

109TH CONGRESS
1ST SESSION

H. R. 4044

To provide for more efficient and effective protection of the borders of
the United States.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2005

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Government Reform and Judiciary, 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 provide for more efficient and effective protection of
the borders of the United States.

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 “Rapid Response Border Protection Act of 2005”.

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

Sec. 1. Short title.

TITLE I—RAPID RESPONSE MEASURES

- Sec. 101. Emergency deployment of United States Border Patrol agents.
- Sec. 102. Elimination of fixed deployment of United States Border Patrol agents.
- Sec. 103. Helicopters and power boats.
- Sec. 104. Control of United States United States Border Patrol assets.
- Sec. 105. Motor vehicles.
- Sec. 106. Portable computers.
- Sec. 107. Radio communications.
- Sec. 108. Hand-held global positioning system devices.
- Sec. 109. Night vision equipment.
- Sec. 110. Border armor.
- Sec. 111. Weapons.
- Sec. 112. Uniforms.

TITLE II—DETENTION PENDING REMOVAL

- Sec. 201. Detention facilities for aliens arrested for illegal entry.

TITLE III—RECRUITMENT AND RETENTION OF ADDITIONAL IMMIGRATION LAW ENFORCEMENT PERSONNEL

- Sec. 301. Additional United States Border Patrol agents.
- Sec. 302. Provisions relating to the exercise of certain appointment and other similar authorities with respect to the United States Border Patrol.
- Sec. 303. Training facilities.
- Sec. 304. Operational facilities.
- Sec. 305. Maximum student loan repayments for United States Border Patrol agents.
- Sec. 306. Recruitment and relocation bonuses and retention allowances for personnel of the Department of Homeland Security.
- Sec. 307. Repeal of the Department of Homeland Security human resources management system.
- Sec. 308. Establishment of specialized inspector occupations.
- Sec. 309. Increase in inspectors at airport and land border inspection stations.
- Sec. 310. Law enforcement retirement coverage for inspection officers and other employees.
- Sec. 311. Reestablishment of the United States Border Patrol anti-smuggling unit.
- Sec. 312. Establishment of specialized criminal investigator occupations.
- Sec. 313. Establishment of career paths to criminal investigator positions.
- Sec. 314. Additional immigration enforcement agents.
- Sec. 315. Increase United States Border Patrol agent and inspector pay.
- Sec. 316. Fair Labor Standards Act overtime.

TITLE IV—ENFORCEMENT TOOLS TO DIMINISH ENTRIES USING FRAUDULENT DOCUMENTS AND COMMERCIAL ALIEN SMUGGLING

- Sec. 401. Foreign language training.
- Sec. 402. Foreign language awards.
- Sec. 403. Additional personnel for investigation of fraudulent schemes and document fraud.
- Sec. 404. Establish a special task force for coordinating and distributing information on fraudulent immigration documents.

Sec. 405. New nonimmigrant visa classification to enable informants to enter the United States and remain temporarily.

Sec. 406. Adjustment of status when needed to protect informants.

Sec. 407. Rewards program.

Sec. 408. Outreach program.

1 **TITLE I—RAPID RESPONSE**
2 **MEASURES**

3 **SEC. 101. EMERGENCY DEPLOYMENT OF UNITED STATES**

4 **BORDER PATROL AGENTS.**

5 (a) IN GENERAL.—If the Governor of a State on an
6 international border of the United States declares an
7 international border security emergency and requests ad-
8 ditional United States Border Patrol agents from the Sec-
9 retary of Homeland Security, the Secretary is authorized,
10 subject to subsections (b) and (c), to provide the State
11 with up to 1,000 additional United States Border Patrol
12 agents for the purpose of patrolling and defending the
13 international border, in order to prevent individuals from
14 crossing the international border and entering the United
15 States at any location other than an authorized port of
16 entry.

17 (b) CONSULTATION.—The Secretary of Homeland
18 Security shall consult with the President upon receipt of
19 a request under subsection (a), and shall grant it to the
20 extent that providing the requested assistance will not sig-
21 nificantly impair the Department of Homeland Security’s
22 ability to provide border security for any other State.

1 (c) COLLECTIVE BARGAINING.—Emergency deploy-
2 ments under this section shall be made in conformance
3 with all collective bargaining agreements and obligations.

4 **SEC. 102. ELIMINATION OF FIXED DEPLOYMENT OF UNITED**
5 **STATES BORDER PATROL AGENTS.**

6 The Secretary of Homeland Security shall ensure
7 that no United States Border Patrol agent is precluded
8 from performing patrol duties and apprehending violators
9 of law, except in unusual circumstances where the tem-
10 porary use of fixed deployment positions is necessary.

11 **SEC. 103. HELICOPTERS AND POWER BOATS.**

12 (a) IN GENERAL.—The Secretary of Homeland Secu-
13 rity shall increase by not less than 100 the number of
14 United States Border Patrol helicopters, and shall in-
15 crease by not less than 250 the number of United States
16 Border Patrol power boats. The Secretary of Homeland
17 Security shall ensure that appropriate types of helicopters
18 are procured for the various missions being performed.
19 The Secretary of Homeland Security also shall ensure that
20 the types of power boats that are procured are appropriate
21 for both the waterways in which they are used and the
22 mission requirements.

23 (b) USE AND TRAINING.—The Secretary of Home-
24 land Security shall establish an overall policy on how the
25 helicopters and power boats described in subsection (a)

1 will be used and implement training programs for the
2 agents who use them, including safe operating procedures
3 and rescue operations.

4 **SEC. 104. CONTROL OF UNITED STATES UNITED STATES**
5 **BORDER PATROL ASSETS.**

6 The United States Border Patrol shall have complete
7 and exclusive administrative and operational control over
8 all the assets utilized in carrying out its mission, includ-
9 ing, aircraft, watercraft, vehicles, detention space, trans-
10 portation, and all of the personnel associated with such
11 assets.

12 **SEC. 105. MOTOR VEHICLES.**

13 The Secretary of Homeland Security shall establish
14 a fleet of motor vehicles appropriate for use by the United
15 States Border Patrol that will permit a ratio of at least
16 one police-type vehicle per every 3 United States Border
17 Patrol agents. Additionally, the Secretary of Homeland
18 Security shall ensure that there are sufficient numbers
19 and types of other motor vehicles to support the mission
20 of the United States Border Patrol. All vehicles will be
21 chosen on the basis of appropriateness for use by the
22 United States Border Patrol, and each vehicle shall have
23 a “panic button” and a global positioning system device
24 that is activated solely in emergency situations for the
25 purpose of tracking the location of an agent in distress.

1 The police-type vehicles shall be replaced at least every
2 3 years.

3 **SEC. 106. PORTABLE COMPUTERS.**

4 The Secretary of Homeland Security shall ensure
5 that each police-type motor vehicle in the fleet of the
6 United States Border Patrol is equipped with a portable
7 computer with access to all necessary law enforcement
8 databases and otherwise suited to the unique operational
9 requirements of the United States Border Patrol.

10 **SEC. 107. RADIO COMMUNICATIONS.**

11 The Secretary of Homeland Security shall augment
12 the existing radio communications system so all law en-
13 forcement personnel working in every area where United
14 States Border Patrol operations are conducted have clear
15 and encrypted two-way radio communication capabilities
16 at all times. Each portable communications device shall
17 be equipped with a “panic button” and a global posi-
18 tioning system device that is activated solely in emergency
19 situations for the purpose of tracking the location of the
20 agent in distress.

21 **SEC. 108. HAND-HELD GLOBAL POSITIONING SYSTEM DE-**
22 **VICES.**

23 The Secretary of Homeland Security shall ensure
24 that each United States Border Patrol agent is issued a

1 state-of-the-art hand-held global positioning system device
2 for navigational purposes.

3 **SEC. 109. NIGHT VISION EQUIPMENT.**

4 The Secretary of Homeland Security shall ensure
5 that sufficient quantities of state-of-the-art night vision
6 equipment are procured and maintained to enable each
7 United States Border Patrol agent working during the
8 hours of darkness to be equipped with a portable night
9 vision device.

10 **SEC. 110. BORDER ARMOR.**

11 The Secretary of Homeland Security shall ensure
12 that every United States Border Patrol agent is issued
13 high-quality body armor that is appropriate for the climate
14 and risks faced by the individual officer. Each officer shall
15 be allowed to select from among a variety of approved
16 brands and styles. Officers shall be strongly encouraged,
17 but not mandated, to wear such body armor whenever
18 practicable. All body armor shall be replaced at least every
19 5 years.

20 **SEC. 111. WEAPONS.**

21 The Secretary of Homeland Security shall ensure
22 that United States Border Patrol agents are equipped
23 with weapons that are reliable and effective to protect
24 themselves, their fellow officers, and innocent third parties
25 from the threats posed by armed criminals. In addition,

1 the Secretary shall ensure that the Department's policies
2 allow all such officers to carry weapons that are suited
3 to the potential threats that they face.

4 **SEC. 112. UNIFORMS.**

5 The Secretary of Homeland Security shall ensure
6 that all United States Border Patrol agents are provided
7 with all necessary uniform items, including outerwear suit-
8 ed to the climate, footwear, belts, holsters, and personal
9 protective equipment, at no cost to such agents. Such
10 items shall be replaced at no cost to such agents as they
11 become worn, unserviceable, or no longer fit properly.

12 **TITLE II—DETENTION PENDING**
13 **REMOVAL**

14 **SEC. 201. DETENTION FACILITIES FOR ALIENS ARRESTED**
15 **FOR ILLEGAL ENTRY.**

16 The Secretary of Homeland Security shall make ar-
17 rangements for the availability of 100,000 additional beds
18 for detaining aliens taken into custody by immigration of-
19 ficials. Some of these beds shall be rented from Federal,
20 State, and local detention facilities. The remainder of the
21 100,000 shall be constructed to meet this demand on a
22 temporary basis and then converted to other use when
23 they are no longer needed as detention facilities.

1 **TITLE III—RECRUITMENT AND**
2 **RETENTION OF ADDITIONAL**
3 **IMMIGRATION LAW ENFORCE-**
4 **MENT PERSONNEL**

5 **SEC. 301. ADDITIONAL UNITED STATES BORDER PATROL**
6 **AGENTS.**

7 The Secretary of Homeland Security shall increase
8 the number of United States Border Patrol agents by—

9 (1) 2,500 in fiscal year 2006;

10 (2) 2,750 in fiscal year 2007;

11 (3) 3,000 in fiscal year 2008;

12 (4) 3,250 in fiscal year 2009; and

13 (5) 3,500 in fiscal year 2010.

14 **SEC. 302. PROVISIONS RELATING TO THE EXERCISE OF**
15 **CERTAIN APPOINTMENT AND OTHER SIMI-**
16 **LAR AUTHORITIES WITH RESPECT TO THE**
17 **UNITED STATES BORDER PATROL.**

18 (a) **IN GENERAL.**—Notwithstanding any other provi-
19 sion of law—

20 (1) all authority described in subsection (b)
21 that (but for this section) would otherwise be vested
22 in the Secretary of Homeland Security shall instead
23 be vested in the head of the United States Border
24 Patrol;

1 (2) an individual may not be appointed or con-
2 tinue to serve as the head of the United States Bor-
3 der Patrol if, at the time of appointment, such indi-
4 vidual has not completed at least 20 years of service,
5 within the competitive service (as defined by section
6 2102 of title 5, United States Code), as a United
7 States Border Patrol agent; and

8 (3) all activities described in subsection (b)
9 shall be considered inherently Governmental func-
10 tions and may not be carried out by any persons
11 other than employees of the United States Border
12 Patrol.

13 (b) AUTHORITIES DESCRIBED.—This section applies
14 with respect to any authority relating to the recruitment,
15 selection, and appointment of applicants (including the
16 conducting of any investigation necessary to approve or
17 grant security clearances) for United States Border Patrol
18 agents, law enforcement officers (other than United States
19 Border Patrol agents), and such other positions within the
20 United States Border Patrol as the head of the United
21 States Border Patrol may by regulation determine.

22 (c) REGULATIONS.—The head of the United States
23 Border Patrol shall by regulation identify the specific au-
24 thorities, including citations to the relevant provisions of
25 law, rule, or regulation, to which this section applies.

1 **SEC. 303. TRAINING FACILITIES.**

2 The Secretary of Homeland Security shall ensure
3 that the training facilities used to train newly-hired
4 United States Border Patrol agents are sufficiently spa-
5 cious and modern to ensure that all recruits are afforded
6 the highest possible quality training, as well as reasonably
7 comfortable living conditions. All dormitories shall be con-
8 structed so that each trainee is housed in separate quar-
9 ters. Moreover, the Secretary shall ensure that the train-
10 ing sites selected contains adequate housing for all perma-
11 nent and temporary instructors within the local com-
12 muniting area.

13 **SEC. 304. OPERATIONAL FACILITIES.**

14 The Secretary of Homeland Security shall ensure
15 that all operational facilities of the United States Border
16 Patrol are well-equipped and sufficiently spacious and
17 modern to enable all of the personnel assigned to such fa-
18 cilities to efficiently accomplish the agency's mission.

19 **SEC. 305. MAXIMUM STUDENT LOAN REPAYMENTS FOR**
20 **UNITED STATES BORDER PATROL AGENTS.**

21 Section 5379(b) of title 5, United States Code, is
22 amended by adding at the end the following:

23 “(4) In the case of an employee (otherwise eligible
24 for benefits under this section) who is serving as a full-
25 time active-duty United States Border Patrol agent within
26 the Department of Homeland Security—

1 “(A) paragraph (2)(A) shall be applied by sub-
2 stituting ‘\$20,000’ for ‘\$10,000’; and

3 “(B) paragraph (2)(B) shall be applied by sub-
4 stituting ‘\$80,000’ for ‘\$60,000’.”.

5 **SEC. 306. RECRUITMENT AND RELOCATION BONUSES AND**
6 **RETENTION ALLOWANCES FOR PERSONNEL**
7 **OF THE DEPARTMENT OF HOMELAND SECU-**
8 **RITY.**

9 The Secretary of Homeland Security shall ensure
10 that the authority to pay recruitment and relocation bo-
11 nuses under section 5753 of title 5, United States Code,
12 the authority to pay retention bonuses under section 5754
13 of such title, and any other similar authorities available
14 under any other provision of law, rule, or regulation, are
15 exercised to the fullest extent allowable in order to encour-
16 age service in the Department of Homeland Security.

17 **SEC. 307. REPEAL OF THE DEPARTMENT OF HOMELAND SE-**
18 **CURITY HUMAN RESOURCES MANAGEMENT**
19 **SYSTEM.**

20 (a) REPEAL.—

21 (1) IN GENERAL.—Effective as of the date
22 specified in section 4 of the Homeland Security Act
23 of 2002 (6 U.S.C. 101 note), chapter 97 of title 5,
24 United States Code (as added by section 841(a)(2)
25 of such Act), section 841(b)(3) of such Act, and sub-

1 sections (c) and (e) of section 842 of such Act are
2 repealed.

3 (2) REGULATIONS.—Any regulations prescribed
4 under authority of chapter 97 of title 5, United
5 States Code, are void ab initio.

6 (b) NULLIFICATION OF PREVIOUS EXCLUSIONS.—
7 Effective as of the date of the enactment of this Act, all
8 previous determinations as to whether—

9 (1) an agency or subdivision of the Department
10 of Homeland Security (or a predecessor agency or
11 subdivision transferred into the Department) is ex-
12 cluded from coverage under chapter 71 of title 5,
13 United States Code,

14 (2) a unit or subdivision of a unit within the
15 Department of Homeland Security (or a predecessor
16 agency or subdivision transferred into the Depart-
17 ment) is not appropriate for representation by a
18 labor organization under such chapter, or

19 (3) an employee or position within the Depart-
20 ment of Homeland Security (or a predecessor agency
21 or subdivision transferred into the Department) is
22 within a unit that is not appropriate for representa-
23 tion by a labor organization under such chapter,

24 are null and void, except to the extent that such deter-
25 minations were made in accordance with the criteria out-

1 lined in paragraph (1), (2), (3), (4), or (7) of section
2 7112(b) of such title 5.

3 (c) CLERICAL AMENDMENT.—The table of chapters
4 for part III of title 5, United States Code, is amended
5 by striking the item relating to chapter 97.

6 **SEC. 308. ESTABLISHMENT OF SPECIALIZED INSPECTOR**
7 **OCCUPATIONS.**

8 The Secretary of Homeland Security shall establish
9 within the Bureau of Customs and Border Protection 3
10 distinct inspectional occupations: immigration, customs,
11 and agriculture. These divisions shall coordinate closely
12 with each other under the direction of a high-level official
13 within the Bureau, but shall report to separate operational
14 chains of command.

15 **SEC. 309. INCREASE IN INSPECTORS AT AIRPORT AND**
16 **LAND BORDER INSPECTION STATIONS.**

17 In each of the fiscal years 2007 through 2011, the
18 Secretary of Homeland Security shall increase by not less
19 than 1,000 the number of positions for full-time active
20 duty immigration inspectors at airport and land border in-
21 spection stations within the Department of Homeland Se-
22 curity above the number of such positions for which funds
23 were allotted for the preceding fiscal year.

1 **SEC. 310. LAW ENFORCEMENT RETIREMENT COVERAGE**
2 **FOR INSPECTION OFFICERS AND OTHER EM-**
3 **PLOYEES.**

4 (a) AMENDMENTS.—

5 (1) FEDERAL EMPLOYEES' RETIREMENT SYS-
6 TEM.—

7 (A) Paragraph (17) of section 8401 of title
8 5, United States Code, is amended by striking
9 “and” at the end of subparagraph (C), and by
10 adding at the end the following:

11 “(E) an employee (not otherwise covered
12 by this paragraph)—

13 “(i) the duties of whose position in-
14 clude the investigation or apprehension of
15 individuals suspected or convicted of of-
16 fenses against the criminal laws of the
17 United States; and

18 “(ii) who is authorized to carry a fire-
19 arm; and

20 “(F) an employee of the Internal Revenue
21 Service, the duties of whose position are pri-
22 marily the collection of delinquent taxes and the
23 securing of delinquent returns;”.

24 (B) CONFORMING AMENDMENT.—Section
25 8401(17)(C) of title 5, United States Code, is

1 amended by striking “(A) and (B)” and insert-
2 ing “(A), (B), (E), and (F)”.

3 (2) CIVIL SERVICE RETIREMENT SYSTEM.—
4 Paragraph (20) of section 8331 of title 5, United
5 States Code, is amended by inserting after “posi-
6 tion.” (in the matter before subparagraph (A)) the
7 following: “For the purpose of this paragraph, the
8 employees described in the preceding provision of
9 this paragraph (in the matter before ”including“)
10 shall be considered to include an employee, not oth-
11 erwise covered by this paragraph, who satisfies
12 clauses (i)–(ii) of section 8401(17)(E) and an em-
13 ployee of the Internal Revenue Service the duties of
14 whose position are as described in section
15 8401(17)(F).”.

16 (3) EFFECTIVE DATE.—Except as provided in
17 subsection (b), the amendments made by this sub-
18 section shall take effect on the date of the enactment
19 of this Act, and shall apply only in the case of any
20 individual first appointed (or seeking to be first ap-
21 pointed) as a law enforcement officer (within the
22 meaning of those amendments) on or after such
23 date.

24 (b) TREATMENT OF SERVICE PERFORMED BY IN-
25 CUMBENTS.—

1 (1) LAW ENFORCEMENT OFFICER AND SERVICE
2 DESCRIBED.—

3 (A) LAW ENFORCEMENT OFFICER.—Any
4 reference to a law enforcement officer described
5 in this paragraph refers to an individual who
6 satisfies the requirements of section 8331(20)
7 or 8401(17) of title 5, United States Code (re-
8 lating to the definition of a law enforcement of-
9 ficer) by virtue of the amendments made by
10 subsection (a).

11 (B) SERVICE.—Any reference to service
12 described in this paragraph refers to service
13 performed as a law enforcement officer (as de-
14 scribed in this paragraph).

15 (2) INCUMBENT DEFINED.—For purposes of
16 this subsection, the term “incumbent” means an in-
17 dividual who—

18 (A) is first appointed as a law enforcement
19 officer (as described in paragraph (1)) before
20 the date of the enactment of this Act; and

21 (B) is serving as such a law enforcement
22 officer on such date.

23 (3) TREATMENT OF SERVICE PERFORMED BY
24 INCUMBENTS.—

1 (A) IN GENERAL.—Service described in
2 paragraph (1) which is performed by an incum-
3 bent on or after the date of the enactment of
4 this Act shall, for all purposes (other than those
5 to which subparagraph (B) pertains), be treated
6 as service performed as a law enforcement offi-
7 cer (within the meaning of section 8331(20) or
8 8401(17) of title 5, United States Code, as ap-
9 propriate), irrespective of how such service is
10 treated under subparagraph (B).

11 (B) RETIREMENT.—Service described in
12 paragraph (1) which is performed by an incum-
13 bent before, on, or after the date of the enact-
14 ment of this Act shall, for purposes of sub-
15 chapter III of chapter 83 and chapter 84 of
16 title 5, United States Code, be treated as serv-
17 ice performed as a law enforcement officer
18 (within the meaning of such section 8331(20)
19 or 8401(17), as appropriate), but only if an ap-
20 propriate written election is submitted to the
21 Office of Personnel Management within 5 years
22 after the date of the enactment of this Act or
23 before separation from Government service,
24 whichever is earlier.

1 (4) INDIVIDUAL CONTRIBUTIONS FOR PRIOR
2 SERVICE.—

3 (A) IN GENERAL.—An individual who
4 makes an election under paragraph (3)(B) may,
5 with respect to prior service performed by such
6 individual, contribute to the Civil Service Re-
7 tirement and Disability Fund the difference be-
8 tween the individual contributions that were ac-
9 tually made for such service and the individual
10 contributions that should have been made for
11 such service if the amendments made by sub-
12 section (a) had then been in effect.

13 (B) EFFECT OF NOT CONTRIBUTING.—If
14 no part of or less than the full amount required
15 under subparagraph (A) is paid, all prior serv-
16 ice of the incumbent shall remain fully cred-
17 itable as law enforcement officer service, but
18 the resulting annuity shall be reduced in a man-
19 ner similar to that described in section
20 8334(d)(2) of title 5, United States Code, to
21 the extent necessary to make up the amount
22 unpaid.

23 (C) PRIOR SERVICE DEFINED.—For pur-
24 poses of this subsection, the term “prior serv-
25 ice” means, with respect to any individual who

1 makes an election under paragraph (3)(B),
2 service (described in paragraph (1)) performed
3 by such individual before the date as of which
4 appropriate retirement deductions begin to be
5 made in accordance with such election.

6 (5) GOVERNMENT CONTRIBUTIONS FOR PRIOR
7 SERVICE.—

8 (A) IN GENERAL.—If an incumbent makes
9 an election under paragraph (3)(B), the agency
10 in or under which that individual was serving at
11 the time of any prior service (referred to in
12 paragraph (4)) shall remit to the Office of Per-
13 sonnel Management, for deposit in the Treasury
14 of the United States to the credit of the Civil
15 Service Retirement and Disability Fund, the
16 amount required under subparagraph (B) with
17 respect to such service.

18 (B) AMOUNT REQUIRED.—The amount an
19 agency is required to remit is, with respect to
20 any prior service, the total amount of additional
21 Government contributions to the Civil Service
22 Retirement and Disability Fund (above those
23 actually paid) that would have been required if
24 the amendments made by subsection (a) had
25 then been in effect.

1 (C) CONTRIBUTIONS TO BE MADE RAT-
2 ABLY.—Government contributions under this
3 paragraph on behalf of an incumbent shall be
4 made by the agency ratably (on at least an an-
5 nual basis) over the 10-year period beginning
6 on the date referred to in paragraph (4)(C).

7 (6) EXEMPTION FROM MANDATORY SEPARA-
8 TION.—Nothing in section 8335(b) or 8425(b) of
9 title 5, United States Code, shall cause the involun-
10 tary separation of a law enforcement officer (as de-
11 scribed in paragraph (1)) before the end of the 3-
12 year period beginning on the date of the enactment
13 of this Act.

14 (7) REGULATIONS.—The Office shall prescribe
15 regulations to carry out this section, including—

16 (A) provisions in accordance with which in-
17 terest on any amount under paragraph (4) or
18 (5) shall be computed, based on section 8334(e)
19 of title 5, United States Code; and

20 (B) provisions for the application of this
21 subsection in the case of—

22 (i) any individual who—

23 (I) satisfies subparagraph (A)
24 (but not subparagraph (B)) of para-
25 graph (2); and

1 (II) serves as a law enforcement
2 officer (as described in paragraph (1))
3 after the date of the enactment of this
4 Act; and

5 (ii) any individual entitled to a sur-
6 vivor annuity (based on the service of an
7 incumbent, or of an individual under
8 clause (i), who dies before making an elec-
9 tion under paragraph (3)(B)), to the ex-
10 tent of any rights that would then be avail-
11 able to the decedent (if still living).

12 (8) RULE OF CONSTRUCTION.—Nothing in this
13 subsection shall be considered to apply in the case
14 of a reemployed annuitant.

15 **SEC. 311. REESTABLISHMENT OF THE UNITED STATES BOR-**
16 **DER PATROL ANTI-SMUGGLING UNIT.**

17 The Secretary of Homeland Security shall reestablish
18 the Anti-Smuggling Unit within the Office of United
19 States Border Patrol, and shall immediately staff such of-
20 fice with a minimum of 500 criminal investigators selected
21 from within the ranks of the United States Border Patrol.
22 Staffing levels shall be adjusted upward periodically in ac-
23 cordance with workload requirements.

1 **SEC. 312. ESTABLISHMENT OF SPECIALIZED CRIMINAL IN-**
2 **VESTIGATOR OCCUPATIONS.**

3 The Secretary of Homeland Security shall establish
4 specialized Criminal Investigator occupations within the
5 Department: one for the investigation of violations of im-
6 migration laws, another for customs laws, and a third for
7 agriculture laws. These divisions shall coordinate closely
8 with each other under the direction of a high-level official
9 within the Department, but shall report to separate oper-
10 ational chains of command.

11 **SEC. 313. ESTABLISHMENT OF CAREER PATHS TO CRIMI-**
12 **NAL INVESTIGATOR POSITIONS.**

13 The Secretary of Homeland Security shall ensure
14 that all persons selected for criminal investigator positions
15 within the Department of Homeland Security possess a
16 minimum of 3 years of field experience within the Depart-
17 ment or its predecessor agencies in the specialized area
18 of law that will be investigated.

19 **SEC. 314. ADDITIONAL IMMIGRATION ENFORCEMENT**
20 **AGENTS.**

21 In each of fiscal years 2006 through 2010, the Sec-
22 retary of Homeland Security shall increase by not less
23 than 500 the number of positions for full-time active duty
24 immigration enforcement agents responsible for trans-
25 porting and guarding detained aliens above the number

1 of such positions for which funds were allotted for the pre-
2 ceding fiscal year.

3 **SEC. 315. INCREASE UNITED STATES BORDER PATROL**
4 **AGENT AND INSPECTOR PAY.**

5 (a) IN GENERAL.—Effective as of the first day of the
6 first applicable pay period beginning on or after the date
7 of the enactment of this Act, the rate of basic pay for
8 all employees of the Department of Homeland Security de-
9 scribed in subsection (b) shall be increased in accordance
10 with subsection (c).

11 (b) EMPLOYEES DESCRIBED.—This section applies
12 to any individual who, as of the date of the enactment
13 of this Act—

14 (1) is a journey level United States Border Pa-
15 trol agent or immigration, customs, or agriculture
16 inspector within the Department of Homeland Secu-
17 rity, whose primary duties consist of enforcing the
18 immigration, customs, or agriculture laws of the
19 United States;

20 (2) has completed at least one year of service
21 as a United States Border Patrol agent or inspector
22 (whether as an employee of the Department of
23 Homeland Security, the Department of Justice, or
24 both agencies combined); and

1 (3) is receiving an annual rate of basic pay for
2 positions at GS–11 of the General Schedule under
3 section 5332 of title 5, United States Code.

4 (c) INCREASE DESCRIBED.—The basic rate of pay for
5 the employees described in this subsection shall increase
6 from the annual rate of basic pay for positions at GS–
7 11 of the General Schedule to the annual rate of basic
8 pay for positions at GS–13 of such schedule.

9 **SEC. 316. FAIR LABOR STANDARDS ACT OVERTIME.**

10 Notwithstanding any other provision of law, all over-
11 time hours worked on and after the date of the enactment
12 of this Act by all employees of the Department of Home-
13 land Security who are at or below the second-line level of
14 field supervision shall be compensated in accordance with
15 the provisions of the Fair Labor Standards Act.

16 **TITLE IV—ENFORCEMENT**
17 **TOOLS TO DIMINISH ENTRIES**
18 **USING FRAUDULENT DOCU-**
19 **MENTS AND COMMERCIAL**
20 **ALIEN SMUGGLING**

21 **SEC. 401. FOREIGN LANGUAGE TRAINING.**

22 The Secretary of Homeland Security shall require all
23 officers of the Department of Homeland Security who
24 come into contact with aliens who have crossed the border
25 illegally to take Spanish and other appropriate foreign lan-

1 guage training courses to facilitate communication with
2 the aliens.

3 **SEC. 402. FOREIGN LANGUAGE AWARDS.**

4 (a) SPECIAL RULES.—The Secretary of Homeland
5 Security shall apply section 4523 of title 5, United States
6 Code, in conformance with the following:

7 (1) Any law enforcement officer within the De-
8 partment of Homeland Security whose primary du-
9 ties involve—

10 (A) the enforcement of the immigration
11 laws of the United States,

12 (B) the detention or transportation of vio-
13 lators of the immigration laws of the United
14 States, or

15 (C) both,

16 shall, for purposes of such section 4523, be pre-
17 sumed to make substantial use of a foreign language
18 in the performance of such officer's official duties.

19 (2)(A) Any individual who successfully com-
20 pletes a foreign language program as part of their
21 agency-sponsored or agency-approved training shall
22 be deemed to possess the foreign language pro-
23 ficiency necessary to qualify for an award under
24 such section for so long as such individual serves as

1 a law enforcement officer within the Department of
2 Homeland Security.

3 (B) Nothing in this paragraph shall, in the case
4 of any individual who does not satisfy subparagraph
5 (A), prevent such individual from being allowed to
6 demonstrate foreign language proficiency in accord-
7 ance with the criteria and procedures that would
8 otherwise apply under such section.

9 (3) For purposes of applying subsection (a) of
10 such section 4523, substitute “equal to” for “up to”.

11 (b) DEFINITION.—For purposes of this section, the
12 term “law enforcement officer” has the meaning given
13 such term by section 4521 of such title 5.

14 **SEC. 403. ADDITIONAL PERSONNEL FOR INVESTIGATION OF**
15 **FRAUDULENT SCHEMES AND DOCUMENT**
16 **FRAUD.**

17 The Secretary of Homeland Security shall hire at
18 least 1000 additional investigators for investigating fraud-
19 ulent schemes, including benefit application schemes, and
20 fraudulent documents used to enter or remain in the
21 United States unlawfully.

1 **SEC. 404. ESTABLISH A SPECIAL TASK FORCE FOR COORDI-**
2 **NATING AND DISTRIBUTING INFORMATION**
3 **ON FRAUDULENT IMMIGRATION DOCU-**
4 **MENTS.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall establish a task force (to be known as the Task
7 Force on Fraudulent Immigration Documents) to carry
8 out the following:

9 (1) Collect information from Federal, State,
10 and local law enforcement agencies, and Foreign
11 governments on the production, sale, and distribu-
12 tion of fraudulent documents intended to be used to
13 enter or to remain in the United States unlawfully.

14 (2) Maintain that information in a comprehen-
15 sive database.

16 (3) Convert the information into reports that
17 will provide guidance for government officials on
18 identifying fraudulent documents being used to enter
19 or to remain in the United States unlawfully.

20 (4) Develop a system for distributing these re-
21 ports on an ongoing basis to appropriate Federal,
22 State, and local law enforcement agencies.

23 (b) DISTRIBUTION OF INFORMATION.—Distribute the
24 reports to appropriate Federal, State, and local law en-
25 forcement agencies on an ongoing basis.

1 **SEC. 405. NEW NONIMMIGRANT VISA CLASSIFICATION TO**
2 **ENABLE INFORMANTS TO ENTER THE**
3 **UNITED STATES AND REMAIN TEMPORARILY.**

4 (a) IN GENERAL.—Section 101(a)(15)(S) (8 U.S.C.
5 1101(a)(15)(S)) is amended

6 (1) in clause (i), by striking “or” at the end;

7 (2) in clause (ii), by striking the comma at the
8 end and inserting “; or”;

9 (3) by inserting after clause (ii) the following:

10 “(iii) who the Secretary of Homeland
11 Security, the Secretary of State, or the At-
12 torney General determines—

13 “(I) is in possession of critical re-
14 liable information concerning a com-
15 mercial alien smuggling organization
16 or enterprise or a commercial oper-
17 ation for making or trafficking in doc-
18 uments to be used for entering or re-
19 maining in the United States unlaw-
20 fully;

21 “(II) is willing to supply or has
22 supplied such information to a Fed-
23 eral or State court; or

24 “(III) whose presence in the
25 United States the Secretary of Home-
26 land Security, the Secretary of State,

1 or the Attorney General determines is
2 essential to the success of an author-
3 ized criminal investigation, the suc-
4 cessful prosecution of an individual in-
5 volved in the commercial alien smug-
6 gling organization or enterprise, or
7 the disruption of such organization or
8 enterprise or a commercial operation
9 for making or trafficking in docu-
10 ments to be used for entering or re-
11 maining in the United States unlaw-
12 fully.”;

13 (4) by inserting “, or with respect to clause
14 (iii), the Secretary of Homeland Security, the Sec-
15 retary of State, or the Attorney General” after
16 “jointly”; and

17 (5) by striking “(i) or (ii)” and inserting “(i),
18 (ii), or (iii)”.

19 (b) ADMISSION OF NONIMMIGRANTS.—Section
20 214(k) (8 U.S.C. 1184(k)) is amended

21 (1) by adding at the end of paragraph (1) the
22 following: “The number of aliens who may be pro-
23 vided a visa as nonimmigrants under section
24 101(a)(15)(S)(iii) in any fiscal year may not exceed
25 400.”; and

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

2 “(5) If the Secretary of Homeland Security, the
3 Secretary of State, or the Attorney General deter-
4 mines that a nonimmigrant described in clause (iii)
5 of section 101(a)(15)(S), or that of any family mem-
6 ber of such a nonimmigrant who is provided non-
7 immigrant status pursuant to such section, must be
8 protected, such official may take such lawful action
9 as the official considers necessary to effect such pro-
10 tection.”.

11 **SEC. 406. ADJUSTMENT OF STATUS WHEN NEEDED TO PRO-**
12 **TECT INFORMANTS.**

13 Section 245(j) (8 U.S.C. 1255(j)) is amended—

14 (1) in paragraph (3), by striking “(1) or (2),”
15 and inserting “(1), (2), (3), or (4),”;

16 (2) by redesignating paragraph (3) as para-
17 graph (5);

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

20 “(3) if, in the opinion of the Secretary of
21 Homeland Security, the Secretary of State, or the
22 Attorney General—

23 “(A) a nonimmigrant admitted into the
24 United States under section 101(a)(15)(S)(iii)

1 has supplied information described in subclause
2 (I) of such section; and

3 “(B) the provision of such information has
4 substantially contributed to the success of a
5 commercial alien smuggling investigation or an
6 investigation of the sale or production of fraud-
7 ulent documents to be used for entering or re-
8 maining in the United States unlawfully, the
9 disruption of such an enterprise, or the pros-
10 ecution of an individual described in subclause
11 (III) of that section,

12 the Secretary of Homeland Security may adjust the
13 status of the alien (and the spouse, children, mar-
14 ried and unmarried sons and daughters, and parents
15 of the alien if admitted under that section) to that
16 of an alien lawfully admitted for permanent resi-
17 dence if the alien is not described in section
18 212(a)(3)(E).

19 “(4) The Secretary of Homeland Security may
20 adjust the status of a nonimmigrant admitted into
21 the United States under section 101(a)(15)(S)(iii)
22 (and the spouse, children, married and unmarried
23 sons and daughters, and parents of the non-
24 immigrant if admitted under that section) to that of
25 an alien lawfully admitted for permanent residence

1 on the basis of a recommendation of the Secretary
2 of State or the Attorney General.”; and

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

4 “(6) If the Secretary of Homeland Security, the
5 Secretary of State, or the Attorney General deter-
6 mines that a person whose status is adjusted under
7 this subsection must be protected, such official may
8 take such lawful action as the official considers nec-
9 essary to effect such protection.”.

10 **SEC. 407. REWARDS PROGRAM.**

11 (a) REWARDS PROGRAM.—Section 274 (8 U.S.C.
12 1324) is amended by adding at the end the following:

13 “(e) REWARDS PROGRAM.—

14 “(1) IN GENERAL.—There is established in the
15 Department of Homeland Security a program for
16 the payment of rewards to carry out the purposes of
17 this section.

18 “(2) PURPOSE.—The rewards program shall be
19 designed to assist in the elimination of commercial
20 operations to produce or sell fraudulent documents
21 to be used for entering or remaining in the United
22 States unlawfully and to assist in the investigation,
23 prosecution, or disruption of a commercial alien
24 smuggling operation.

1 “(3) ADMINISTRATION.—The rewards program
2 shall be administered by the Secretary of Homeland
3 Security, in consultation, as appropriate, with the
4 Attorney General and the Secretary of State.

5 “(4) REWARDS AUTHORIZED.—In the sole dis-
6 cretion of the Secretary of Homeland Security, such
7 Secretary, in consultation, as appropriate, with the
8 Attorney General and the Secretary of State, may
9 pay a reward to any individual who furnishes infor-
10 mation or testimony leading to—

11 “(A) the arrest or conviction of any indi-
12 vidual conspiring or attempting to produce or
13 sell fraudulent documents to be used for enter-
14 ing or remaining in the United States unlaw-
15 fully or to commit an act of commercial alien
16 smuggling involving the transportation of
17 aliens;

18 “(B) the arrest or conviction of any indi-
19 vidual committing such an act;

20 “(C) the arrest or conviction of any indi-
21 vidual aiding or abetting the commission of
22 such an act;

23 “(D) the prevention, frustration, or favor-
24 able resolution of such an act, including the dis-
25 mantling of an operation to produce or sell

1 fraudulent documents to be used for entering or
2 remaining in the United States, or commercial
3 alien smuggling operations, in whole or in sig-
4 nificant part; or

5 “(E) the identification or location of an in-
6 dividual who holds a key leadership position in
7 an operation to produce or sell fraudulent docu-
8 ments to be used for entering or remaining in
9 the United States unlawfully or a commercial
10 alien smuggling operation involving the trans-
11 portation of aliens.

12 “(5) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this subsection.
15 Amounts appropriated under this paragraph shall
16 remain available until expended.

17 “(6) INELIGIBILITY.—An officer or employee of
18 any Federal, State, local, or foreign government
19 who, while in performance of his or her official du-
20 ties, furnishes information described in paragraph
21 (4) shall not be eligible for a reward under this sub-
22 section for such furnishing.

23 “(7) PROTECTION MEASURES.—If the Secretary
24 of Homeland Security, the Secretary of State, or the
25 Attorney General determines that an individual who

1 furnishes information or testimony described in
2 paragraph (4), or any spouse, child, parent, son, or
3 daughter of such an individual, must be protected,
4 such official may take such lawful action as the offi-
5 cial considers necessary to effect such protection.

6 “(8) LIMITATIONS AND CERTIFICATION.—

7 “(A) MAXIMUM AMOUNT.—No reward
8 under this subsection may exceed \$100,000, ex-
9 cept as personally authorized by the Secretary
10 of Homeland Security.

11 “(B) APPROVAL.—Any reward under this
12 subsection exceeding \$50,000 shall be person-
13 ally approved by the Secretary of Homeland Se-
14 curity.

15 “(C) CERTIFICATION FOR PAYMENT.—Any
16 reward granted under this subsection shall be
17 certified for payment by the Secretary of Home-
18 land Security.”.

19 **SEC. 408. OUTREACH PROGRAM.**

20 Section 274 (8 U.S.C. 1324), as amended by sub-
21 section (a), is further amended by adding at the end the
22 following:

23 “(f) OUTREACH PROGRAM.—The Secretary of Home-
24 land Security, in consultation, as appropriate, with the At-
25 torney General and the Secretary of State, shall develop

1 and implement an outreach program to educate the public
2 in the United States and abroad about—

3 “(1) the penalties for—

4 “(A) bringing in and harboring aliens in
5 violation of this section; and

6 “(B) participating in a commercial oper-
7 ation for making, or trafficking in, documents
8 to be used for entering or remaining in the
9 United States unlawfully; and

10 “(2) the financial rewards and other incentives
11 available for assisting in the investigation, disrup-
12 tion, or prosecution of a commercial smuggling oper-
13 ation or a commercial operation for making, or traf-
14 ficking in, documents to be used for entering or re-
15 maining in the United States unlawfully.”.

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