

**AMENDMENT TO H.R. 4760**

**OFFERED BY MR. DUNCAN OF SOUTH CAROLINA**

At the end of division B, add the following:

1 **TITLE VI—TERRORIST REMOVAL**

2 **SEC. 6601. INADMISSIBILITY OF ALIENS IDENTIFIED IN**  
3 **TERRORIST SCREENING DATABASE.**

4 Section 212(a)(3)(B)(i) of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

6 (1) in subclause (VIII), by striking “or” at the  
7 end;

8 (2) by redesignating subclause (IX) as sub-  
9 clause (X); and

10 (3) by inserting after subclause (VIII) the fol-  
11 lowing:

12 “(IX) is identified in the terrorist  
13 screening database (as such term is  
14 defined in section 2101(10) of the  
15 Homeland Security Act of 2002 (6  
16 U.S.C. 621(10))), except for an alien  
17 lawfully admitted for permanent resi-  
18 dence (as defined in section  
19 101(a)(20)); or”.

1 **SEC. 6602. DEPORTABILITY OF ALIENS IDENTIFIED IN TER-**  
2 **RORIST SCREENING DATABASE.**

3 Section 237(a)(4)(B) of the Immigration and Nation-  
4 ality Act (8 U.S.C. 1227(a)(4)(B)) is amended by insert-  
5 ing before the period at the end the following “, except  
6 that an alien lawfully admitted for permanent residence  
7 (as defined in section 101(a)(20)) is not deportable for  
8 being described in subparagraph (B)(i)(IX) of section  
9 212(a)(3)”.

10 **SEC. 6603. WAIVERS OF GROUND OF INADMISSIBILITY FOR**  
11 **ALIENS IDENTIFIED IN TERRORIST SCREEN-**  
12 **ING DATABASE.**

13 Section 212(d)(3) of the Immigration and Nationality  
14 Act (8 U.S.C. 1182(d)(3)) is amended—

15 (1) in each of clauses (i) and (ii) of subpara-  
16 graph (A), by inserting “and other than paragraph  
17 (3)(B)(i)(IX) of such subsection except as provided  
18 in subparagraph (C)” after “of such subsection”;

19 (2) in subparagraph (B)(i), by inserting “, or  
20 who is within the scope of subsection  
21 (a)(3)(B)(i)(IX) except as provided in subparagraph  
22 (C),” after “(a)(3)(B)(i)(II) of this section,”; and

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

24 “(C)(i) Subject to clause (ii) and only on an indi-  
25 vidual case-by-case basis, if the Secretary of Homeland Se-  
26 curity determines in the Secretary’s unreviewable discre-

1 tion that it is in the national security interests of the  
2 United States, an alien—

3 “(I) may be granted a nonimmigrant visa and  
4 be admitted into the United States temporarily as a  
5 nonimmigrant under subparagraph (A)(i);

6 “(II) may be admitted into the United States  
7 temporarily as a nonimmigrant under subparagraph  
8 (A)(ii); and

9 “(III) shall not be subject to subsection  
10 (a)(3)(B)(i)(IX).

11 “(ii) The Secretary of Homeland Security may grant  
12 a waiver under clause (i) with respect to an alien only with  
13 the unanimous concurrence of the Attorney General, the  
14 Director of the Federal Bureau of Investigation, the Di-  
15 rector of National Intelligence, and the Secretary of  
16 State.”.

17 **SEC. 6604. UNAVAILABILITY OF CERTAIN IMMIGRATION**  
18 **BENEFITS TO ALIENS IDENTIFIED IN TER-**  
19 **RORIST SCREENING DATABASE.**

20 (a) ASYLUM.—Section 208(b)(2)(A)(v) of the Immi-  
21 gration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v))  
22 is amended by striking “or (VI)” and inserting “(VI), or  
23 (IX)”.

24 (b) WITHHOLDING OF REMOVAL.—Section  
25 241(b)(3)(B) of the Immigration and Nationality Act (8

1 U.S.C. 1231(b)(3)(B)), as amended by section 3303(f)(1)  
2 is further amended, in the matter preceding clause (i), by  
3 inserting “inadmissible under section 212(a)(3)(B)(i)(IX)  
4 or deportable under section 237(a)(4)(B) as a consequence  
5 of being described in section 212(a)(3)(B)(i)(IX), or who  
6 is” after “or who is”.

7 (c) CANCELLATION OF REMOVAL.—

8 (1) CANCELLATION OF REMOVAL FOR CERTAIN  
9 PERMANENT RESIDENTS.—Section 240A(a) of the  
10 Immigration and Nationality Act (8 U.S.C.  
11 1229b(a)) is amended, in the matter preceding para-  
12 graph (1), by striking “inadmissible or deportable”  
13 and inserting “inadmissible (except an alien who is  
14 inadmissible under section 212(a)(3)(B)(i)(IX)) or  
15 deportable (except an alien who is deportable under  
16 section 237(a)(4)(B) as a consequence of being de-  
17 scribed in section 212(a)(3)(B)(i)(IX))”.

18 (2) CANCELLATION OF REMOVAL FOR CERTAIN  
19 NONPERMANENT RESIDENTS.—Section 240A(b)(1)  
20 of the Immigration and Nationality Act (8 U.S.C.  
21 1229b(b)(1)) is amended, in the matter preceding  
22 subparagraph (A), by striking “inadmissible or de-  
23 portable” and inserting “inadmissible (except an  
24 alien who is inadmissible under section  
25 212(a)(3)(B)(i)(IX)) or deportable (except an alien

1 who is deportable under section 237(a)(4)(B) as a  
2 consequence of being described in section  
3 212(a)(3)(B)(i)(IX))”.

4 (d) VOLUNTARY DEPARTURE.—Section 240B(c) of  
5 the Immigration and Nationality Act (8 U.S.C. 1229c(e))  
6 is amended to read as follows:

7 “(c) ALIENS INELIGIBLE.—The Secretary of Home-  
8 land Security shall not permit an alien to depart volun-  
9 tarily under this section if the alien—

10 “(1) was previously permitted to so depart after  
11 having been found inadmissible under section  
12 212(a)(6)(A); or

13 “(2) is inadmissible under section  
14 212(a)(3)(B)(i)(IX) or deportable under section  
15 237(a)(4)(B) as a consequence of being described in  
16 section 212(a)(3)(B)(i)(IX).”.

17 (e) ADJUSTMENT OF STATUS.—Section 245 of the  
18 Immigration and Nationality Act (8 U.S.C. 1255) is  
19 amended—

20 (1) in subsection (c), by striking item (6) and  
21 inserting “(6) an alien who is inadmissible under  
22 section 212(a)(3)(B)(i)(IX) or deportable under sec-  
23 tion 237(a)(4)(B);”; and

24 (2) in subsection (m)(1), in the matter pre-  
25 ceding subparagraph (A), by striking

1 “212(a)(3)(E),” and inserting “subparagraph  
2 (B)(i)(IX) or (E) of section 212(a)(3) or section  
3 237(a)(4)(B) as a consequence of being described in  
4 section 212(a)(3)(B)(i)(IX),”.

5 (f) REGISTRY.—Section 249 of the Immigration and  
6 Nationality Act (8 U.S.C. 1259) is amended—

7 (1) by striking “Attorney General” each place  
8 such term appears and inserting “Secretary of  
9 Homeland Security”; and

10 (2) by striking “inadmissible under section  
11 212(a)(3)(E) or under” and inserting “inadmissible  
12 under section 212(a)(3)(B)(i)(IX) or (E) or deport-  
13 able from the United States under section  
14 237(a)(4)(B) as a consequence of being described in  
15 section 212(a)(3)(B)(i)(IX) or under”.

16 (g) CONVENTION AGAINST TORTURE.—Not later  
17 than 120 days after the date of the enactment of this Act,  
18 the Secretary of Homeland Security shall revise the regu-  
19 lations found at sections 208.16 through 208.18 of title  
20 8, Code of Federal Regulations, implementing the United  
21 Nations Convention Against Torture and Other Forms of  
22 Cruel, Inhuman or Degrading Treatment or Punishment,  
23 done at New York on December 10, 1984. The revised  
24 regulations—

1           (1) shall exclude from the protection of such  
2 regulations aliens described in section  
3 212(a)(3)(B)(i)(IX) of the Immigration and Nation-  
4 ality Act (8 U.S.C. 1182(a)(3)(B)(i)(IX)) and make  
5 such aliens ineligible for withholding or deferral of  
6 removal under the immigration laws (as defined in  
7 section 101(a)(17) of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1101(a)(17))); and

9           (2) shall ensure that the revised regulations op-  
10 erate so as to allow for the reopening and readjudi-  
11 cation of determinations made under the regulations  
12 before the effective date of the revision and apply to  
13 acts and conditions constituting grounds of ineligi-  
14 bility for the protection of such regulations (includ-  
15 ing ineligibility for withholding or deferral of re-  
16 moval) as revised, regardless of when such acts or  
17 conditions occurred.

18 **SEC. 6605. EXPEDITED REMOVAL OF ALIENS INADMISSIBLE**  
19 **OR DEPORTABLE ON SECURITY AND RE-**  
20 **LATED GROUNDS.**

21 Section 238 of the Immigration and Nationality Act  
22 (8 U.S.C. 1228) is amended—

23           (1) in the section heading, by adding at the end  
24 the following: “OR INADMISSIBLE OR DEPORTABLE  
25 ON SECURITY OR RELATED GROUNDS”;

1           (2) by redesignating the subsections succeeding  
2           subsection (b) as subsections (d) and (e), respec-  
3           tively; and

4           (3) by inserting after subsection (b) the fol-  
5           lowing:

6           “(c) REMOVAL OF ALIENS WHO ARE NOT PERMA-  
7           NENT RESIDENTS AND WHO ARE INADMISSIBLE OR DE-  
8           PORTABLE ON SECURITY OR RELATED GROUNDS.—

9           “(1) IN GENERAL.—The Secretary of Homeland  
10          Security, in accordance with paragraph (3)—

11           “(A) notwithstanding section 240, in the  
12           case of every alien described in paragraph (2),  
13           shall determine the inadmissibility of such alien  
14           under section 212(a)(3)(B)(i)(IX) or the de-  
15           portability of such alien under section  
16           237(a)(4)(B) as a consequence of being de-  
17           scribed in section 212(a)(3)(B)(i)(IX) and issue  
18           an order of removal pursuant to the procedures  
19           set forth in this subsection to every such alien  
20           determined to be inadmissible under section  
21           212(a)(3)(B)(i)(IX) or deportable under section  
22           237(a)(4)(B) as a consequence of being de-  
23           scribed in section 212(a)(3)(B)(i)(IX); and

24           “(B) in the case of an alien described in  
25           paragraph (2) who is not issued an order under

1           subparagraph (A), may determine the inadmis-  
2           sibility of such alien under section 212(a)(3)(B)  
3           (other than subparagraph (B)(i)(IX)) or the de-  
4           portability of such alien under section  
5           237(a)(4)(B) (other than as a consequence of  
6           being described in section 212(a)(3)(B)(i)(IX))  
7           and issue an order of removal pursuant to the  
8           procedures set forth in this subsection or sec-  
9           tion 240.

10           “(2) ALIENS DESCRIBED.—An alien is de-  
11           scribed in this paragraph if—

12                   “(A) the alien has not been granted a  
13                   waiver under section 212(d)(3)(C); and

14                   “(B) the alien—

15                           “(i) was not lawfully admitted for per-  
16                           manent residence at the time at which pro-  
17                           ceedings under this subsection commenced;  
18                           or

19                           “(ii) had permanent resident status  
20                           on a conditional basis (as described in sec-  
21                           tion 216) at the time that proceedings  
22                           under this subsection commenced.

23           “(3) EXPEDITED PROCEEDINGS.—Proceedings  
24           under this subsection shall be in accordance with  
25           such regulations as the Secretary of Homeland Secu-

1 rity shall prescribe. The Secretary shall ensure  
2 that—

3 “(A) the alien is given reasonable notice of  
4 the charges and of the opportunity described in  
5 subparagraph (C);

6 “(B) the alien shall have the privilege of  
7 being represented (at no expense to the govern-  
8 ment) by such counsel, authorized to practice in  
9 such proceedings, as the alien shall choose;

10 “(C) the alien has a reasonable oppor-  
11 tunity to inspect the evidence and rebut the  
12 charges;

13 “(D) a determination is made for the  
14 record that the individual upon whom the notice  
15 for the proceeding under this section is served  
16 (either in person or by mail) is, in fact, the  
17 alien named in such notice;

18 “(E) a record is maintained for judicial re-  
19 view; and

20 “(F) the final order of removal is not adju-  
21 dicated by the same person who issues the  
22 charges.

23 “(4) JUDICIAL REVIEW.—The Secretary of  
24 Homeland Security may not execute any order de-  
25 scribed in paragraph (1) until 14 calendar days have

1 passed from the date that such order was issued, un-  
2 less waived by the alien, in order that the alien has  
3 an opportunity to apply for judicial review under  
4 section 242.

5 “(5) INELIGIBILITY FOR DISCRETIONARY RE-  
6 LIEF FROM REMOVAL.—No alien adjudicated inad-  
7 missible or deportable in a proceeding under this  
8 subsection shall be eligible for any relief from re-  
9 moval that the Secretary of Homeland Security may  
10 grant in the Secretary’s discretion.”

11 **SEC. 6606. EFFECTIVE DATE; APPLICABILITY.**

12 This title and the amendments made by this title  
13 shall take effect on the date of the enactment of this Act  
14 and shall apply to all aliens identified in the terrorist  
15 screening database (as such term is defined in section  
16 2101(10) of the Homeland Security Act of 2002 (6 U.S.C.  
17 621(10))) on or after such date.

