and shall apply with respect
2 to any petition for review which is filed on or after
3 such date.

4 **SEC. 603. DETERRING ALIENS ORDERED REMOVED FROM**
5 **REMAINING IN THE UNITED STATES UNLAW-**
6 **FULLY.**

7 (a) **INADMISSIBLE ALIENS.**—Section 212(a)(9)(A) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1182(a)(9)(A)) is amended—

10 (1) in clause (i), by striking “seeks admission
11 within 5 years of the date of such removal (or within
12 20 years” and inserting “seeks admission not later
13 than 5 years after the date of the alien’s removal (or
14 not later than 20 years after the alien’s removal”;
15 and

16 (2) in clause (ii), by striking “seeks admission
17 within 10 years of the date of such alien’s departure
18 or removal (or within 20 years of” and inserting
19 “seeks admission not later than 10 years after the
20 date of the alien’s departure or removal (or not later
21 than 20 years after”.

22 (b) **BAR ON DISCRETIONARY RELIEF.**—Section 274D
23 of such Act (8 U.S.C. 324d) is amended—

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

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

5 “(c) **INELIGIBILITY FOR RELIEF.**—

6 “(1) **IN GENERAL.**—Unless a timely motion to
7 reopen is granted under section 240(c)(6), an alien
8 described in subsection (a) shall be ineligible for any
9 discretionary relief from removal (including cancella-
10 tion of removal and adjustment of status) during the
11 time the alien remains in the United States and for
12 a period of 10 years after the alien’s departure from
13 the United States.

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

18 “(A) presents material evidence of changed
19 country conditions arising after the date of the
20 final order of removal in the country to which
21 the alien would be removed; and

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

1 (c) **EFFECTIVE DATES.**—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act with respect to aliens who are subject to a final
4 order of removal entered before, on, or after such date.

5 **SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.**

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

9 “(5) **REINSTATEMENT OF REMOVAL ORDERS**
10 **AGAINST ALIENS ILLEGALLY REENTERING.**—If the
11 Secretary of Homeland Security finds that an alien
12 has entered the United States illegally after having
13 been removed, deported, or excluded or having de-
14 parted voluntarily, under an order of removal, depor-
15 tation, or exclusion, regardless of the date of the
16 original order or the date of the illegal entry—

17 “(A) the order of removal, deportation, or
18 exclusion is reinstated from its original date
19 and is not subject to being reopened or reviewed
20 notwithstanding section 242(a)(2)(D);

21 “(B) the alien is not eligible and may not
22 apply for any relief under this Act, regardless
23 of the date that an application or request for
24 such relief may have been filed or made; and

1 “(C) the alien shall be removed under the
2 order of removal, deportation, or exclusion at
3 any time after the illegal entry.

4 Reinstatement under this paragraph shall not re-
5 quire proceedings under section 240 or other pro-
6 ceedings before an immigration judge.”.

7 (b) **JUDICIAL REVIEW.**—Section 242 of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1252) is amended by
9 adding at the end the following:

10 “(h) **JUDICIAL REVIEW OF REINSTATEMENT UNDER**
11 **SECTION 241(a)(5).**—

12 “(1) **REVIEW OF REINSTATEMENT.**—Judicial
13 review of determinations under section 241(a)(5) is
14 available in an action under subsection (a).

15 “(2) **NO REVIEW OF ORIGINAL ORDER.**—Not-
16 withstanding any other provision of law (statutory or
17 nonstatutory), including section 2241 of title 28,
18 United States Code, any other habeas corpus provi-
19 sion, or sections 1361 and 1651 of such title, no
20 court shall have jurisdiction to review any cause or
21 claim, arising from, or relating to, any challenge to
22 the original order.”.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 subsections (a) and (b) shall take effect as if enacted on
25 April 1, 1997, and shall apply to all orders reinstated or

1 after that date by the Secretary of Homeland Security (or
2 by the Attorney General prior to March 1, 2003), regard-
3 less of the date of the original order.

4 **SEC. 605. CLARIFICATION WITH RESPECT TO DEFINITION**
5 **OF ADMISSION.**

6 Section 101(a)(13)(A) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1101(a)(13)(A)) is amended by
8 adding at the end the following: “An alien’s adjustment
9 of status to that of lawful permanent resident status under
10 any provision of this Act, or under any other provision
11 of law, shall be considered an ‘admission’ for any purpose
12 under this Act, even if the adjustment of status occurred
13 while the alien was present in the United States.”.

14 **SEC. 606. REPORTS TO CONGRESS.**

15 (a) **IN GENERAL.**—Not later than 30 days after the
16 end of each quarter of a fiscal year, the Secretary of
17 Homeland Security and the Attorney General shall each
18 provide to the Committee on the Judiciary of the Senate
19 and the Committee on the Judiciary of the House of Rep-
20 resentatives a report on the following:

21 (1) Aliens apprehended or arrested by State or
22 local law enforcement agencies who were identified
23 by the Department of Homeland Security in the pre-
24 vious quarter and for whom the Department of
25 Homeland Security did not issue detainers and did

1 not take into custody despite the Department of
2 Homeland Security's findings that the aliens were
3 inadmissible or deportable.

4 (2) Aliens who were applicants for admission in
5 the previous quarter but not clearly and beyond a
6 doubt entitled to be admitted by an immigration of-
7 ficer and who were not detained as required pursu-
8 ant to section 235(b)(2)(A) of the Immigration and
9 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

10 (3) Aliens who in the previous quarter were
11 found by Department of Homeland Security officials
12 performing duties related to the adjudication of ap-
13 plications for immigration benefits or the enforce-
14 ment of the immigration laws to be inadmissible or
15 deportable who were not issued notices to appear
16 pursuant to section 239 of such Act (8 U.S.C. 1229)
17 or placed into removal proceedings pursuant to sec-
18 tion 240 (8 U.S.C. 1229a), unless the aliens were
19 placed into expedited removal proceedings pursuant
20 to section 235(b)(1)(A)(i) (8 U.S.C.
21 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),
22 were granted voluntary departure pursuant to sec-
23 tion 240B, were granted relief from removal pursu-
24 ant to statute, were granted legal nonimmigrant or

1 immigrant status pursuant to statute, or were deter-
2 mined not to be inadmissible or deportable.

3 (4) Aliens issued notices to appear that were
4 cancelled in the previous quarter despite the Depart-
5 ment of Homeland Security's findings that the aliens
6 were inadmissible or deportable, unless the aliens
7 were granted relief from removal pursuant to stat-
8 ute, were granted voluntary departure pursuant to
9 section 240B of such Act (8 U.S.C. 1229c), or were
10 granted legal nonimmigrant or immigrant status
11 pursuant to statute.

12 (5) Aliens who were placed into removal pro-
13 ceedings, whose removal proceedings were termi-
14 nated or administratively closed in the previous
15 quarter prior to their conclusion, unless the aliens
16 were granted relief from removal pursuant to stat-
17 ute, were granted voluntary departure pursuant to
18 section 240B, were granted legal nonimmigrant or
19 immigrant status pursuant to statute, or were deter-
20 mined not to be inadmissible or deportable.

21 (6) Aliens granted parole pursuant to section
22 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

23 (7) Aliens granted deferred action, extended
24 voluntary departure or any other type of relief from
25 removal not specified in the Immigration and Na-

1 tionality Act or where determined not to be inadmis-
2 sible or deportable.

3 (8) Aliens released from custody, including the
4 number of releases, the number of aliens who were
5 released who have a criminal history, the general
6 reasons for release, the conditions of release, and the
7 zip codes of the last known addresses.

8 (9) Aliens granted an administrative stay of re-
9 moval, or otherwise permitted to remain in the
10 United States through any similar process by U.S.
11 Immigration and Customs Enforcement.

12 (b) **CONTENTS OF REPORT.**—The report shall include
13 a listing of each alien described in each paragraph of sub-
14 section (a), including when in the possession of the De-
15 partment of Homeland Security their names, fingerprint
16 identification numbers, alien registration numbers, and
17 reason why each was granted the type of prosecutorial dis-
18 cretion received. The report shall also include current
19 criminal histories on each alien from the Federal Bureau
20 of Investigation.

21 **SEC. 607. CERTAIN ACTIVITIES RESTRICTED.**

22 (a) **IN GENERAL.**—

23 (1) **PROHIBITION ON USE OF FUNDS.**—No
24 funds, resources, or fees made available to the Sec-
25 retary of Homeland Security, or to any other official

1 of a Federal agency, by this Act or any other Act
2 for any fiscal year, including any deposits into the
3 “Immigration Examinations Fee Account” estab-
4 lished under section 286(m) of the Immigration and
5 Nationality Act (8 U.S.C. 1356(m)), may be used to
6 implement, administer, enforce, or carry out (includ-
7 ing through the issuance of any regulations) any of
8 the policy changes set forth in the following memo-
9 randa (or any substantially similar policy changes
10 issued or taken on or after January 9, 2015, wheth-
11 er set forth in memorandum, Executive order, regu-
12 lation, directive, or by other action):

13 (A) The memorandum from the Director of
14 United States Immigration and Customs En-
15 forcement entitled “Civil Immigration Enforce-
16 ment: Priorities for the Apprehension, Deten-
17 tion, and Removal of Aliens” dated March 2,
18 2011.

19 (B) The memorandum from the Director
20 of United States Immigration and Customs En-
21 forcement entitled “Exercising Prosecutorial
22 Discretion Consistent with the Civil Immigra-
23 tion Enforcement Priorities of the Agency for
24 the Apprehension, Detention, and Removal of
25 Aliens” dated June 17, 2011.

1 (C) The memorandum from the Principal
2 Legal Advisor of United States Immigration
3 and Customs Enforcement entitled “Case-by-
4 Case Review of Incoming and Certain Pending
5 Cases” dated November 17, 2011.

6 (D) The memorandum from the Director
7 of United States Immigration and Customs En-
8 forcement entitled “Civil Immigration Enforce-
9 ment: Guidance on the Use of Detainers in the
10 Federal, State, Local, and Tribal Criminal Jus-
11 tice Systems” dated December 21, 2012.

12 (E) The memorandum from the Secretary
13 of Homeland Security entitled “Southern Bor-
14 der and Approaches Campaign” dated Novem-
15 ber 20, 2014.

16 (F) The memorandum from the Secretary
17 of Homeland Security entitled “Policies for the
18 Apprehension, Detention and Removal of Un-
19 documented Immigrants” dated November 20,
20 2014.

21 (G) The memorandum from the Secretary
22 of Homeland Security entitled “Secure Commu-
23 nities” dated November 20, 2014.

24 (H) The memorandum from the Secretary
25 of Homeland Security entitled “Exercising

1 Prosecutorial Discretion with Respect to Indi-
2 viduals Who Came to the United States as Chil-
3 dren and with Respect to Certain Individuals
4 Who Are the Parents of U.S. Citizens or Per-
5 manent Residents” dated November 20, 2014.

6 (I) The memorandum from the Secretary
7 of Homeland Security entitled “Expansion of
8 the Provisional Waiver Program” dated Novem-
9 ber 20, 2014.

10 (J) The memorandum from the Secretary
11 of Homeland Security entitled “Policies Sup-
12 porting U.S. High-Skilled Businesses and
13 Workers” dated November 20, 2014.

14 (K) The memorandum from the Secretary
15 of Homeland Security entitled “Families of
16 U.S. Armed Forces Members and Enlistees”
17 dated November 20, 2014.

18 (L) The memorandum from the Secretary
19 of Homeland Security entitled “Directive to
20 Provide Consistency Regarding Advance Pa-
21 role” dated November 20, 2014.

22 (M) The memorandum from the Secretary
23 of Homeland Security entitled “Policies to Pro-
24 mote and Increase Access to U.S. Citizenship”
25 dated November 20, 2014.

1 (N) The memorandum from the President
2 entitled “Modernizing and Streamlining the
3 U.S. Immigrant Visa System for the 21st Cen-
4 tury” dated November 21, 2014.

5 (O) The memorandum from the President
6 entitled “Creating Welcoming Communities and
7 Fully Integrating Immigrants and Refugees”
8 dated November 21, 2014.

9 (2) **NO LEGAL EFFECT.**—The memoranda re-
10 ferred to in subsection (a) (or any substantially simi-
11 lar policy changes issued or taken on or after Janu-
12 ary 9, 2015, whether set forth in memorandum, Ex-
13 ecutive order, regulation, directive, or by other ac-
14 tion) have no statutory or constitutional basis and
15 therefore have no legal effect.

16 (3) **PROHIBITION ON FEDERAL BENEFITS.**—No
17 funds or fees made available to the Secretary of
18 Homeland Security, or to any other official of a
19 Federal agency, by this Act or any other Act for any
20 fiscal year, including any deposits into the “Immi-
21 gration Examinations Fee Account” established
22 under section 286(m) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1356(m)), may be used to
24 grant any Federal benefit to any alien pursuant to
25 any of the policy changes set forth in the memo-

1 randa referred to in subsection (a) (or any substan-
2 tially similar policy changes issued or taken on or
3 after January 9, 2015, whether set forth in memo-
4 randum, Executive order, regulation, directive, or by
5 other action).

6 (b) **DEFERRED ACTION FOR CHILDHOOD ARRIV-**
7 **ALS.**—No funds, resources, or fees made available to the
8 Secretary of Homeland Security, or to any other official
9 of a Federal agency, by this Act or any other Act for any
10 fiscal year, including any deposits into the “Immigration
11 Examinations Fee Account” established under section
12 286(m) of the Immigration and Nationality Act (8 U.S.C.
13 1356(m)), may be used to consider or adjudicate any new,
14 renewal, or previously denied application for any alien re-
15 questing consideration of deferred action pursuant to the
16 guidance in the June 15, 2012, memorandum entitled
17 “Exercising Prosecutorial Discretion with Respect to Indi-
18 viduals Who Came to the United States as Children” (or
19 any substantially similar policy changes issued or taken
20 on or after January 9, 2015, whether set forth in memo-
21 randum, Executive order, regulation, directive, or by other
22 action).

23 **SEC. 608. GAO STUDY ON DEATHS IN CUSTODY.**

24 The Comptroller General of the United States shall
25 submit to Congress within 6 months after the date of the

1 enactment of this Act, a report on the deaths in custody
2 of detainees held by the Department of Homeland Secu-
3 rity. The report shall include the following information
4 with respect to any such deaths and in connection there-
5 with:

6 (1) Whether any such deaths could have been
7 prevented by the delivery of medical treatment ad-
8 ministered while the detainee is in the custody of the
9 Department of Homeland Security.

10 (2) Whether Department practice and proce-
11 dures were properly followed and obeyed.

12 (3) Whether such practice and procedures are
13 sufficient to protect the health and safety of such
14 detainees.

15 (4) Whether reports of such deaths were made
16 to the Deaths in Custody Reporting Program.

17 **SEC. 609. REMOVAL PROCEEDINGS.**

18 Subsection (b) of section 240 of the Immigration and
19 Nationality Act (8 U.S.C. 1229a) is amended by adding
20 at the end the following paragraph:

21 “(8) **ORDER OF CONSIDERATION OF PRO-**
22 **CEEDINGS.**—Whenever possible, proceedings shall
23 take place in the order in which aliens are placed in
24 proceedings.”.

1 **SEC. 610. ELIMINATING BACKLOG IN THE IMMIGRATION**
2 **COURT SYSTEM.**

3 Section 240A(e) of the Immigration and Nationality
4 Act (8 U.S.C. 1229b(e)) is amended—

5 (1) in paragraph (1), by striking “(2) and (3),”
6 and inserting “(2), (3), and (4),”; and

7 (2) by adding at the end the following para-
8 graph:

9 “(4) **PROHIBITION ON DELAY.**—The Attorney
10 General may not, except for in cases in which the
11 Attorney General has decided to grant an applica-
12 tion under this section and the fiscal year cap has
13 been reached, in any way delay or suspend making
14 a final decision for an application submitted under
15 this section.”.

16 **SEC. 611. PROPER FILING OF INCOME TAXES REQUIRED**
17 **FOR GOOD MORAL CHARACTER.**

18 Section 101(f) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(f)) is amended by inserting after para-
20 graph (1) the following paragraph:

21 “(2) one who has failed to properly file an in-
22 come tax return for each year that one was required
23 to be filed;”.

○

II

114TH CONGRESS
1ST SESSION

S. 1812

To protect public safety by incentivizing State and local law enforcement to cooperate with Federal immigration law enforcement to prevent the release of criminal aliens into communities.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2015

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

A BILL

To protect public safety by incentivizing State and local law enforcement to cooperate with Federal immigration law enforcement to prevent the release of criminal aliens into communities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Cooperation
5 with States and Local Governments and Preventing the
6 Catch and Release of Criminal Aliens Act of 2015”.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act:

1 (1) **CRIMINAL ALIEN.**—The term “criminal
2 alien” means any alien who—

3 (A) was arrested, charged, or convicted of
4 an offense described in section 101(a)(43) of
5 the Immigration and Nationality Act (8 U.S.C.
6 1101(a)(43));

7 (B) is described in paragraph (2), (3),
8 (9)(A), (9)(C)(i)(II), or (10)(C) of section
9 212(a) of such Act (8 U.S.C. 1182(a));

10 (C) is removable under paragraph (2) or
11 (4) of section 237(a) of such Act (8 U.S.C.
12 1227(a));

13 (D) is described in section 276 of such Act
14 (8 U.S.C. 1326); or

15 (E) was arrested, charged, or convicted of
16 any felony or misdemeanor offense relating to
17 driving under the influence of alcohol or drugs.

18 (2) **SANCTUARY JURISDICTION.**—The term
19 “sanctuary jurisdiction” means a State or a political
20 subdivision of a State that has in effect a statute,
21 policy, or practice that prohibits law enforcement of-
22 ficers of the State, or of the political subdivision,
23 from assisting or cooperating with Federal immigra-
24 tion law enforcement in the course of carrying out
25 the officers’ routine law enforcement duties.

1 **SEC. 3. LIMITS ON FEDERAL FUNDING FOR STATE AND**
2 **LOCAL JURISDICTIONS.**

3 (a) **IN GENERAL.**—A jurisdiction may not receive any
4 of the funding described in subsection (b) if the jurisdic-
5 tion does not cooperate with Federal officials with respect
6 to criminal aliens or other aliens deemed to be a priority
7 for removal by the Secretary of Homeland Security, in-
8 cluding by refusing—

9 (1) to detain or transfer custody of such aliens
10 pursuant to detainers placed upon such aliens; or

11 (2) to notify a Federal law enforcement agency,
12 upon request, of the release of such aliens.

13 (b) **RESTRICTED FUNDING.**—The funding described
14 in this subsection consists of—

15 (1) any of the funds that would otherwise be al-
16 located to the State or political subdivision under
17 section 241(i) of the Immigration and Nationality
18 Act (8 U.S.C. 1231(i));

19 (2) any grant funding authorized under the
20 Second Chance Act of 2007 (Public Law 110–199);
21 and

22 (3) any other law enforcement related grants or
23 contracts awarded by the Department of Homeland
24 Security or Department of Justice, which may be
25 designated by the relevant Secretary or the Attorney
26 General.

1 (c) **TERMINATION OF INELIGIBILITY.**—A jurisdiction
2 shall become eligible to receive funds, grants, or contracts
3 described in subsection (b) after the Secretary of Home-
4 land Security, in consultation with the Attorney General,
5 certifies that—

6 (1) the jurisdiction no longer fails to cooperate
7 with Federal officials regarding detentions, trans-
8 fers, and notifications described in subsection (a);
9 and

10 (2) the statute, policy, or practice of that State
11 or political subdivision prohibiting law enforcement
12 officers from assisting or cooperating with Federal
13 immigration law enforcement with respect to crimi-
14 nal aliens has been repealed, rescinded, or termi-
15 nated.

16 (d) **REALLOCATION.**—Any funds that are withheld
17 from a jurisdiction pursuant to this section shall be reallo-
18 cated by the Secretary of Homeland Security or by the
19 Attorney General, in consultation with each other, equally
20 among—

21 (1) States and political subdivisions of States,
22 which—

23 (A) cooperate with Federal officials regard-
24 ing the detentions, transfers, and notifications
25 described subsection (a); and

1 (B) submit an application to the appro-
2 priate Department for such unobligated funds;
3 and

4 (2) any statutorily authorized Federal grant
5 program designed to protect victims of violence.

6 **SEC. 4. TRANSPARENCY AND ACCOUNTABILITY.**

7 (a) **ANNUAL PUBLICATION.**—Not later than 60 days
8 after the date of the enactment of this Act and annually
9 thereafter, the Secretary of Homeland Security and the
10 Attorney General shall jointly publish, on the websites of
11 their respective departments—

12 (1) a list of sanctuary jurisdictions; and

13 (2) a list of jurisdictions that do not grant Fed-
14 eral immigration law enforcement officers regular
15 access to jails or detention facilities.

16 (b) **PUBLIC DISCLOSURE OF DETAINERS OR RE-**
17 **QUESTS FOR NOTIFICATION.**—Not later than 60 days
18 after the date of the enactment of this Act, and quarterly
19 thereafter, the Secretary of Homeland Security shall pub-
20 lish, on the website of the Department of Homeland Secu-
21 rity—

22 (1) the total number of detainers and requests
23 for notification of the release of any alien that has
24 been issued to each State or political subdivision;
25 and

1 (2) the number of such detainers, and requests
2 for notification that have been ignored or otherwise
3 not honored.

4 **SEC. 5. INCREASE IN PENALTY FOR REENTRY BY REMOVED**
5 **ALIEN.**

6 Section 276(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1326(a)) is amended, in the undesignated
8 matter following paragraph (2)(B), by striking “shall be
9 fined under title 18, United States Code, or imprisoned
10 not more than 2 years, or both” and inserting “shall be
11 imprisoned for not less than 5 years and may also be fined
12 under title 18, United States Code”.

13 **SEC. 6. SAVINGS PROVISIONS.**

14 Nothing in this Act may be construed—

15 (1) to require law enforcement officials of a
16 State or a political subdivision of a State to report
17 or arrest victims or witnesses of a criminal offense;
18 or

19 (2) to limit the ability of State and local law en-
20 forcement to cooperate with Federal immigration
21 law enforcement with regard to aliens who are not
22 criminal aliens.

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II

114TH CONGRESS
1ST SESSION

S. 1814

To withhold certain Federal funding from sanctuary cities.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2015

Mr. VITTER (for himself, Mr. FLAKE, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To withhold certain Federal funding from sanctuary cities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Sanctuary Cities
5 Act”.

6 **SEC. 2. LIMITATION ON GRANTS TO SANCTUARY CITIES.**

7 (a) **IN GENERAL.**—It shall be unlawful for any State
8 or political subdivision of a State—

9 (1) to violate section 642 of the Illegal Immi-
10 gration Reform and Immigrant Responsibility Act of
11 1996 (8 U.S.C. 1373); or

1 (2) to fail to comply with a detainer that has
2 been lawfully issued by the Department of Home-
3 land Security in accordance with section 236 and
4 287 of the Immigration and Nationality Act (8
5 U.S.C. 1226 and 1357) and section 287.7 of title 8,
6 Code of Federal Regulations.

7 **(b) INELIGIBILITY FOR GRANTS.—**

8 (1) **IN GENERAL.**—Any State or political sub-
9 division of a State that violates subsection (a) shall
10 not be eligible to receive funds from the State Crimi-
11 nal Alien Assistance Program under section 241(i)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1231(i)).

14 (2) **CHRONIC OFFENDERS.**—Any State or polit-
15 ical subdivision of a State that does not come into
16 compliance with the requirements under subsection
17 (a) within 180 days of receiving notification from
18 the Secretary of Homeland Security of its non-
19 compliance with that subsection is not eligible to re-
20 ceive a grant under the Byrne Memorial Justice As-
21 sistance Grant Program established pursuant to sub-
22 part I of part E of title I of the Omnibus Crime
23 Control and Safe Streets Act of 1968 (42 U.S.C.
24 3750 et seq.).

1 (3) **ENFORCEMENT.**—No funding may be with-
2 held pursuant to paragraph (1) until the Secretary
3 of Homeland Security—

4 (A) has notified the noncompliant State or
5 subdivision of its noncompliance with subsection
6 (a); and

7 (B) has determined, not later than 60 days
8 after such notification, that compliance cannot
9 be secured by voluntary means.

10 (c) **REPORTS.**—Not later than 5 days after deciding
11 to terminate a grant or to refuse to award a grant pursu-
12 ant to this section, the Secretary of Homeland Security
13 shall submit a written report to the Committee on the Ju-
14 diciary of the Senate and the Committee on the Judiciary
15 of the House of Representatives that fully describes the
16 circumstances and grounds for such action. No such ac-
17 tion shall become effective until at least 30 days have
18 elapsed after the submission of such report.

19 (d) **REALLOCATION.**—Any funds that are not allo-
20 cated to a State or political subdivision due to noncompli-
21 ance with subsection (a) shall be reallocated to States and
22 political subdivisions of States that are in compliance with
23 such subsection.

24 (e) **IMMUNITY.**—No liability shall lie with a State or
25 a political subdivision of a State that is acting in compli-

1 ance with a detainer that has been lawfully issued by the
2 Department of Homeland Security in accordance with sec-
3 tions 236 and 287 of the Immigration and Nationality Act
4 (8 U.S.C. 1226 and 1357) and section 287.7 of title 8,
5 Code of Federal Regulations, solely because the State or
6 political subdivision is holding an alien in compliance with
7 such detainer.

8 (f) **RULE OF CONSTRUCTION.**—Nothing in this sec-
9 tion may be construed to require law enforcement officials
10 of a State or a political subdivision of a State to provide
11 the Secretary of Homeland Security with information re-
12 lated to a victim or a witness to a criminal offense.

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EXHIBIT F

The City of Philadelphia v. Jefferson Beauregard Sessions III, Case No. 2:17-cv-03894-MMB
Exhibit F to Plaintiff's Memorandum in Support of Preliminary Injunction

Analysis of FY 2016 Byrne JAG Award Special Conditions

No.	FY 2016 Byrne JAG Special Condition	Category¹	Explanation for Categorization of Condition
1.	Compliance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Parts 200, 2800	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating existing federal regulations that deal with recipients of "federal awards," 2 C.F.R. Parts 200 & 2800.
2.	Compliance with the Department of Justice ("DOJ") Grants Financial Guide	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
3.	Required Office of Justice Programs ("OJP") "financial management and grant administration training" for Point of Contact and all Financial Points of Contact	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
4.	Required notification regarding use of "de minimis" indirect cost rate under 2 C.F.R. § 200.414(f) and limitation to use rate only for modified total direct costs	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating an existing federal regulation that deals with recipients of "federal awards," 2 C.F.R. § 200.414(f).
5.	Requirement to report potentially duplicative funding	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
6.	Compliance with System for Award Management and Universal Identified requirements	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).

¹ Category Legend:

(1): Conditions to ensure projects comply with provisions and meet requirements of "this part," including the requirement that the Attorney General provide "technical assistance and training." 34 U.S.C. § 10153(a)(5)(A), (D); *id.* § 10153(b)(1).

(2): Conditions to "maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require." 34 U.S.C. § 10153(a)(4).

(3): Conditions regarding "all other applicable Federal laws," i.e., federal statutes, regulations, and presidential executive orders that directly apply to federal grantees or recipients of other federal funds. 34 U.S.C. § 10153(a)(5)(D).

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7.	Requirement that subawards have specific federal authorization	(1)	This condition ensures that federal awards are spent—through any sub-awarding to new entities—on the programmatic purposes set forth by the JAG statute, as per 34 U.S.C. § 10153(a)(5)(A).
8.	Requirement of approval from OJP for non-competitive contract bidding	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
9.	Compliance with “applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients (‘subgrantees’), or . . . ‘employees’ of the recipient or of any subrecipient”	(3)	This condition references a federal statute that directly speaks to federal grantees. <i>See</i> 22 U.S.C. § 7104(g) (“The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity . . . shall include a condition that authorizes the department or agency to terminate the grant . . . if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in severe forms of trafficking in persons . . .”).
10.	Compliance with “applicable laws, regulations, policies, and official OJP guidance . . . governing the use of federal funds for expenses related to conferences.”	(2), (3)	This condition ensures programmatic and financial integrity as per the JAG statute, 34 U.S.C. § 10153(a)(4), and does so by referring to existing federal laws that regulate federal grantees’ use of funds for conferences.
11.	Requirement for data on performance and effectiveness under the award	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
12.	Requirement that any trainings adhere to OJP’s “Training Guiding Principles for Grantees” (which provide, <i>inter alia</i> , that “[t]he content of training programs must be . . . well-matched to the program’s stated objectives” and that trainers “must be well-qualified”)	(1)	This conditions ensures that allocated funds support the program goals of Byrne JAG, as per 34 U.S.C. § 10153(a)(5)(A), by requiring that any trainings funded by JAG awards deliver high-quality materials.

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13.	Agreement that OJP “may withhold award funds[] or may impose other related requirements” if “the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award)”	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating existing federal regulations that deal with recipients of “federal awards,” 2 C.F.R. Part 200.
14.	Agreement to comply with additional requirements during performance of award if grantee is designated as “high-risk”	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating existing federal regulations that deal with “high-risk [federal] grantees,” 28 C.F.R. § 66.12.
15.	Compliance with DOJ regulations pertaining to civil rights and nondiscrimination under 28 C.F.R Part 42	(3)	This condition refers to federal regulations which in turn implement various federal statutes, which aim to eliminate discrimination in programs receiving Federal financial assistance. <i>See</i>: • 28 C.F.R. § 42.101 (“The purpose of this subpart is to implement the provisions of title VI of the Civil Rights Act of 1964, 78 Stat. 252 . . . , to the end that no person . . . shall, on the ground of race, color, or national origin, be . . . subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Justice.”). • 28 C.F.R. § 42.201 (“The purpose of this subpart is to implement the provisions of section 815(c) of the Justice System Improvement Act of 1979 [42 U.S.C. 3789d(c)]; title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; and title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., to the end that no person in any State shall on the ground of race, color, national origin, sex, or religion be . . . subjected to discrimination under, or be denied employment in connection with any program or activity funded in whole or in part with funds made

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			available under either the Justice System Improvement Act or the Juvenile Justice Act by the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics.”) • 28 C.F.R. § 42.302 (citing authority under the Omnibus Crime Control and Safe Streets Act of 1968 and imposing requirement “to formulate, implement and maintain an equal employment opportunity program” on recipients of Law Enforcement Assistance Agency assistance funds) • 28 C.F.R. § 42.501 (“The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.”) • 28 C.F.R. § 42.700 (“This subpart implements the Age Discrimination Act of 1975 Subject to certain exceptions, the Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.”). This condition therefore traces to a series of federal statutes that in turn directly speak to federal grantees.
16.	Compliance with DOJ regulations pertaining to civil rights and nondiscrimination under 28 C.F.R. Part 38	(3)	This condition refers to federal regulations that prohibit discrimination against faith-based organizations in “program[s] supported with Federal financial assistance” or by “any State or local government receiving [federal] funds.” See 28 C.F.R. §§ 38.2(a), 38.4(a).
17.	Restrictions on use of funds for “lobbying”	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating federal statutes that prohibit recipients of “appropriated [federal]

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			moneys” from using those funds for lobbying. 18 U.S.C. § 1913; 31 U.S.C. § 1352.
18.	Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating federal statutes that regulate the use of federal funds.
19.	Requirement that recipient refer any credible evidence of violations of the False Claims Act or fraud, waste, and abuse	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
20.	Restrictions on requiring employees to sign agreements prohibiting reporting of waste, fraud, or abuse	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
21.	Compliance with 41 U.S.C. § 4712	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating a federal statute that provides that an employee of a “grantee” may not be “discharged . . . as a reprisal for disclosing . . . information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds . . .” 41 U.S.C. § 4712(a).
22.	Encouragement of policies to ban texting while driving	Not obligatory	This is not a binding condition, just an “encouragement.”
23.	Compliance with OJP Monitoring requests “including requests related to desk reviews . . . and/or site visits,” to ensure that funds are being effectively spent on programs set forth in the application .	(1), (2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), and also ensures that funds are spent on the purposes set forth in the JAG statute, as per 34 U.S.C. § 10153(a)(5)(A).
24.	Compliance with requirements to report certain subawards and requirements to report names and compensation of certain executives under the Federal Funding Accountability and Transparency Act of 2006	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating a federal statute and implementing regulations that demand the collection of certain information from federal grantees.

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			<i>See</i> P.L. 109-282 (2006); 2 C.F.R. § 170.100 <i>et seq.</i>
25.	Compliance with Part 200 Uniform Requirements in use of program income	(2), (3)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating existing federal regulations that deal with recipients of “federal awards,” 2 C.F.R. Part 200.
26.	Compliance with guidelines and recommendations of DOJ's Global Justice Sharing Initiative for this particular award.	(1), (2)	This condition is a use restriction that seeks to bolster Byrne JAG's programmatic goal of strengthening localities' criminal justice systems, as per 34 U.S.C. § 10153(a)(5)(A) (by encouraging localities to share information on best practices), and to foster programmatic integrity, as per 34 U.S.C. § 10153(a)(4).
27.	Requirement to use existing information technology networks “to the extent possible” for initiatives funded by BJA	(1), (2)	This condition is a use restriction that seeks to bolster Byrne JAG's programmatic goal of strengthening localities' criminal justice systems, as per 34 U.S.C. § 10153(a)(5)(A) (by encouraging localities to spend any JAG money on IT networks that are interoperable across states), and to foster programmatic integrity, as per 34 U.S.C. § 10153(a)(4).
28.	Compliance with Criminal Intelligence Systems Operating Policies in 28 C.F.R. Part 23 (if applicable)	(3)	This condition refers to a federal regulation and a federal statute that directly speak to grantees. <i>See</i> 28 C.F.R. § 23.1 (requiring that “criminal intelligence systems operating <i>through support</i> under the Omnibus Crime Control and Safe Streets Act of 1968 . . . are utilized in conformance with the privacy and constitutional rights of individuals”); 34 U.S.C. § 10231(c)-(d) (providing that “[a]ll criminal intelligence systems operating <i>through support</i> under this chapter shall collect, maintain, and disseminate criminal intelligence information in . . . [a manner that] assure[s] that such systems are not utilized in violation of the privacy and constitutional rights of individuals.”).
29.	Compliance with protections for human research	(3)	This condition refers to federal regulations that directly

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	subjects under 28 C.F.R. Part 46		speak to the use of federal funds. <i>See</i> 28 C.F.R. § 46.103 (“Each institution engaged in research . . . which is conducted or supported by a federal department or agency shall provide written assurance satisfactory to the department or agency head that it will comply with the requirements set forth in this policy.”).
30.	Compliance with requirements for confidentiality of data	(3)	This condition refers to a federal statute that directly speaks to federal grantees. <i>See</i> 34 U.S.C. § 10231 (“no recipient of assistance under the provisions of this chapter shall use or reveal any research or statistical information furnished under this chapter . . . for any purpose other than the purpose for which it was obtained in accordance with this chapter”).
31.	Requirement to verify and update Point of Contact info	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
32.	Completion of required training for law enforcement task forces funded with JAG funds	(1)	This condition is a use restriction that seeks to bolster Byrne JAG’s programmatic goal of strengthening localities’ criminal justice systems, as per 34 U.S.C. § 10153(a)(5)(A), by ensuring that “each current member of a law enforcement task force funded with these funds . . . will complete required online . . . task force training.”
33.	Participation in BJA-sponsored training events, “technical assistance events,” or conferences	(1)	This condition seeks to ensure that funds are spent to further Byrne JAG statute’s programmatic goals, as per 34 U.S.C. § 10153(a)(5)(A), and implements the authorization of authority to the Attorney General to provide technical assistance, 34 U.S.C. § 10153(b)(1).
34.	Requirement of approval for consultant rates in excess of \$650 per day	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
35.	Compliance with the National Environmental Policy	(3)	This condition refers to a federal statute (NEPA),

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	Act ("NEPA"), National Historic Preservation Act ("NHPA"), and "related environmental impact analyses requirements in the use of these award funds"		which in turn imposes environmentally-related requirements on "any federal project, decision, or action, including <i>grants</i> ." U.S. Dep't of Justice, Bureau of Justice Assistance, <i>National Environmental Policy Act (NEPA) Guidance</i> (last visited Sept. 25, 2017), https://goo.gl/NKAUfs .
36.	Requirement to establish a trust fund account	(1), (2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn imposing a condition that comes from the JAG statute itself, <i>see</i> 34 U.S.C. § 10158.
37.	Prohibition on use of award funds for 50% match under Bulletproof Vest Partnership Program	(3)	This condition implements a federal statute that directly speaks to federal grantees, in prohibiting them from "us[ing] funding received under any other Federal grant program . . . to pay or defer the cost . . . of the matching requirement" of the Bulletproof Vest Partnership Program. 34 U.S.C. § 10531(f).
38.	Ballistic-resistant and stab-resistant body armor purchased with JAG funds must comply with applicable National Institute of Justice ballistic or stab standards	(3)	This condition implements Subchapter V of Chapter 101 of Title 34 (the same subchapter in which the JAG program is codified), which requires that "a grantee that uses funds made available under this subchapter to purchase an armor vest or body armor shall . . . use the funds to purchase armor vests or body armor that meets any performance standards established by the Director of the Bureau of Justice Assistance." 34 U.S.C. § 10202(c)(1)(C).
39.	Certification of body armor "mandatory wear" policies for uniformed officers	(3)	This condition implements a separate provision in Subchapter V of Chapter 101, which requires that "a grantee that uses funds made available under this subchapter to purchase an armor vest or body armor shall . . . have a written policy requiring uniformed patrol officers to wear an armor vest or body armor." 34 U.S.C. § 10202(c)(1)(B).

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40.	Requirement that grantees “monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward”	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
41.	Recipient agrees that funds received under this award will not be used to supplant State or local funds	(1), (2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn imposing a requirement that comes from the JAG statute itself, 34 U.S.C. § 10153(A)(1).
42.	Requirement that grantees must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
43.	Requirement that grantees submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public	(1), (2)	This condition seeks to bolster Byrne JAG's programmatic goal of strengthening localities' criminal justice systems, as per 34 U.S.C. § 10153(a)(5)(A) (by requiring grantees to collect “accountability metrics”), and ensures programmatic integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
44.	Encourages recipients to submit “annual (or more frequent) JAG success stories”	Not obligatory	This is not a binding condition, just an “encouragement.”
45.	Prohibition on purchase of items on the Controlled Expenditure List at the time of purchase or acquisition, without written prior approval from BJA.	(3)	This condition traces to federal laws that govern the use of federal funds by grantees or recipients. <i>See</i> U.S. Dep't of Justice, Bureau of Justice Assistance, <i>Edward Byrne Memorial Justice Assistance Grant (JAG): Prohibited and Controlled Expenditures</i> (last visited Sept. 25, 2017 6:35 PM), https://goo.gl/QGc2hi (referring to the BJA's “Controlled Expenditures List,” which in turn lists “statutorily controlled expenditures” and “controlled expenditures under Executive Order 13688”).
46.	Requirement that pursuant to Executive Order 13688, law enforcement agencies that acquire “controlled	(3)	Similar to Special Condition 45.

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	equipment through Federal programs" implement policies regarding General Policing Standards and Specific Controlled Equipment Standards, and provide copies of policies upon request		
47.	Requirement of prior approval for purchase of items on the Controlled Expenditures List, with JAG funds	(3)	Similar to Special Condition 45.
48.	Recipient agrees that failure to comply with Controlled Expenditures conditions can result in sanctions	(3)	Similar to Special Condition 45.
49.	Recipient understands that award funds cannot be used for items on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time	(3)	This condition traces to federal laws that govern the use of federal funds by grantees or recipients. See U.S. Dep't of Justice, Bureau of Justice Assistance, <i>Edward Byrne Memorial Justice Assistance Grant (JAG): Prohibited and Controlled Expenditures</i> (last visited Sept. 25, 2017 6:35 PM), https://goo.gl/QGc2hi (referring to the BJA's "Prohibited Expenditures List," which in turn sets forth "prohibited expenditures under Executive Order 13688").
50.	Recipient understands that equipment on the Controlled Expenditure List that is purchased with this award cannot be transferred or sold to a third party	(3)	Similar to Special Condition 45.
51.	Recipient will comply with "integrity and performance" requirements, that require the reporting of information on civil, criminal and administrative proceedings "connected with . . . either this OJP award or any other grant . . . from the federal government," as set forth on OJP's website	(2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4).
52.	Recipient may not expend or draw down funds until the BJA has received documentation demonstrating that the recipient's public comment requirements have been met	(1), (2)	This condition ensures programmatic and financial integrity, as per the JAG statute, 34 U.S.C. § 10153(a)(4), by in turn incorporating a requirement from the JAG statute itself, 34 U.S.C. § 10153(a)(2).
53.	Recipient agrees to undertake a review to validate its compliance with 8 U.S.C. § 1373 by June 30, 2017	N/A	