

ACT #12387

Res. 18962 NCS / 01 40 0010

**REPORT TO THE
CITY COUNCIL**
City of Salinas, California

Agenda Item Number

CC-1

Department Director Approval

Finance Review

Attorney Review

City Manager Approval

DATE: April 11, 2006
FROM: Dave Mora, City Manager
Vanessa W. Vallarta, City Attorney
SUBJECT: House Resolution 4437 (H.R. 4437) –
Proposed Immigration Reform Legislation

BACKGROUND:

On March 28, 2006, a group of students from Alisal High School addressed the City Council during the Public Comment period and requested that the Council consider adopting a resolution opposing House Resolution 4437 (H.R. 4437). This report provides information regarding H.R. 4437, which has now moved on to the U.S. Senate. A summary of the bill is attached to this report.

H.R. 4437

On December 16, 2005 the House of Representatives passed H.R. 4437 by a vote of 239--182. The following are some of the major provisions in the House bill, which would, for the first time, designate unlawful presence in the United States as a criminal, rather than a civil, offense and generally increase penalties for a variety of immigration-related crimes:

Border plan: Requires the government to create a comprehensive boarder security strategy. Within six months the Department Homeland Security (DHS), would be required to create a plan for surveillance of the U.S. Borders. Within one year, the DHS would have to create the complete border security plan.

Military equipment: Requires the DHS and the Defense Department to submit a plan within six months to use military surveillance equipment, such as unmanned aerial drones, for border security.

Police and jails: Authorizes spending for 2,000 new boarder patrol agents per year from physical 2007 through 2010. Authorizes spending for 8,000 new beds per year for over the same period of detaining apprehended undocumented immigrants.

Mandatory detention: Ends a policy critics call "catch-release" that has allowed apprehended undocumented aliens to be released with a promise that they would show up for deportation

hearings. Requires by October 1, 2006 that the people apprehended be detained until they are deported.

Cargo screening: Requires that radiation detectors be installed at all points of entry and that all cargo bound for the United States be screened for nuclear or radiological materials.

"Other than Mexicans": Enables the authorities to more easily deport undocumented aliens who are not from countries contiguous with the United States and who are apprehended within 100 miles of the border.

Employment eligibility: Mandates use of a system called "Basic Pilot" that enables companies to screen employees' social security and foreign identification numbers with a DHS. The mandatory system would be implemented in phases, with all employers participating within six years.

Smuggling: Makes it a crime to assist, encourage, direct or induce people to enter or remain in the country "knowing or in reckless disregard" of the fact that they are undocumented immigrants. Also makes it a crime to transport such people into or within the country or conceal them from authorities.

Illegal presence: Living in the country without documents would be a crime comparable with an illegal border crossing. Both would be punishable by 366 days in prison. This is currently a civil, not a criminal violation.

Visa diversity lottery: Would eliminate the lottery which provides about 50,000 permanent residency visas a year to people selected randomly from countries that are considered to be under represented in the U.S. immigrant flow.

Border fence: Requires the DHS to construct a double security fence – accompanied by access roads, cameras and fences – across several portions of the Mexican border. Fence would be built from Calexico, CA along most of the Arizona border; around Tecate, CA, and El Paso Texas; from Del Rio Texas to Eagle Pass, Texas and from Laredo, Texas to Brownsville, Texas.

Oath of renunciation: Would codify the Oath of Renunciation and Allegiance as federal law, so that only Congress could change it and would require the State Department to notify foreign embassies when their citizens renounce their citizenship and pledge allegiance to the United States.

Local law enforcement: Would encourage local police to help enforce immigration law, and withhold federal money from state and local governments that maintain policies preventing their police from reporting undocumented immigrants to federal authorities or assisting in enforcement.

Terrorist and gangs: Would make it easier to deport undocumented aliens identified as terrorist and would exclusively bar them from becoming citizens. Would allow the DHS to designate groups as criminal gangs and make it easier for their members to be detained and deported.

SENATE ACTION

On March 27, 2006 the Senate Judiciary Committee approved an immigration reform bill on a bipartisan 12 to 6 vote sending the bill to the Senate floor. The provisions of the Senate Judiciary Committee bill are quite different from H.R. 4437 and are still the subject of much discussion and debate.

The Senate Judiciary Committee bill would allow approximately eleven million undocumented immigrants to remain in the United States, work and eventually seek citizenship. This is in contrast to the House bill, which is devoted mainly to increased border security, with no provision for the legalization of undocumented immigrants or temporary worker programs. The plan approved by the Senate Judiciary Committee is virtually identical to a proposal that has been advocated by Senators Kennedy and John McCain for a broad legalization of undocumented workers.

ISSUE:

Shall the City Council adopt the resolution proposed by local students opposing H.R. 4437 and authorize the Mayor to send a letter concerning the Council's action to the California Congressional delegation?

FISCAL IMPACTS

There is no direct fiscal impact to the City.

ALTERNATIVES AVAILABLE TO COUNCIL:

The City Council may:

1. Adopt the resolution proposed by local students opposing H.R. 4437 and authorize the Mayor to send a letter to the California Congressional Delegation;
2. Modify the resolution proposed by local students opposing H.R. 4437; or
3. Decline to adopt the resolution proposed by local students.

RECOMMENDATION

There is no staff recommendation at this time.

Distribution:

City Clerk
Department Directors

Attachments:

Proposed Resolution
Summary of H.R. 4437
Draft letter

RESOLUTION NO. 18962 (N.C.S.)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALINAS
OPPOSING HOUSE RESOLUTION 4437
REGARDING PROPOSED IMMIGRATION REFORM LEGISLATION**

1. **WHEREAS**, on December 16, 2005 the U.S. House of Representatives approved the bill known as H.R. 4437, an act to amend the Immigration and Nationality Act, by a vote of 239-182; and
2. **WHEREAS**, beginning on March 28, 2006 and thereafter, students from Alisal High School, Everett Alvarez High School, Salinas High School and other local schools petitioned the City Council during the public comment period to take a position opposing House Resolution H.R. 4437; and
3. **WHEREAS**, the City Council has reviewed the legislation passed by the House of Representatives proposing to amend certain immigration laws; and
4. **WHEREAS**, H.R. 4437 criminalizes the mere presence of undocumented immigrants in this country, thereby making felons of approximately eleven million undocumented immigrants in the United States;
5. **WHEREAS**, H.R. 4437 contains an overly broad definition of "smuggling" that could allow the prosecution of almost any person having casual contact with an undocumented immigrant;
6. **WHEREAS**, H.R. 4437 could potentially criminalize the work of church groups or social workers who provide food, shelter, domestic violence, or other assistance to undocumented immigrants; or a co-worker's act of giving an undocumented immigrant a ride to work; or a U.S. citizen's decision to live with a spouse who is an undocumented immigrant;
7. **WHEREAS**, H.R. 4437 will criminalize large numbers of undocumented workers in the United States, adversely affecting the U.S. economy, including the agriculture, tourism, and other sectors;
8. **WHEREAS**, H.R. 4437 allows the federal government to use subjective information to prevent legal immigrants from becoming U.S. citizens;
9. **WHEREAS**, H.R. 4437 authorizes, but does not require, law enforcement personnel of the States or cities and counties to investigate, identify, apprehend, arrest detain, or transfer to federal custody undocumented immigrants in the United States for the purpose of assisting in the enforcement of immigration laws;

10. **WHEREAS**, H.R. 4437 makes no provision to legalize or provide a path to citizenship for undocumented immigrants already in the country;

11. **WHEREAS**, given the strong community interest in this issue, the immigrant roots of many residents of the City, and the potential impact of the legislation on our local economy, the City Council wishes to take a position regarding H.R. 4437;

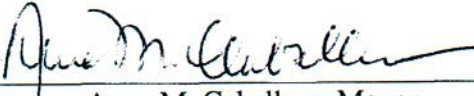
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF SALINAS that the Council opposes H.R. 4437 and further authorizes the Mayor to send a letter concerning the Council's action to the California Congressional delegation.

PASSED AND ADOPTED this 11th day of April 2006, by the following vote:

AYES: Councilmembers De La Rosa, Giuriato, Lutes, Sanchez, Ocampo,
and Mayor Caballero

NOES: None

ABSENT: Councilmember Barnes



Anna M. Caballero, Mayor

ATTEST:



City Clerk



City of Salinas

OFFICE OF THE MAYOR

200 Lincoln Avenue Salinas, California 93901

(831) 758-7201 Fax (831) 758-7368

April 11, 2006

VIA FACSIMILE and U.S. MAIL

The Honorable Sam Farr
California 17th Congressional District
1221 Longworth Building
Washington, D.C. 20515-0517

Re: Immigration Reform Legislation (H.R. 4437)

Dear Congressman Farr:

As you are aware, in December 2005 the House passed sweeping immigration reform legislation in the form of H.R. 4437. That proposed bill is now being debated in the Senate. The proposed immigration legislation has been the subject of much local community interest in Salinas and surrounding communities given the immigrant roots of many of our residents. On March 28th, the City Council received a request from local students to take a position concerning H.R. 4437. On April 11, the Council considered this request and adopted the attached resolution opposing House Resolution 4437. In our view H.R. 4437 goes too far in criminalizing unlawful presence in the United States, in its overly broad definition of "smuggling" and its lack of provisions concerning legalization of persons already in the country.

As a nation of immigrants, we believe this complicated issue requires a more thoughtful approach than that presented by H.R. 4437. Thank you for your consideration of Salinas' position on this proposed legislation.

Sincerely,

ANNA M. CABALLERO
Mayor

Enclosure (Resolution)

cc: Salinas City Council
City Manager
City Attorney
Mr. John O'Donnell



City of Salinas

OFFICE OF THE MAYOR
200 Lincoln Avenue Salinas, California 93901

(831) 758-7201 Fax (831) 758-7368

April 11, 2006

VIA FACSIMILE and U.S. MAIL

The Honorable Barbara Boxer
United States Senator
112 Hart Senate Office Building
Washington, D.C. 20510

Re: Immigration Reform Legislation (H.R. 4437)

Dear Senator Boxer:

As you are aware, in December 2005 the House passed sweeping immigration reform legislation in the form of H.R. 4437. That proposed bill is now being debated in the Senate. The proposed immigration legislation has been the subject of much local community interest in Salinas and surrounding communities given the immigrant roots of many of our residents. On March 28th, the City Council received a request from local students to take a position concerning H.R. 4437. On April 11, the Council considered this request and adopted the attached resolution opposing House Resolution 4437. In our view H.R. 4437 goes too far in criminalizing unlawful presence in the United States, in its overly broad definition of "smuggling" and its lack of provisions concerning legalization of persons already in the country.

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cc: Salinas City Council
City Manager
City Attorney
Mr. John O'Donnell



City of Salinas

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200 Lincoln Avenue Salinas, California 93901

(831) 758-7201 Fax (831) 758-7368

April 11, 2006

VIA FACSIMILE and U.S. MAIL

The Honorable Dianne Feinstein
United States Senator
Hart Office Building, Room 331
Washington, D.C. 20510

Re: Immigration Reform Legislation (H.R. 4437)

Dear Senator Feinstein:

As you are aware, in December 2005 the House passed sweeping immigration reform legislation in the form of H.R. 4437. That proposed bill is now being debated in the Senate. The proposed immigration legislation has been the subject of much local community interest in Salinas and surrounding communities given the immigrant roots of many of our residents. On March 28th, the City Council received a request from local students to take a position concerning H.R. 4437. On April 11, the Council considered this request and adopted the attached resolution opposing House Resolution 4437. In our view H.R. 4437 goes too far in criminalizing unlawful presence in the United States, in its overly broad definition of "smuggling" and its lack of provisions concerning legalization of persons already in the country.

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Sincerely,

ANNA M. CABALLERO
Mayor

Enclosure (Resolution)

cc: Salinas City Council
City Manager
City Attorney
Mr. John O'Donnell



City of Salinas

OFFICE OF THE MAYOR
200 Lincoln Avenue Salinas, California 93901

(831) 758-7201 Fax (831) 758-7368

April 11, 2006

VIA FACSIMILE and U.S. Mail

The Honorable Nancy Pelosi
California 8th Congressional District
2371 Rayburn Hart Office Building
Washington, D.C. 20515

Re: Immigration Reform Legislation (H.R. 4437)

Dear Congresswoman Pelosi:

As you are aware, in December 2005 the House passed sweeping immigration reform legislation in the form of H.R. 4437. That proposed bill is now being debated in the Senate. The proposed immigration legislation has been the subject of much local community interest in Salinas and surrounding communities given the immigrant roots of many of our residents. On March 28th, the City Council received a request from local students to take a position concerning H.R. 4437. On April 11, the Council considered this request and adopted the attached resolution opposing House Resolution 4437. In our view H.R. 4437 goes too far in criminalizing unlawful presence in the United States, in its overly broad definition of "smuggling" and its lack of provisions concerning legalization of persons already in the country.

As a nation of immigrants, we believe this complicated issue requires a more thoughtful approach than that presented by H.R. 4437. Thank you for your consideration of Salinas' position on this proposed legislation.

Sincerely,

ANNA M. CABALLERO
Mayor

Enclosure (Resolution)

cc: Salinas City Council
City Manager
City Attorney
Mr. John O'Donnell

RESOLUTION

Opposing House Resolution 4437, which would make felons of 11 million undocumented immigrants, criminalize contact with undocumented immigrants and frustrate the dreams of legal immigrants seeking citizenship.

WHEREAS, on December 16, 2005, the U.S. House of Representatives approved the bill H.R. 4437, which would make immigrants criminals.

WHEREAS, H.R. 4437 criminalizes the mere presents of undocumented immigrants without valid immigration status, thereby causing 11 million undocumented immigrants currently living and working in the U.S. to be guilty of a federal felony.

WHEREAS, the Bill's broad definition of "smuggling" allow the federal government to prosecute almost any American having casual contact with an undocumented immigrant.

WHEREAS, H.R. 4437 could potentially make criminals out of church groups providing food, shelter, or other assistance to undocumented immigrants, social workers assisting undocumented workers who are victims of domestic abuse, co-workers giving an undocumented immigrants a ride to work, and a U.S. citizen living with a spouse who is an undocumented immigrant.

WHEREAS, H.R. 4437 will criminalize the undocumented worker in the U.S. which could in turn affect the United States economy.

AND, WHEREAS, H.R. 4437 allows the federal government to use subjective information to prevent legal immigrants from becoming U.S. citizens.

NOW, THEREFORE, BE IT RESOLVED that the **Salinas City Council** support our opposition to H.R. 4437 which will make felons of a million undocumented immigrants, criminalize contact with undocumented immigrants and frustrate the dreams of legal immigrants seeking citizenship.

March 28, 2006

Priscilla Ruiz
Bianca Padilla
Jaime Rangel
Ignacio Garcia
Robert Barron
Ernesto Arambula

Robert Mendoza
Sandy Picazo
Monica Medina
Luis Bigham
Joey Valladares
Miguel Hernandez

RESOLUTION PROPOSED BY
ALISAL HIGH SCHOOL STUDENTS,
MARCH 28, 2006

109TH CONGRESS
2^D SESSION

H. R. 4437

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2005

Received

JANUARY 27, 2006

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws, to enhance border security, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Border Protection, Antiterrorism, and Illegal Immigra-
 4 tion Control Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. State defined.
- Sec. 3. Sense of Congress on setting a manageable level of immigration.

TITLE I—SECURING UNITED STATES BORDERS

- Sec. 101. Achieving operational control on the border.
- Sec. 102. National strategy for border security.
- Sec. 103. Implementation of cross-border security agreements.
- Sec. 104. Biometric data enhancements.
- Sec. 105. One face at the border initiative.
- Sec. 106. Secure communication.
- Sec. 107. Port of entry inspection personnel.
- Sec. 108. Canine detection teams.
- Sec. 109. Secure border initiative financial accountability.
- Sec. 110. Border patrol training capacity review.
- Sec. 111. Airspace security mission impact review.
- Sec. 112. Repair of private infrastructure on border.
- Sec. 113. Border Patrol unit for Virgin Islands.
- Sec. 114. Report on progress in tracking travel of Central American gangs along international border.
- Sec. 115. Collection of data.
- Sec. 116. Deployment of radiation detection portal equipment at United States ports of entry.
- Sec. 117. Consultation with businesses and firms.
- Sec. 118. Sense of Congress regarding enforcement of immigration laws.
- Sec. 119. Securing access to border patrol uniforms.
- Sec. 120. US-VISIT.
- Sec. 121. Voluntary relocation program extension.
- Sec. 122. Completion of background and security checks.

TITLE II—COMBATting ALIEN SMUGGLING AND ILLEGAL ENTRY AND PRESENCE

- Sec. 201. Definition of aggravated felony.
- Sec. 202. Alien smuggling and related offenses.
- Sec. 203. Improper entry by, or presence of, aliens.
- Sec. 204. Reentry of removed aliens.
- Sec. 205. Mandatory sentencing ranges for persons aiding or assisting certain reentering aliens.
- Sec. 206. Prohibiting carrying or using a firearm during and in relation to an alien smuggling crime.
- Sec. 207. Clarifying changes.

- Sec. 208. Voluntary departure reform.
- Sec. 209. Deterring aliens ordered removed from remaining in the United States unlawfully and from unlawfully returning to the United States after departing voluntarily.
- Sec. 210. Establishment of the Forensic Documents Laboratory.
- Sec. 211. Section 1546 amendments.
- Sec. 212. Motions to reopen or reconsider.
- Sec. 213. Reform of passport, visa, and immigration fraud offenses.
- Sec. 214. Criminal detention of aliens.
- Sec. 215. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 216. Conforming amendment.
- Sec. 217. Inadmissibility for passport and immigration fraud.
- Sec. 218. Removal for passport and immigration fraud.
- Sec. 219. Reduction in immigration backlog.
- Sec. 220. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 221. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 222. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 223. Institutional Removal Program (IRP).
- Sec. 224. State Criminal Alien Assistance Program (SCAAP).
- Sec. 225. State authorization for assistance in the enforcement of immigration laws encouraged.

TITLE III—BORDER SECURITY COOPERATION AND ENFORCEMENT

- Sec. 301. Joint strategic plan for United States border surveillance and support.
- Sec. 302. Border security on protected land.
- Sec. 303. Border security threat assessment and information sharing test and evaluation exercise.
- Sec. 304. Border Security Advisory Committee.
- Sec. 305. Permitted use of Homeland Security grant funds for border security activities.
- Sec. 306. Center of excellence for border security.
- Sec. 307. Sense of Congress regarding cooperation with Indian Nations.
- Sec. 308. Communication between government agencies and the Department of Homeland Security.
- Sec. 309. Red Zone Defense Border Intelligence Pilot program.

TITLE IV—DETENTION AND REMOVAL

- Sec. 401. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 402. Expansion and effective management of detention facilities.
- Sec. 403. Enhancing transportation capacity for unlawful aliens.
- Sec. 404. Denial of admission to nationals of country denying or delaying accepting alien.
- Sec. 405. Report on financial burden of repatriation.
- Sec. 406. Training program.
- Sec. 407. Expedited removal.
- Sec. 408. GAO study on deaths in custody.
- Sec. 409. Report on apprehension and detention of certain aliens.

Sec. 410. Listing of immigration violators in the National Crime Information Center database.

TITLE V—EFFECTIVE ORGANIZATION OF BORDER SECURITY AGENCIES

Sec. 501. Enhanced border security coordination and management.
 Sec. 502. Office of Air and Marine Operations.
 Sec. 503. Shadow Wolves transfer.

TITLE VI—TERRORIST AND CRIMINAL ALIENS

Sec. 601. Removal of terrorist aliens.
 Sec. 602. Detention of dangerous aliens.
 Sec. 603. Increase in criminal penalties.
 Sec. 604. Precluding admissibility of aggravated felons and other criminals.
 Sec. 605. Precluding refugee or asylee adjustment of status for aggravated felonies.
 Sec. 606. Removing drunk drivers.
 Sec. 607. Designated county law enforcement assistance program.
 Sec. 608. Rendering inadmissible and deportable aliens participating in criminal street gangs; detention; ineligibility from protection from removal and asylum.
 Sec. 609. Naturalization reform.
 Sec. 610. Expedited removal for aliens inadmissible on criminal or security grounds.
 Sec. 611. Technical correction for effective date in change in inadmissibility for terrorists under REAL ID Act.
 Sec. 612. Bar to good moral character.
 Sec. 613. Strengthening definitions of “aggravated felony” and “conviction”.
 Sec. 614. Deportability for criminal offenses.
 Sec. 615. Declaration of Congress.
 Sec. 616. Report on criminal alien prosecution.
 Sec. 617. Determination of immigration status of individuals charged with Federal offenses.
 Sec. 618. Increased criminal penalties for document fraud and crimes of violence.
 Sec. 619. Laundering of monetary instruments.

TITLE VII—EMPLOYMENT ELIGIBILITY VERIFICATION

Sec. 701. Employment eligibility verification system.
 Sec. 702. Employment eligibility verification process.
 Sec. 703. Expansion of employment eligibility verification system to previously hired individuals and recruiting and referring.
 Sec. 704. Basic pilot program.
 Sec. 705. Recruitment and referral.
 Sec. 706. Penalties.
 Sec. 707. Report on Social Security card-based employment eligibility verification.
 Sec. 708. Extension of preemption to required construction of day laborer shelters.
 Sec. 709. Effective date.
 Sec. 710. Limitation on verification responsibilities of Commissioner of Social Security.
 Sec. 711. Report on employment eligibility verification system.

TITLE VIII—IMMIGRATION LITIGATION ABUSE REDUCTION

- Sec. 801. Board of Immigration Appeals removal order authority.
- Sec. 802. Judicial review of visa revocation.
- Sec. 803. Reinstatement.
- Sec. 804. Withholding of removal.
- Sec. 805. Certificate of reviewability.
- Sec. 806. Waiver of rights in nonimmigrant visa issuance.
- Sec. 807. Clarification of jurisdiction on review.
- Sec. 808. Fees and expenses in judicial proceedings.

TITLE IX—PRESCREENING OF AIR PASSENGERS

- Sec. 901. Immediate International Passenger Prescreening Pilot program.

TITLE X—FENCING AND OTHER BORDER SECURITY IMPROVEMENTS

- Sec. 1001. Findings.
- Sec. 1002. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.
- Sec. 1003. Northern border study.
- Sec. 1004. Sense of the Congress.

TITLE XI—SECURITY AND FAIRNESS ENHANCEMENT

- Sec. 1101. Short title.
- Sec. 1102. Elimination of diversity immigrant program.

TITLE XII—OATH OF RENUNCIATION AND ALLEGIANCE

- Sec. 1201. Oath of renunciation and allegiance.

TITLE XIII—ELIMINATION OF CORRUPTION AND PREVENTION OF ACQUISITION OF IMMIGRATION BENEFITS THROUGH FRAUD

- Sec. 1301. Short title.
- Sec. 1302. Findings.
- Sec. 1303. Structure of the Office of Security and Investigations.
- Sec. 1304. Authority of the Office of Security and Investigations to investigate internal corruption.
- Sec. 1305. Authority of the Office of Security and Investigations to detect and investigate immigration benefits fraud.
- Sec. 1306. Increase in full-time Office of Security and Investigations personnel.
- Sec. 1307. Annual report.
- Sec. 1308. Investigations of fraud to precede immigration benefits grant.
- Sec. 1309. Elimination of the Fraud Detection and National Security Office.
- Sec. 1310. Security fee.

1 SEC. 2. STATE DEFINED.

- 2 In titles I, III, IV, and V of this Act, the term
- 3 “State” has the meaning given it in section 2(14) of the
- 4 Homeland Security Act of 2002 (6 U.S.C. 101(14)).

CONGRESSIONAL RESEARCH SERVICE

H.R. 4437 -- SUMMARY AS OF:

12/6/2005--Introduced.

Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 --

Directs the Secretary of Homeland Security (DHS) to: (1) take all appropriate actions, including development of a national border strategy, to maintain operational control over the U.S. international land and maritime borders; (2) report on cross-border security agreements with Mexico and Canada; (3) provide for biometric data enhancements; (4) report on the One Face at the Border Initiative; (5) increase port of entry inspection personnel and canine detection teams; (6) report on the airspace security mission's impact on the National Capital Region; (7) reimburse private owners along the border for certain property damage; (8) establish at least one Border Patrol unit for the Virgin Islands; (9) report on Central American gang travel across the U.S.-Mexico border; and (10) deploy radiation portal monitors at U.S. ports of entry to screen inbound cargo for nuclear and radiological material.

Amends the Immigration and Nationality Act (INA) with respect to alien smuggling and illegal entry and presence to: (1) revise the definition of aggravated felony; (2) provide mandatory minimum sentences on smuggling convictions, and expand seizure and forfeiture authority; (3) make illegal U.S. presence a crime; (4) increases penalties for improper U.S. entry and for marriage and immigration-related entrepreneurship fraud; (5) provide mandatory minimum sentences for aliens convicted of reentry after removal; (6) impose on smugglers the same sentences that the aliens they have smuggled would receive; (7) include among smuggling crimes the carrying or use of a firearm during such activity; and (8) revise voluntary departure provisions.

Directs the Secretary: (1) and the Secretary of Defense to develop a plan to increase the availability of Department of Defense (DOD) surveillance equipment along the U.S. international land and maritime borders; (2) to assess border security vulnerabilities on Department of Interior land directly adjacent to the U.S. border; (3) conduct a training exercise on border security information sharing; (4) establish a Border Security Advisory Committee; and (5) establish a university-based Center of Excellence for Border Security.

Authorizes the Secretary to permit the use of DHS grants for border security activities.

Expresses the sense of Congress with respect to border security cooperation with sovereign Indian Nations.

Requires the mandatory detention of illegal aliens apprehended at a U.S. port of entry or along the U.S. land or maritime borders. Permits release with notice to appear only if the alien: (1) is not a security risk; and (2) provides a specified bond. Denies admission to the

nationals of a country that refuses or delays acceptance of its nationals ordered removed from the United States.

Requires that the Secretary place an alien (other than from Mexico or Canada) who has not been admitted or paroled into expedited removal if apprehended within 100 miles of the border and within 14 days of unauthorized entry.

Directs the Secretary to take specified actions to ensure coordination of DHS border security efforts.

Amends the Homeland Security Act of 2002 to establish in DHS an Office of Air and Marine Operations whose primary mission shall be to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States.

Directs the Secretary to transfer to United States Immigration and Customs Enforcement all functions of the Customs Patrol Officers unit operating on the Tohono O'odham Indian reservation (the "Shadow Wolves" unit). Authorizes the Secretary to establish within United States Immigration and Customs Enforcement additional Customs Patrol units to operate on Indian lands.

Bars an alien: (1) deportable on terrorist grounds from receiving withholding of removal; (2) convicted of an aggravated felony, unlawful procurement of citizenship, or domestic violence, stalking, or child abuse from admissibility; (3) convicted of an aggravated felony from refugee or asylee status adjustment; (4) removable on terrorist grounds from becoming naturalized; and (5) from being naturalized while in removal proceedings.

Revises and enhances detention provisions for certain dangerous aliens subject to removal, including establishment of a detention review process for cooperating aliens.

Increases penalties and sets mandatory minimum sentences for aliens who fail to comply with removal provisions.

Makes an alien deportable for: (1) three or more drunk driving convictions; and (2) social security number and identification fraud.

Authorizes (and reimburses) local sheriffs or sheriff coalitions in specified counties along the southern border to enforce the immigration laws and to transfer illegal aliens to federal custody. Establishes in the Treasury the Designated County Law Enforcement Account.

Makes an alien inadmissible for U.S. entry if: (1) such alien has been deported for criminal street gang participation; or (2) the consular officer or the Secretary knows or has reasonable grounds to believe that such alien is a member of a criminal street gang seeking U.S. entry in furtherance of gang-related crimes or activities, or is a member of a designated criminal street gang. Makes an alien deportable who: (1) is a street gang

member convicted of committing or attempting to commit a gang crime; or (2) is determined by the Secretary to be a member of a designated criminal street gang. Authorizes the Attorney General to designate a group or association as a criminal street gang. Requires mandatory detention of alien gang members subject to removal. Makes such aliens ineligible for asylum and protection from removal to certain countries.

Authorizes expedited removal for aliens inadmissible for security or criminal grounds.

Makes sexual abuse of a minor an aggravated felony for immigration purposes.

Directs the Secretary to establish, and sets forth the provisions for, an employment eligibility verification system. Expands the employment eligibility verification system to include: (1) previously hired individuals; and (2) recruitment and referral. Sets forth civil and criminal penalty provisions for noncompliance.

Provides for: (1) voluntary employer verification utilizing such system two years after enactment of this Act for previously hired individuals; (2) mandatory employer verification three years after enactment of this Act by federal, state, and local governments, and the military for employees not verified under such system working at federal, state or local government buildings, military bases, nuclear energy sites, weapons sites, airports, or critical infrastructure sites; and (3) mandatory employer verification six years after enactment of this Act for all employees not previously verified under such system.

Makes employer participation in the basic pilot program mandatory two years after enactment of this Act.

Authorizes the Board of Immigration Appeals to reverse an immigration judge's removal decision without remand.

Eliminates judicial review of visa revocation.

Authorizes reinstatement of a prior removal order against an alien illegally reentering the United States.

Requires an alien applying for withholding of removal to establish that his or her life or freedom would be threatened in the country of return, and that race, religion, nationality, or political or social group would be a central factor in such threat.

Subjects removal appeals to an initial certification of reviewability process by a single court of appeals judge.

Requires all nonimmigrant applicants to waive any right to: (1) review or appeal a determination of inadmissibility at port of entry; or (2) contest, other than through asylum, any action for removal.

3/28/06 - public comments

ACT#12386

RESOLUTION

Opposing House Resolution 4437, which would make felons of 11 million undocumented immigrants, criminalize contact with undocumented immigrants and frustrate the dreams of legal immigrants seeking citizenship.

WHEREAS, on December 16, 2005, the U.S. House of Representatives approved the bill H.R. 4437, which would make immigrants criminals.

WHEREAS, H.R. 4437 criminalizes the mere presents of undocumented immigrants without valid immigration status, thereby causing 11 million undocumented immigrants currently living and working in the U.S. to be guilty of a federal felony.

WHEREAS, the Bill's broad definition of "smuggling" allow the federal government to prosecute almost any American having casual contact with an undocumented immigrant.

WHEREAS, H.R. 4437 could potentially make criminals out of church groups providing food, shelter, or other assistance to undocumented immigrants, social workers assisting undocumented workers who are victims of domestic abuse, co-workers giving an undocumented immigrants a ride to work, and a U.S. citizen living with a spouse who is an undocumented immigrant.

WHEREAS, H.R. 4437 will criminalize the undocumented worker in the U.S. which could in turn affect the United States economy.

AND, WHEREAS, H.R. 4437 allows the federal government to use subjective information to prevent legal immigrants from becoming U.S. citizens.

NOW, THEREFORE, BE IT RESOLVED that the **Salinas City Council** support our opposition to H.R. 4437 which will make felons of a million undocumented immigrants, criminalize contact with undocumented immigrants and frustrate the dreams of legal immigrants seeking citizenship.

March 28, 2006

Priscilla Ruiz
Bianca Padilla
Jaime Rangel
Ignacio Garcia
Robert Barron
Ernesto Arambula

Robert Mendoza
Sandy Picazo
Monica Medina
Luis Bigham
Joey Valladares
Miguel Hernandez