Title I – Border Enforcement

Section 101: Necessary Assets for Controlling United States Border

Personnel: Requires DHS to increase by at least 1,250 the number of Customs and Border Protection (CBP) officers. Authorizes appropriations for employment of new CBP officers and Border Patrol agents equal to the number authorized in the intelligence reform act. Authorizes appropriations of $125 million to the transportation of aliens over the next five years; Technological Assets: Authorizes $2.5 billion for DHS to acquire technologies such as unmanned aerial vehicles, cameras, poles, sensors, etc.; Infrastructure: requires DHS to build all-weather roads and acquire vehicle barriers and facilities to support border security mission. Authorizes $2.5 billion for this initiative; Border Patrol Checkpoints: temporary or permanent checkpoints may be maintained in certain locations. Includes reporting requirements to Congress on national strategy for border security.

Section 102: Expedited Removal Between Ports of Entry

It codifies and expands expedited removal to all border patrol sectors across the Southern border (current DHS policy). Requires that DHS employees receive training on expedited removal. Authorizes $50 million for this initiative.

Section 103: Document Fraud Detection

DHS must train all CBP officers in identifying and detecting fraudulent travel documents. Authorizes $25 million for this initiative. Such training will be developed in consultation with the Forensic Document Laboratory. The Office of the Inspector General in DHS is required to conduct an independent assessment on the accuracy and reliability of the Forensic Document Library and submit a report to Congress on related findings.

Section 104: Improved Document Integrity

Requires every travel and entry document and evidence of status (other than an interim document) to be machine readable, tamper resistant, and to contain biometric identifiers.

Section 105: Cancellation of Visas

Broadens existing authority to cancel the nonimmigrant visas of people whose authorized stays have expired.

Section 106: Biometric Entry-Exit System

Creates a ground of inadmissibility for people who “knowingly fail to comply” with biometric requirements. Authorizes the DHS to collect biometric data from aliens departing the US. as well as “other information regarding their immigration status.” Authorizes immigration officers to collect biometric data from any applicant for admission or seeking to transit through the US; any green card holder who is entering the US but who is not regarded as seeking admission under the laws; and alien crewmen seeking permission to land. In implementing the entry and exit statute, the DHS is not required to follow the
Administrative Procedures Act or any other law relating to rulemaking. Money is authorized to implement the entry-exit system at all land border ports of entry.

Section 107: Release of Aliens from Noncontiguous Countries
Sets a mandatory minimum bond of $5,000 if the alien is a “national of a noncontiguous” country; has not been admitted or paroled into the US; and was apprehended within 100 miles of the border or presents a flight risk.

Section 108: Reducing Illegal Immigration and Alien Smuggling on Tribal Lands
Authorizations are made to award grants to Indian tribes with lands adjacent to an international border of the US that have been adversely affected by illegal immigration.

Title II – Interior Enforcement [Similar to provisions in the Strengthening America’s Security Act of 2005, S. 1916, introduced by Senator Chuck Hagel and Comprehensive Enforcement and Immigration Reform Act of 2005, S. 1438, introduced by Senators John Cornyn (R-TX) and Jon Kyl (R-AZ).]

Section 201: Detention Space and Removal Capacity
Amends the Intelligence Reform and Terrorism Protection Act of 2004 (Intelligence Reform Act) by increasing from 8,000 to 10,000 the number of additional detention beds required to be made available over the next five years (Total Increase= 10,000).

Section 202: Detention of Dangerous Aliens
It extends the statutory bars to asylum, cancellation of removal, voluntary departure, and registry to aliens who are “described” (as opposed to being actually inadmissible/deportable) in specific provisions of the Immigration and Nationality Act relating to terrorist and/or serious criminal activities. Allows DHS to detain people granted a stay of removal. It allows DHS to detain inadmissible and deportable aliens who are ordered removed beyond their removal period “in the discretion of the Secretary, without limitations other than those specified by the Secretary by regulation, until the alien is removed.”

Section 203: Increased Criminal Penalties for Alien Smuggling, Document Fraud, and Gang Violence
Increases penalties for alien smuggling, document fraud and crimes of violence. The bill creates new grounds of inadmissibility and deportability for aliens who are members of a “criminal street gang” as defined in the US code, and also renders such individuals ineligible for Temporary Protected Status.

Section 204: Penalty for Countries that Do Not Accept Return of Nationals
States that upon notification by the DHS Secretary (currently the law vests this notice with the Attorney General) that a particular country has refused or unreasonably delayed accepting aliens ordered removed, the Department of State must discontinue granting visas to nationals and citizens of that country.

Section 205: Alternatives to Detention
Requires DHS to implement pilot programs in all states to study the effectiveness of alternatives to detention, including ankle bracelets and intensive supervision programs.
Section 206: Removal of Aliens/Unconstitutional Holds
“Continues” and “expands” the Institutional Removal Program (IRP) to all 50 states. Includes a provision that allows state and local enforcement officers to hold illegal aliens for a period of “up to 14 days after the alien has completed the state prison sentence” OR such entities may issue a detainer that would allow aliens who have served time in state custody to be detained by the state prison until personnel from Immigration and Customs Enforcement (ICE) can take them into custody (this raises constitutional concerns). Requires that technology such as videoconferencing be used to the maximum extent possible in order to make the IRP available in remote locations. Money is authorized to expand IRP.

Section 207: Additional Immigration Personnel
Adds 1,000 investigators (in addition to what was authorized in the Intelligence Reform Act), 500 DHS immigration attorneys, 250 Office of Immigration Litigation staff attorneys, 250 attorneys in the U.S. Attorney’s Office, and 250 immigration judges responsible for immigration litigation. Establishes a new Assistant Attorney General for Immigration Enforcement in the DOJ.

Section 208: Completion of Background and Security Checks
Amends INA to ensure that immigration benefits such as Legal Permanent Residence, relief from deportation, protection from removal or any other benefit and “documentation evidencing or related to such grant” are not granted until “such background and security checks” are completed.

Section 209: Denial of Benefits to Terrorists and Criminals
Authorizes DHS, DOJ, DOS and DOL to deny or “withhold” any application or benefit to potential “terrorists” or “criminals” or anyone for whom all law enforcement checks have not been completed/resolved.

Section 210: Reinstatement of Previous Removal Orders
DHS shall remove individuals subject to reinstatement. The removal shall not require review before an immigration judge. The individual may not apply for or receive any immigration relief or benefit (with the exception of asylum-related relief). This section applies retroactively and takes effect “as if enacted on March 1, 2003.”

Section 211: Automated Alien Records
Alien records shall be stored in an electronic format that is interoperable with the recordkeeping system at DOJ and accessible by other Federal agencies for the purpose of administering the immigration laws. Money is authorized to carry out this section.

Section 212: Immigration Law Enforcement by States and Local Actors
Legislates the inherent authority for police to “identify, detain, or transfer into federal custody” an alien who upon request fails to provide proper documentation of immigration status in the US AND who is the subject of an investigation (undefined).
**Section 213:** Listing of Immigration Violators in the National Crime Information Center Database
Mandates the entry of the following into the National Crime Information Center database for local police arrest: those with a final order of removal and those subject to a voluntary departure agreement that has become invalid (expired). This information shall be entered as long as the name and DOB are available, regardless of whether the individual received notice of the deportation order and/or has already been removed. The voluntary departure period is reduced from 120 to 30 days.

**Section 214:** Increase of Federal Detention Space
Mandates the construction or acquisition of additional detention facilities in the US, and authorizes related appropriations.

**Section 215:** Federal Custody of Illegal Aliens Apprehended by State or Local Law Enforcement/Unconstitutional Holds
Mandates that DHS can take illegal aliens into Federal custody within 72 hours or request that the state or local agency temporarily detain or transport the illegal alien to a location for transfer to Federal custody. DHS shall designate “at least one” prison or jail (state, local, or federal) in each state to serve as the “Central” facility for the state to transfer custody of criminal or illegal aliens to the DHS. Reimbursements are made to states/localities for detention and transportation costs.

**Section 216:** State Criminal Alien Assistance Program
Authorizes billions of dollars to reimburse states under the State Criminal Alien Assistance Program, and a new program to fund indirect criminal justice system costs associated with foreign nationals who are convicted of crimes.

**Section 217:** Construction
Includes a savings clause saying that nothing in the section should be construed to require law enforcement to report the identity or arrest of victims or witnesses to criminal events; NOR should anything be construed to require the state to enforce immigration laws.

**Title III – Temporary Guest Worker** [Similar to The Secure America and Orderly Immigration Act of 2005 S. 1033, introduced by Senators John McCain (R-AZ) and Edward Kennedy (D-MA).]

**Section 301:** Temporary Guest Workers
Creates a new temporary H-5A status for foreign nationals to work in jobs that generally require little formal education.

**Section 302:** Admission of Temporary Guest Workers
Authorizes the Secretary of State to grant a temporary H-5A visa if the worker demonstrates an intent to perform labor or services (other than those classifications under the H-1B, H-2A, L, O, P, and R categories.)
**Requirements for Visa:** To qualify for the visa the foreign national must: 1) Have an offer of employment from an eligible US employer; 2) Undergo security and background checks, and a medical examination; and 3) Pay a $500 fee in addition to application processing costs.

**Visa Benefits:** The H-5A nonimmigrant visa is valid for three years, with one possible renewal, totaling six years of status. The H-5A visa holder will have work and travel authorization, and full visa “portability.” He can work for any employer in any industry at any time. If the worker leaves or loses his job, he will have 45 days to find new employment or leave the country. In this situation, the worker can obtain subsequent employment with an H-5A employer and re-enter the US, but his visa term will not be extended.

**Other Features:** Certain foreign nationals who were previously present in the US without authorization and left the US can apply for an H-5A visa. Specific grounds of inadmissibility related to their unlawful status may be waived for conduct that occurred before the date of enactment of this; others could be waived for humanitarian reasons. The applicant would have to pay a $1500 fine if granted a waiver. There is no waiver for criminal or security-related grounds of inadmissibility, nor for those relating to polygamists and child abductors.

**Section 303: Employer Obligations**
Employers employing H-5A workers must comply with all federal, state, and local laws, including those related to worker verification.

**Section 304: Protection for Workers**
Contains wage protections by requiring that H-5A workers receive the same wages, benefits, rights, and working conditions as similarly employed US workers. It ensures employers hiring H-5A workers to comply with all applicable Federal, State, and local tax and revenue laws. The bill prohibits H-5A workers from being treated as independent contractors. The bill also prohibits employers from hiring H-5A workers as replacement workers during a strike or lockout in the course of a labor dispute. The bill establishes “whistleblower protections” for employees who notify authorities or cooperate in an investigation or proceeding dealing with individuals who violate requirements of the bill.

**Enforcement of Labor Laws:** The bill requires the Secretary of Labor to set up an administrative process for handling complaints by persons who have faced substandard wages or conditions of work as a result of a labor violation. The Secretary of Labor is required to investigate complaints by H-5A workers if there is “reasonable cause.” She may impose remedies and penalties, such as back wages; fringe benefits; and civil/criminal monetary penalties.

**Labor Contractors:** With respect to future workers (H-5A), every employer involved in foreign labor contracting activity and every foreign labor contractor is required to disclose information to every worker who is recruited for employment such as location; required training; and terms and conditions; among others. Recruiters are prohibited from providing false or misleading information to workers with respect to these disclosures. Under the bill, recruiters may not impose a fee for recruitment; if a transportation cost is imposed, it must be reasonable. It requires the Department of Labor to set up a process whereby employers are certified to recruit future workers. The bill also contains certain prohibitions to ensure that recruiters comply with the terms and conditions of written agreements, and other
provisions of the bill. The bill also allows the Department of Labor to impose a bonding requirement on recruiters to ensure that workers are adequately protected.

Section 305: Market-based Numerical Limitations
The cap on H-5A visas is set at 400,000 for the first fiscal year in which the program is implemented. The cap is adjusted in subsequent years based on the strength or weaknesses of the market. For example, if the 400,000 visa allocation is reached within the last quarter of the year, then the cap will be increased by 10 percent in the subsequent year. If the 400,000 visa allocation is reached in the first quarter of a given year, then the cap will be increased by 20 percent in the following year. On the other hand, if the numerical cap is not reached in a particular year, then the cap will be decreased by 10 percent in the following year.

Section 306: Adjustment to Lawful Permanent Resident Status
Immigrant visas are made available to H-5A nonimmigrants upon the filing of a petition for such a visa by the employer. An applicant must: 1) be physically present in the US; 2) undergo additional security and background checks; 3) meet English language and civics requirements or show that he is enrolled in a course to meet these requirements. In some cases immigrants may stay beyond their authorized stay under the H-5A if a labor certification application or immigrant visa petition has been filed on their behalf.

Section 307: Temporary Guest Worker Visa Program Task Force
A task force is established to evaluate this and other aspects of the temporary worker program established under this title and makes recommendations to Congress with respect to this program.

Section 308: Willing Worker-Willing Employer Electronic Job Registry
Employers will seek US workers to fill upcoming or available positions by posting the job in America’s Job Bank for at least 30 days. If they have not identified a willing and qualified US worker in that time frame, they can seek an H-5A worker by attesting to this recruitment. They must retain documentation indicating why they did not hire any US applicants.

Section 309: Authorization of Appropriations
Authorizes appropriations to carry out this title.

Section 310: Student Visas (Similar to The Strengthening America’s Workforce Act of 2005, S. 1918 introduced by Senator Hagel)
Removes the “nonimmigrant intent” requirement for immigrants applying for a student visa. It expands the number of full-time foreign students who are authorized to work off campus in positions unrelated to their studies if US employees are not available. It ensures that such students are paid fair wages. It amends the INA to include F-1 student visa holders within the category of nonimmigrants eligible to adjust to permanent resident status.

Section 311: Exemption of Temporary Workers with Advanced Degrees from Numerical Limits (Similar to The Strengthening America’s Workforce Act of 2005, S. 1918 introduced by Senator Hagel)
Exempts from the H-1B temporary worker cap those who have earned an advanced degree in science, technology, engineering, or math from an accredited university in the US.
Section 312: Aliens Not Subject to Numerical Limitations on Employment-Based Immigrants (Similar to The Strengthening America’s Workforce Act of 2005, S. 1918 introduced by Senator Hagel)

This section EXEMPTS the following categories of people from the numerical limitations on employment-based immigrants: 1) aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the US under a temporary visa during the 3-year period preceding their application for an immigrant visa; 2) certain aliens who have shown “extraordinary” abilities in their line of work or who have received a “national interest waiver”; 3) the immediate relatives of aliens who are admitted as employment-based immigrants.

Section 313: Labor Certification for Professionals with Degrees in the Sciences, Technology, Engineering, or Mathematics

Amends the INA to add professionals with a bachelor’s degree (or equivalent) in the sciences, technology, engineering, or mathematics to the categories of individuals eligible for “special handling” under the labor certification process.

Section 314: Requirements for Participating Countries

No alien is eligible for status under the H-5A program unless the home country of the alien has entered into a bilateral agreement with the US that conforms to the following requirements: 1) accept, within 3 days, the return of nationals who are ordered removed from the US; 2) cooperate with the US Government in identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling, and in controlling illegal immigration; 3) provide the US Government with passport information and criminal records of aliens who are seeking admission to or are present in the United States and with admission and entry data to facilitate United States entry-exit data systems; 4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and 5) provide a minimum level of health coverage to its participants. Participating countries shall agree to evaluate housing incentives in the alien’s home country for returning workers.

Title IV – Worksite Enforcement

Section 401: Requirements for Employers to Conduct Employment Eligibility Verification

Beginning on the date that is two years after the date of enactment, any person who hires an individual for employment in the US shall participate in the Employment Eligibility Verification System. There is a phase in period that begins with entities that employ individuals at critical infrastructures. The bill includes protections from unauthorized disclosure, confidentiality provisions, an antidiscrimination clause, and method for examining data and correcting errors. The bill requires the DHS Secretary to establish rules and procedures for collecting, updating, and maintaining the integrity and accuracy of the database.
**Section 402: Reduction in Documents that Establish Identity and Employment Authorization**

Employment authorization may be established by showing a Social Security card or a machine readable, tamper resistant card issued by the US that explicitly authorizes employment in the US.

**Section 403: Penalties for Unauthorized Employment and False Claims of Citizenship**

Increases penalties for unauthorized employment and establishes a penalty of up to $5,000 and three years in prison for making a false claim of citizenship in order to obtain employment.

**Section 404: New Criminal Penalties for Misuse of Social Security Account Numbers**

Establishes criminal penalties for persons who sell or otherwise give their social security number to another person, or who obtain for a fee, in violation of the law, an additional number for another person. Establishes criminal penalties for government employees involved in the misuse of Social Security numbers.

**Section 405: Additional Worksite Enforcement and Fraud Detection Agents**

Increases the number of worksite enforcement (annually by not less than 2000) and fraud detection agents (1000).

**Title V – Family Unity and Backlog Reduction**

[Similar to The Secure America and Orderly Immigration Act of 2005 S. 1033, introduced by Senators John McCain (R-AZ) and Edward Kennedy (D-MA).]

**Section 501: Elimination of Existing Backlogs**

With respect to family-sponsored immigrants, the bill takes immediate relatives (spouses, parents, and minor children) of US citizens out of the cap of 480,000 visas that will apply to all other categories of family-sponsored immigrants (and redistributes the visas throughout the other preference categories).

With respect to employment-sponsored immigrants, the bill increases the number of immigrant visas available for workers sponsored by an employer, raising the annual cap on employment-based visas from 140,000 to 290,000.

For both family- and employment-based categories, the bill captures immigrant visas that go unused in a given fiscal year due to processing delays, for use in the next fiscal year.

**Section 502: Country Limits**

It raises the per-country immigration limits slightly for family-sponsored and employment-based immigrants.

**Section 503: Allocation of Immigrant Visas**

Redistributes the 480,000 family-sponsored immigrant visas among the existing categories. Redistributes the 290,000 employment-based immigrant visas and makes certain modifications to the current categories. For example, it redistributes the numbers among the
existing employment-based categories (25% of employment-based visas, plus unused visas from the first four preference categories, are allocated to a re-designated other worker category for immigrants filling jobs that require little formal training).

**Section 504: Relief for Children and Widows**  
Allows an applicant’s case to continue even if her sponsor dies

**Section 505: Amending the Affidavit of Support Requirements**  
Lowers the income requirements for sponsoring a relative to immigrate from 125% of the federal poverty guidelines to 100% [N.B. before 1996, the immigration laws required sponsors to meet an income requirement of 100% of the federal poverty guidelines]

**Section 506: Discretionary Authority**  
Provides for certain waivers.

**Section 507: Family Unity**  
The bill allows DHS to waive the 3- and 10-year and permanent immigration bars for people who have been unlawfully present but have a pending family- or employment-based immigration petition. If an individual is granted one of these discretionary waivers, he will have to pay a fine of $2000. It also raises the maximum age of eligibility for exemption from the 3- and 10-year bars from 18 to 21.

**Title VI – Deferred Departure Status**  
[Similar to Comprehensive Enforcement and Immigration Reform Act of 2005, S. 1438, introduced by Senators John Cornyn (R-TX) and Jon Kyl (R-AZ).]

**Section 601: Mandatory Departure and Reentry in Legal Status**  
The DHS Secretary may grant Deferred Mandatory Departure status to aliens who are in the US illegally to allow such aliens to depart the US and seek admission as a temporary or permanent immigrant.

**DMD Requirements:** In order to qualify for Deferred Mandatory Departure (DMD), an immigrant would have to: 1) show physical presence for at least one year prior to 7/20/05, unlawful presence on that date, and continuous presence since that date; 2) show employment prior to 7/20/05 and employment since that date; 3) undergo security and background checks; 4) pay an application fee and $1000 fine (the fine escalates for each family member who is a derivative on the application); 4) show he is admissible.

**Individuals Barred from DMD Status:** an alien is ineligible for DMD status if he is subject to a final order of removal; failed to depart the US during the period of voluntary departure; or willfully failed to comply with any request for information by the Secretary of Homeland Security.

**Application Content:** every DMD applicant must “acknowledge” in writing and under oath that they are unlawfully present and subject to removal, and understand the terms of DMD status; and submit any false or fraudulently-used social security numbers and documents to DHS.
Waiver of Rights and Review: Every DMD applicant must: waive all rights to administrative and judicial review or appeal of a decision on his case (except for asylum or related protection); waive all rights to contest any removal action (except for asylum or related protection); and authorize the release of any information contained in his application for law enforcement purposes.

DMD Benefits: Those granted DMD (not those who apply) would obtain work authorization and travel permission. If they lose their jobs, they will have up to 45 days to find new ones before being required to leave or lose their status. DMD grantees would have up to five years to depart the US. After the first year, they will be subject to a $2000 fee, which will increase each year to $5000. Those who fail to leave the country after 5 years will be subject to a 10-year bar on obtaining any subsequent immigration status (except for asylum or related protection).

Access to Courts: The bill includes exceptionally limited review of decisions related to DMD applications.

Other Features: A limited number of inadmissibility grounds related to unlawful status will not apply; others could be waived for humanitarian reasons.

Spouses or children of aliens applying for DMD status can be considered as derivatives on the application, although they are not authorized to work.

Limited Options for Permanent Residency
DMD grantees may apply to change their status under the H-5A program, and may apply for adjustment of status to permanent residency BUT may NOT be granted admission until they have departed from the US in accordance with provisions in this bill.

Section 602: Statutory Construction

Title VII – United States Court of Appeals for Immigration

Section 701: Establishment of United States Court of Appeals for Immigration
Creates a new US Court of Appeals for Immigration, and gives the court review authority over decisions by District Courts relating to the admissibility of aliens.

Section 702: Judicial Review of Immigration Appeals
The new US Court of Appeals for Immigration shall have exclusive jurisdiction to review a final administrative order or a District Court decision arising from any action taken, including a District Court order re: habeas corpus.