

1 ENGROSSED HOUSE  
2 BILL NO. 1804

By: Terrill, Sullivan, Key,  
Duncan, Banz, Coody,  
Cooksey, Dank, Derby,  
Faught, Hickman, Inman,  
Johnson (Rob), Kern  
Liebmann, Martin (Scott),  
Martin (Steve), McCullough,  
McDaniel (Randy), Murphey,  
Peterson (Ron), Proctor,  
Sears, Tibbs and Worthen of  
the House

and

Williamson, Sykes, Corn and  
Ivester of the Senate

13 An Act relating to illegal immigration; creating the  
14 Oklahoma Taxpayer and Citizen Protection Act of 2007;  
15 stating legislative purpose; making certain acts  
16 unlawful; providing penalties; amending 21 O.S. 2001,  
17 Section 1550.42, which relates to identification  
18 documentation; requiring issuance of identification  
19 documents to certain persons; providing exceptions;  
20 stating period of validity; providing for renewal  
21 under certain circumstances; providing presumption of  
22 validity for renewal, duplication or reissuance of  
23 driver license; requiring determination of  
24 citizenship status for persons charged with certain  
crime; requiring verification of persons determined  
to be a foreign national; providing time limitation  
for verification; requiring notification to certain  
entities; providing rebuttable presumption that  
certain persons are a flight risk; defining terms;  
requiring participation in certain verification  
system; prohibiting certain persons from entering  
into contracts; providing an exception; providing for  
cause of action under certain circumstances;  
providing liability provisions for employing entities  
found to have violated certain prohibited act;

1 providing exemption from liability; requiring certain  
2 agency to promulgate certain rules and regulations;  
3 requiring agencies and political subdivisions to  
4 verify lawful presence of persons applying for  
5 certain benefits; providing for nondiscriminatory  
6 treatment; excluding verification under certain  
7 circumstances; requiring execution of affidavit;  
8 requiring certain applicant to receive benefits  
9 through the Systematic Alien Verification of  
10 Entitlement Program; making certain actions subject  
11 to certain criminal penalties; authorizing adoption  
12 of variations to stated requirements; requiring  
13 certain entities to submit an annual compliance  
14 report; requiring certain entities to monitor certain  
15 program; requiring publication of annual report and  
16 certain recommendations; requiring certain entities  
17 to submit a report of errors to certain agency;  
18 requiring the withholding of percentage of state  
19 income tax under certain circumstances; providing for  
20 tax liability for noncompliance; providing an  
21 exception; directing Attorney General to negotiate  
22 terms of certain memorandum; requiring certain  
23 signatures; prohibiting certain actions by government  
24 entities; authorizing private right of action under  
certain circumstances; providing that certain persons  
shall not be eligible for postsecondary education  
benefits or resident tuition; establishing the  
Fraudulent Documents Identification Unit within the  
Oklahoma State Bureau of Investigation subject to  
availability of funding; stating purpose; stating  
duties; providing for employment of sufficient  
employees; repealing Section 1, Chapter 210, O.S.L.  
2003 (70 O.S. Supp. 2006, Section 3242), which  
relates to eligibility for enrollment and resident  
tuition; providing for codification; providing for  
noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Oklahoma  
2 Taxpayer and Citizen Protection Act of 2007".

3 SECTION 2. NEW LAW A new section of law not to be  
4 codified in the Oklahoma Statutes reads as follows:

5 The State of Oklahoma finds that illegal immigration is causing  
6 economic hardship and lawlessness in this state and that illegal  
7 immigration is encouraged by public agencies within this state that  
8 provide public benefits without verifying immigration status. The  
9 State of Oklahoma further finds that illegal immigrants have been  
10 harbored and sheltered in this state and encouraged to reside in  
11 this state through the issuance of identification cards that are  
12 issued without verifying immigration status, and that these  
13 practices impede and obstruct the enforcement of federal immigration  
14 law, undermine the security of our borders, and impermissibly  
15 restrict the privileges and immunities of the citizens of Oklahoma.  
16 Therefore, the people of the State of Oklahoma declare that it is a  
17 compelling public interest of this state to discourage illegal  
18 immigration by requiring all agencies within this state to fully  
19 cooperate with federal immigration authorities in the enforcement of  
20 federal immigration laws. The State of Oklahoma also finds that  
21 other measures are necessary to ensure the integrity of various  
22 governmental programs and services.

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1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 446 of Title 21, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. It shall be unlawful for any person to transport, move, or  
5 attempt to transport in the State of Oklahoma any alien knowing or  
6 in reckless disregard of the fact that the alien has come to,  
7 entered, or remained in the United States in violation of law, in  
8 furtherance of the illegal presence of the alien in the United  
9 States.

10          B. It shall be unlawful for any person to conceal, harbor, or  
11 shelter from detection any alien in any place within the State of  
12 Oklahoma, including any building or means of transportation, knowing  
13 or in reckless disregard of the fact that the alien has come to,  
14 entered, or remained in the United States in violation of law.

15          C. Any person violating the provisions of subsections A or B of  
16 this section shall, upon conviction, be guilty of a felony  
17 punishable by imprisonment in the custody of the Department of  
18 Corrections for not less than one (1) year, or by a fine of not less  
19 than One Thousand Dollars (\$1,000.00), or by both such fine and  
20 imprisonment.

21           SECTION 4.           AMENDATORY           21 O.S. 2001, Section 1550.42, is  
22 amended to read as follows:

23           Section 1550.42 A. The following entities may create, publish  
24 or otherwise manufacture an identification document, identification

1 card, or identification certificate and may possess an engraved  
2 plate or other such devise for the printing of such identification;  
3 provided, the name of the issuing entity shall be clearly printed  
4 upon the face of the identification:

5 1. Businesses, companies, corporations, service organizations  
6 and federal, state and local governmental agencies for employee  
7 identification which is designed to identify the bearer as an  
8 employee;

9 2. Businesses, companies, corporations and service  
10 organizations for customer identification which is designed to  
11 identify the bearer as a customer or member;

12 3. Federal, state and local government agencies for purposes  
13 authorized or required by law or any legitimate purpose consistent  
14 with the duties of such an agency, including but not limited to,  
15 voter identification cards, ~~driver's~~ driver licenses, ~~nondriver's~~  
16 nondriver identification cards, passports, birth certificates and  
17 social security cards;

18 4. Any public school or state or private educational  
19 institution, as defined by Sections 1-106, 21-101 or 3102 of Title  
20 70 of the Oklahoma Statutes, to identify the bearer as an  
21 administrator, faculty member, student or employee;

22 5. Any professional organization or labor union to identify the  
23 bearer as a member of the professional organization or labor union;  
24 and

1       6. Businesses, companies or corporations which manufacture  
2 medical-alert identification for the wearer thereof.

3       B. All identification documents as provided for in paragraph 3  
4 or 4 of subsection A of this section shall be issued only to United  
5 States citizens, nationals and legal permanent resident aliens.

6       C. The provisions of subsection B of this section shall not  
7 apply when an applicant presents, in person, valid documentary  
8 evidence of:

9       1. A valid, unexpired immigrant or nonimmigrant visa status for  
10 admission into the United States;

11       2. A pending or approved application for asylum in the United  
12 States;

13       3. Admission into the United States in refugee status;

14       4. A pending or approved application for temporary protected  
15 status in the United States;

16       5. Approved deferred action status; or

17       6. A pending application for adjustment of status to legal  
18 permanent residence status or conditional resident status.

19 Upon approval, the applicant may be issued an identification  
20 document provided for in paragraph 3 or 4 of subsection A of this  
21 section. Such identification document shall be valid only during  
22 the period of time of the authorized stay of the applicant in the  
23 United States or if there is no definite end to the period of  
24 authorized stay, a period of one (1) year. Any identification

1 document issued pursuant to the provisions of this subsection shall  
2 clearly indicate that it is temporary and shall state the date that  
3 the identification document expires. Such identification document  
4 may be renewed only upon presentation of valid documentary evidence  
5 that the status by which the applicant qualified for the  
6 identification document has been extended by the United States  
7 Immigration and Naturalization Service or the Bureau of Citizenship  
8 and Immigration Services of the United States Department of Homeland  
9 Security.

10 D. Any driver license for which an application has been made  
11 for renewal, duplication or reissuance shall be presumed to have  
12 been issued in accordance with the provisions of subsection C of  
13 this section, provided that, at the time the application is made,  
14 the driver license has not expired, or been cancelled, suspended or  
15 revoked. The requirements of subsection C of this section shall  
16 apply, however, to a renewal, duplication or reissuance if the  
17 Department of Public Safety is notified by a local, state or federal  
18 government agency of information in the possession of the agency  
19 indicating a reasonable suspicion that the individual seeking such  
20 renewal, duplication or reissuance is present in the United States  
21 in violation of law.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 171.2 of Title 22, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. When a person charged with a felony or with driving under  
2 the influence pursuant to Section 11-902 of Title 47 of the Oklahoma  
3 Statutes is confined, for any period, in the jail of the county, any  
4 municipality or a jail operated by a regional jail authority, a  
5 reasonable effort shall be made to determine the citizenship status  
6 of the person so confined.

7       B. If the prisoner is a foreign national, the keeper of the  
8 jail or other officer shall make a reasonable effort to verify that  
9 the prisoner has been lawfully admitted to the United States and if  
10 lawfully admitted, that such lawful status has not expired. If  
11 verification of lawful status can not be made from documents in the  
12 possession of the prisoner, verification shall be made within forty-  
13 eight (48) hours through a query to the Law Enforcement Support  
14 Center of the United States Department of Homeland Security or other  
15 office or agency designated for that purpose by the United States  
16 Department of Homeland Security. If the lawful immigration status  
17 of the prisoner cannot be verified, the keeper of the jail or other  
18 officer shall notify the United States Department of Homeland  
19 Security.

20       C. For the purpose of determining the grant of or issuance of  
21 bond, it shall be a rebuttable presumption that a person whose  
22 citizenship status has been verified pursuant to subsection B of  
23 this section to be a foreign national who has not been lawfully  
24 admitted to the United States, is at risk of flight.

1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1312 of Title 25, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in Sections 6 and 7 of this act, the term:

5           1. "Status Verification System" shall mean an electronic system  
6 operated by the federal government, through which an authorized  
7 official of an agency of the State of Oklahoma or of a political  
8 subdivision therein may make an inquiry, by exercise of authority  
9 delegated pursuant to Section 1373 of Title 8 of the United States  
10 Code, to verify or ascertain the citizenship or immigration status  
11 of any individual within the jurisdiction of the agency for any  
12 purpose authorized by Section 7 of this act. The Status  
13 Verification System shall be deemed to include the electronic  
14 verification of work authorization program of the Illegal  
15 Immigration Reform and Immigration Responsibility Act of 1996, P.L.  
16 104-208, Division C, Section 403(a); 8 U.S.C. 1324a, and operated by  
17 the United States Department of Homeland Security, known as the  
18 Basic Pilot Program, or any equivalent federal work authorization  
19 program designated by the United States Department of Homeland  
20 Security or any other federal agency authorized to verify the work  
21 authorization status of newly hired employees, pursuant to the  
22 Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603;

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1       2. "Public employer" means every department, agency, or  
2 instrumentality of the state or a political subdivision of the  
3 state;

4       3. "Subcontractor" includes a subcontractor, contract employee,  
5 staffing agency, or any contractor regardless of its tier; and

6       4. "Unauthorized alien" means an alien as defined in Section  
7 1324a(h) (3) of Title 8 of the United States Code.

8       SECTION 7.       NEW LAW       A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1313 of Title 25, unless there  
10 is created a duplication in numbering, reads as follows:

11       A. Every public employer shall register and participate in the  
12 Status Verification System to verify the work authorization status  
13 of all new employees.

14       B. 1. No public employer shall enter into a contract for the  
15 physical performance of services within this state unless the  
16 contractor registers and participates in the Status Verification  
17 System to verify the work authorization status of all new employees.

18       2. No contractor or subcontractor who enters a contract with a  
19 public employer shall enter into such a contract or subcontract in  
20 connection with the physical performance of services within this  
21 state unless the contractor or subcontractor registers and  
22 participates in the Status Verification System to verify information  
23 of all new employees.

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1           3. The discharge of any United States citizen or permanent  
2 resident alien employee by an employer of this state, who, on the  
3 date of the discharge employed an unauthorized alien in this state,  
4 shall be considered an unfair employment practice. The discharged  
5 employee shall have a private cause of action against the employing  
6 entity for the unfair employment practice. The employing entity  
7 found to have violated this paragraph shall be liable to the  
8 aggrieved employee for:

9           a. actual loss of compensation and benefits sustained by  
10 the employee, plus liquidated damages in the amount of  
11 two percent (2%) for each day after the date of  
12 discharge or in an amount equal to the actual loss of  
13 compensation and benefits, whichever is smaller, from  
14 the date of the discharge until either the date the  
15 employee has been offered reemployment in writing at  
16 an equivalent or higher compensation level, or the  
17 date the employee has commenced any new employment at  
18 an equivalent rate of compensation, whichever occurs  
19 first, up to a maximum period of one hundred eighty  
20 (180) days from the date of discharge, plus reasonable  
21 interest from the date of discharge until the date of  
22 payment of the liability, and

23           b. reasonable attorney fees and costs.  
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1           4. An employing entity which, on the date of the discharge in  
2 question, was currently enrolled in and used the Basic Pilot Program  
3 or other electronic status verification system, as referred to in  
4 Section 6 of this act, to verify the employment authorization of its  
5 employees in Oklahoma shall be exempt from liability for suit under  
6 this section.

7           C. The provisions of this section shall be enforced without  
8 regard to race or national origin.

9           D. The Department of Labor shall prescribe forms and promulgate  
10 rules and regulations deemed necessary in order to administer and  
11 effectuate the provisions of this section and publish such rules and  
12 regulations on the Department of Labor web site.

13           SECTION 8.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 71 of Title 56, unless there is  
15 created a duplication in numbering, reads as follows:

16           A. Except as provided in subsection C of this section or where  
17 exempted by federal law, every agency or a political subdivision of  
18 this state shall verify the lawful presence in the United States of  
19 any natural person fourteen (14) years of age or older who has  
20 applied for state or local public benefits, as defined in 8 U.S.C.  
21 Section 1621, or for federal public benefits, as defined in 8 U.S.C.  
22 Section 1611, that is administered by an agency or a political  
23 subdivision of this state.

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1 B. The provisions of this section shall be enforced without  
2 regard to race, religion, gender, ethnicity, or national origin.

3 C. Verification of lawful presence under the provisions of this  
4 section shall not be required:

5 1. For any purpose for which lawful presence in the United  
6 States is not restricted by law, ordinance, or regulation;

7 2. For assistance for health care items and services that are  
8 necessary for the treatment of an emergency medical condition, as  
9 defined in 42 U.S.C. Section 1396b(v)(3), of the alien involved and  
10 are not related to an organ transplant procedure;

11 3. For short-term, noncash, in-kind emergency disaster relief;

12 4. For public health assistance for immunizations with respect  
13 to diseases and for testing and treatment of symptoms of  
14 communicable diseases whether or not such symptoms are caused by a  
15 communicable disease; or

16 5. For programs, services, or assistance such as soup kitchens,  
17 crisis counseling and intervention, and short-term shelter specified  
18 by the United States Attorney General, in the sole and unreviewable  
19 discretion of the United States Attorney General after consultation  
20 with appropriate federal agencies and departments, which:

21 a. deliver in-kind services at the community level,  
22 including through public or private nonprofit  
23 agencies,

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1           b. do not condition the provision of assistance, the  
2           amount of assistance provided, or the cost of  
3           assistance provided on the income or resources of the  
4           individual recipient, and

5           c. are necessary for the protection of life or safety.

6           D. Verification of lawful presence in the United States by the  
7           agency or political subdivision required to make such verification  
8           shall require that the applicant execute an affidavit under penalty  
9           of perjury that:

10          1. He or she is a United States citizen; or

11          2. He or she is a qualified alien under the federal Immigration  
12          and Nationality Act, and is lawfully present in the United States.

13          The agency or political subdivision providing the state or local  
14          public benefits shall provide notary public services at no cost to  
15          the applicant.

16          E. For any applicant who has executed the affidavit described  
17          in paragraph 2 of subsection D of this section, eligibility for  
18          benefits shall be made through the Systematic Alien Verification of  
19          Entitlement program operated by the United States Department of  
20          Homeland Security or a successor program designated by the United  
21          States Department of Homeland Security. Until such eligibility  
22          verification is made, the affidavit may be presumed to be proof of  
23          lawful presence for the purposes of this section.

1 F. Any person who knowingly and willfully makes a false,  
2 fictitious, or fraudulent statement of representation in an  
3 affidavit executed pursuant to subsection D of this section shall be  
4 subject to criminal penalties applicable in this state for  
5 fraudulently obtaining public assistance program benefits. If the  
6 affidavit constitutes a false claim of U.S. citizenship under 18  
7 U.S.C. Section 911 a complaint shall be filed by the agency  
8 requiring the affidavit with the United States Attorney for the  
9 applicable district based upon the venue in which the affidavit was  
10 executed.

11 G. Agencies or political subdivisions of this state may adopt  
12 variations to the requirements of the provisions of this section  
13 which demonstrably improve the efficiency or reduce delay in the  
14 verification process, or to provide for adjudication of unique  
15 individual circumstances where the verification procedures in this  
16 section would impose unusual hardship on a legal resident of  
17 Oklahoma.

18 H. It shall be unlawful for any agency or a political  
19 subdivision of this state to provide any state, local, or federal  
20 benefit, as defined in 8 U.S.C. Section 1621 or 8 U.S.C. Section  
21 1611, in violation of the provisions of this section.

22 I. Each state agency or department which administers any  
23 program of state or local public benefits shall provide an annual  
24 report to the Governor, the President Pro Tempore of the Senate and

1 the Speaker of the House of Representatives with respect to its  
2 compliance with the provisions of this section. Each agency or  
3 department shall monitor the Systematic Alien Verification of  
4 Entitlement program for verification application errors and  
5 significant delays and shall provide an annual public report on such  
6 errors and significant delays, and recommendations to ensure that  
7 the application of the Systematic Alien Verification of Entitlement  
8 program is not erroneously denying benefits to legal residents of  
9 Oklahoma. Errors shall also be reported to the United States  
10 Department of Homeland Security by each agency or department.

11 SECTION 9. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2385.32 of Title 68, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. The employer shall be required to withhold state income tax  
15 at the rate of six percent (6%) of the amount of either wages which  
16 are subject to withholding tax pursuant to the Internal Revenue Code  
17 of 1986, as amended or the amount of compensation paid to an  
18 individual which compensation is required to be reported on Form  
19 1099 and in both cases with respect to which the individual has  
20 failed to provide a valid Social Security Number, issued by the U.S.  
21 Social Security Administration.

22 B. Any employer who fails to comply with the withholding  
23 requirements of this subsection shall be liable for the taxes  
24 required to have been withheld unless such employer is exempt from

1 federal withholding with respect to such individual pursuant to a  
2 properly filed Internal Revenue Service Form 8233 or its equivalent,  
3 and has provided a copy of such form to the Oklahoma Tax Commission.

4 SECTION 10. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 20J of Title 74, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. The Attorney General is authorized and directed to negotiate  
8 the terms of a Memorandum of Understanding between the State of  
9 Oklahoma and the United States Department of Justice or the United  
10 States Department of Homeland Security, as provided by Section  
11 1357(g) of Title 8 of the United States Code, concerning the  
12 enforcement of federal immigration and custom laws, detention and  
13 removals, and investigations in the State of Oklahoma.

14 B. The Memorandum of Understanding negotiated pursuant to  
15 subsection A of this section shall be signed on behalf of this state  
16 by the Attorney General and the Governor or as otherwise required by  
17 the appropriate federal agency.

18 C. No local government, whether acting through its governing  
19 body or by an initiative, referendum, or any other process, shall  
20 enact any ordinance or policy that limits or prohibits a law  
21 enforcement officer, local official, or local government employee  
22 from communicating or cooperating with federal officials with regard  
23 to the immigration status of any person within this state.

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1 D. Notwithstanding any other provision of law, no government  
2 entity or official within the State of Oklahoma, may prohibit, or in  
3 any way restrict, any government entity or official from sending to,  
4 or receiving from, the United States Department of Homeland  
5 Security, information regarding the citizenship or immigration  
6 status, lawful or unlawful, of any individual.

7 E. Notwithstanding any other provision of law, no person or  
8 agency may prohibit, or in any way restrict, a public employee from  
9 doing any of the following with respect to information regarding the  
10 immigration status, lawful or unlawful, of any individual:

11 1. Sending such information to, or requesting or receiving such  
12 information from, the U.S. Department of Homeland Security;

13 2. Maintaining such information; or

14 3. Exchanging such information with any other federal, state,  
15 or local government entity.

16 F. The provisions of this section shall allow for a private  
17 right of action by any natural or legal person lawfully domiciled in  
18 this state to file for a writ of mandamus to compel any  
19 noncooperating local state governmental agency to comply with such  
20 reporting laws.

21 SECTION 11. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 3242.2 of Title 70, unless there  
23 is created a duplication in numbering, reads as follows:

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1 An individual who is not lawfully present in the United States  
2 shall not be eligible on the basis of residence within the state  
3 for:

4 1. Any postsecondary education benefit including, but not  
5 limited to, scholarships or financial aid; or

6 2. Resident tuition.

7 SECTION 12. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 151.2 of Title 74, unless there  
9 is created a duplication in numbering, reads as follows:

10 Subject to the availability of funding, the Oklahoma State  
11 Bureau of Investigation shall establish the Fraudulent Documents  
12 Identification (FDI) Unit for the primary purpose of investigating  
13 and apprehending persons or entities that participate in the sale or  
14 distribution of fraudulent documents used for identification  
15 purposes. The unit shall additionally specialize in fraudulent  
16 identification documents created and prepared for persons who are  
17 unlawfully residing within the State of Oklahoma. The Bureau shall  
18 employ sufficient employees to investigate and implement the FDI  
19 Unit.

20 SECTION 13. REPEALER Section 1, Chapter 210, O.S.L. 2003  
21 (70 O.S. Supp. 2006, Section 3242), is hereby repealed.

22 SECTION 14. This act shall become effective November 1, 2007.  
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1 Passed the House of Representatives the 7th day of March, 2007.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2007.

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9 Presiding Officer of the Senate