AMENDMENT TO H.R. 4760
OFFERED BY MR. DUNCAN OF SOUTH CAROLINA

At the end of division B, add the following:

TITLE VI—TERRORIST REMOVAL

SEC. 6601. INADMISSIBILITY OF ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.


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

(2) by redesignating subclause (IX) as subclause (X); and

(3) by inserting after subclause (VIII) the following:

“(IX) is identified in the terrorist screening database (as such term is defined in section 2101(10) of the Homeland Security Act of 2002 (6 U.S.C. 621(10))), except for an alien lawfully admitted for permanent residence (as defined in section 101(a)(20)); or”.
SEC. 6602. DEPORTABILITY OF ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

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

SEC. 6603. WAIVERS OF GROUND OF INADMISSIBILITY FOR ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

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

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

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

(3) by adding at the end the following: “(C)(i) Subject to clause (ii) and only on an individual case-by-case basis, if the Secretary of Homeland Security determines in the Secretary’s unreviewable discre-
tion that it is in the national security interests of the United States, an alien—

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

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

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

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

SEC. 6604. UNAVAILABILITY OF CERTAIN IMMIGRATION BENEFITS TO ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

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

(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8
U.S.C. 1231(b)(3)(B)), as amended by section 3303(f)(1)
is further amended, in the matter preceding clause (i), byinserting “inadmissible under section 212(a)(3)(B)(i)(IX)
or deportable under section 237(a)(4)(B) as a consequenceof being described in section 212(a)(3)(B)(i)(IX), or whois” after “or who is”.

(e) CANCELLATION OF REMOVAL.—

(1) CANCELLATION OF REMOVAL FOR CERTAINPERMANENT RESIDENTS.—Section 240A(a) of theImmigration and Nationality Act (8 U.S.C.1229b(a)) is amended, in the matter preceding para-graph (1), by striking “inadmissible or deportable”and inserting “inadmissible (except an alien who isinadmissible under section 212(a)(3)(B)(i)(IX)) ordeportable (except an alien who is deportable undersection 237(a)(4)(B) as a consequence of being de-scribed in section 212(a)(3)(B)(i)(IX))”.

(2) CANCELLATION OF REMOVAL FOR CERTAINNONPERMANENT RESIDENTS.—Section 240A(b)(1)of the Immigration and Nationality Act (8 U.S.C.1229b(b)(1)) is amended, in the matter precedingsubparagraph (A), by striking “inadmissible or de-portable” and inserting “inadmissible (except analien who is inadmissible under section212(a)(3)(B)(i)(IX)) or deportable (except an alien
who is deportable under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX))”.

(d) Voluntary Departure.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C. 1229(c)) is amended to read as follows:

“(e) Aliens Ineligible.—The Secretary of Homeland Security shall not permit an alien to depart voluntarily under this section if the alien—

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

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

(e) Adjustment of Status.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (e), by striking item (6) and inserting “(6) an alien who is inadmissible under section 212(a)(3)(B)(i)(IX) or deportable under section 237(a)(4)(B);”; and

(2) in subsection (m)(1), in the matter preceding subparagraph (A), by striking
“212(a)(3)(E),” and inserting “subparagraph (B)(i)(IX) or (E) of section 212(a)(3) or section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX),”.

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

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

(2) by striking “inadmissible under section 212(a)(3)(E) or under” and inserting “inadmissible under section 212(a)(3)(B)(i)(IX) or (E) or deportable from the United States under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX) or under”.

(g) CONVENTION AGAINST TORTURE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall revise the regulations found at sections 208.16 through 208.18 of title 8, Code of Federal Regulations, implementing the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984. The revised regulations—
(1) shall exclude from the protection of such 
regulations aliens described in section 
212(a)(3)(B)(i)(IX) of the Immigration and Nation-
such aliens ineligible for withholding or deferral of 
removal under the immigration laws (as defined in 
section 101(a)(17) of the Immigration and Nation-
ality Act (8 U.S.C. 1101(a)(17))); and

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

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

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

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

(2) by redesignating the subsections succeeding subsection (b) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

“(e) REMOVAL OF ALIENS WHO ARE NOT PERMANENT RESIDENTS AND WHO ARE INADMISSIBLE OR DEPORTABLE ON SECURITY OR RELATED GROUNDS.—

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

“(A) notwithstanding section 240, in the case of every alien described in paragraph (2), shall determine the inadmissibility of such alien under section 212(a)(3)(B)(i)(IX) or the deportability of such alien under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX) and issue an order of removal pursuant to the procedures set forth in this subsection to every such alien determined to be inadmissible under section 212(a)(3)(B)(i)(IX) or deportable under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX); and

“(B) in the case of an alien described in paragraph (2) who is not issued an order under
subparagraph (A), may determine the inadmis-
sibility of such alien under section 212(a)(3)(B) 
(other than subparagraph (B)(i)(IX)) or the de-
portability of such alien under section 
237(a)(4)(B) (other than as a consequence of 
being described in section 212(a)(3)(B)(i)(IX)) 
and issue an order of removal pursuant to the 
procedures set forth in this subsection or sec-
tion 240.

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

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

“(B) the alien—

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

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

“(3) EXPEDITED PROCEEDINGS.—Proceedings 
under this subsection shall be in accordance with 
such regulations as the Secretary of Homeland Secu-
rity shall prescribe. The Secretary shall ensure that—

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

“(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

“(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

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

“(E) a record is maintained for judicial review; and

“(F) the final order of removal is not adjudicated by the same person who issues the charges.

“(4) JUDICIAL REVIEW.—The Secretary of Homeland Security may not execute any order described in paragraph (1) until 14 calendar days have
passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 242.

“(5) Ineligibility for discretionary relief from removal.—No alien adjudicated inadmissible or deportable in a proceeding under this subsection shall be eligible for any relief from removal that the Secretary of Homeland Security may grant in the Secretary’s discretion.”.

SEC. 6606. EFFECTIVE DATE; APPLICABILITY.

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