

109TH CONGRESS
1ST SESSION

H. R. 4238

To provide for enhanced border security enforcement and detention facilities,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2005

Mr. McCAUL of Texas (for himself, Mr. REYES, Mr. CUELLAR, Mr. DANIEL E. LUNGREN of California, Ms. GRANGER, and Mr. PEARCE) 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 provide for enhanced border security enforcement and
detention facilities, 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 “Border Security En-
5 forcement and Detention Act of 2005”.

1 **SEC. 2. MANDATORY DETENTION FOR ALIENS APPRE-**
2 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

3 (a) IN GENERAL.—Beginning on October 1, 2006, an
4 unlawful alien who is apprehended at a United States port
5 of entry or along the international land and maritime bor-
6 der of the United States shall be detained until removed
7 or a final decision granting admission has been deter-
8 mined, if the alien—

9 (1) is permitted to withdraw an application for
10 admission under section 235(a)(4) of the Immigra-
11 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and
12 does not immediately depart from the United States
13 pursuant to such section; or

14 (2) is ordered removed from the United States
15 under section 235(b)(1)(A)(i) of such Act (8 U.S.C.
16 1225(b)(1)(A)(i)) without further hearing or review.

17 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-
18 ginning 60 days after the date of the enactment of this
19 Act and before October 1, 2006, an alien described in sub-
20 section (a) may be released with a notice to appear only
21 if—

22 (1) the Secretary of Homeland Security deter-
23 mines, after conducting all appropriate background
24 and security checks on the alien, that the alien does
25 not pose a national security risk; and

1 (2) the alien provides a bond of not less than
2 \$5,000.

3 (c) USE OF BOND.—In the case of an alien who for-
4 feits a bond provided in accordance with subsection (b)(2),
5 the Secretary of Homeland Security may use the bond for
6 the purpose of funding alien absconder investigations car-
7 ried out by the Department of Homeland Security.

8 **SEC. 3. EXPANSION AND EFFECTIVE MANAGEMENT OF DE-**
9 **TENTION FACILITIES.**

10 (a) IN GENERAL.—Subject to the availability of ap-
11 propriations, the Secretary of Homeland Security shall
12 fully utilize all available detention facilities operated or
13 contracted by the Department of Homeland Security.

14 (b) ANALYSIS OF OPTIONS TO INCREASE BED
15 SPACE.—Not later than 90 days after the date of the en-
16 actment of this Act, the Secretary shall conduct a com-
17 prehensive analysis of all possible options to cost effec-
18 tively increase available detention capacities, including the
19 use of State and local correctional facilities, temporary de-
20 tention facilities, private space, and secure alternatives to
21 detention.

22 (c) USE OF TEMPORARY DETENTION FACILITIES.—
23 The Secretary shall, as expeditiously as practicable, ex-
24 pand the use of temporary detention facilities to increase
25 detention capacity during the period in which the Sec-

1 retary is conducting the comprehensive analysis required
2 under subsection (b).

3 (d) IMPLEMENTATION.—Not later than October 1,
4 2008, the Secretary shall implement the options to cost
5 effectively increase available detention capacities deter-
6 mined pursuant to the comprehensive analysis required
7 under subsection (b).

8 **SEC. 4. DENIAL OF ADMISSION TO NATIONALS OF COUNTRY**
9 **DENYING OR DELAYING ACCEPTING ALIEN.**

10 Section 243(d) of the Immigration and Nationality
11 Act (8 U.S.C. 1253(d)) is amended to read as follows:

12 “(d) DENIAL OF ADMISSION TO NATIONALS OF
13 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—
14 Whenever the Secretary of Homeland Security determines
15 that the government of a foreign country has denied or
16 unreasonably delayed accepting an alien who is a citizen,
17 subject, national, or resident of that country after the
18 alien has been ordered removed, the Secretary, after con-
19 sultation with the Secretary of State, may deny admission
20 to any citizen, subject, national, or resident of that coun-
21 try until the country accepts the alien who was ordered
22 removed.”.

23 **SEC. 5. BORDER PATROL AGENTS.**

24 There are authorized to be appropriated to the Sec-
25 retary of Homeland Security such sums as may be nec-

1 essary for each of fiscal years 2007 through 2010 to carry
2 out section 5202 of the Intelligence Reform and Terrorism
3 Prevention Act of 2004 (requiring the Secretary to in-
4 crease the number of positions for full-time active-duty
5 border patrol agents) (Public Law 108–458;118 Stat.
6 3734).

7 **SEC. 6. REPORT ON FINANCIAL BURDEN OF REPATRI-**
8 **ATION.**

9 Not later than October 31 of each year, the Secretary
10 of Homeland Security shall submit to the Secretary of
11 State and Congress a report that details the cost to the
12 Department of Homeland Security of repatriation of
13 aliens to their countries of nationality or last habitual resi-
14 dence, including details relating to cost per country.

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