

115TH CONGRESS
2D SESSION

H. R. 7059

To fund construction of the southern border wall and to ensure compliance with Federal immigration law.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2018

Mr. MCCARTHY introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Ways and Means, Armed Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To fund construction of the southern border wall and to ensure compliance with Federal immigration law.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Build the Wall, En-
5 force the Law Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Voting is fundamental to a functioning de-
2 mocracy.

3 (2) The Constitution prohibits discrimination in
4 voting based on race, sex, poll taxes, and age.

5 (3) It is of paramount importance that the
6 United States maintains the legitimacy of its elec-
7 tions and protects them from interference, including
8 interference from foreign threats and illegal voting.

9 (4) The city of San Francisco, California, is al-
10 lowing non-citizens, including illegal immigrants, to
11 register to vote in school board elections.

12 (5) Federal law prohibits non-citizens from vot-
13 ing in elections for Federal office.

14 (6) The national security interests of the
15 United States are dependent on the brave men and
16 women who enforce our Nation's immigration laws.

17 (7) Abolishing United States Immigration and
18 Customs Enforcement (ICE) would mean open bor-
19 ders because it would eliminate the main agency re-
20 sponsible for removing people who enter or remain
21 in our country illegally.

22 (8) Calls to abolish ICE are an insult to these
23 heroic law enforcement officers who make sacrifices
24 every day to secure our borders, enforce our laws,
25 and protect our safety and security.

1 (9) Abolishing ICE would allow dangerous
2 criminal aliens, including violent and ruthless mem-
3 bers of the MS-13 gang, to remain in American
4 communities.

5 (10) During fiscal year 2017, ICE Enforcement
6 and Removal Operations (ERO) arrested more than
7 127,000 aliens with criminal convictions or charges.

8 (11) ICE ERO made 5,225 administrative ar-
9 rests of suspected gang members in fiscal year 2017.

10 (12) Criminal aliens arrested by ICE ERO in
11 fiscal year 2017 were responsible for more than—

12 (A) 76,000 dangerous drug offenses;

13 (B) 48,000 assault offenses;

14 (C) 11,000 weapon offenses;

15 (D) 5,000 sexual assault offenses;

16 (E) 2,000 kidnapping offenses; and

17 (F) 1,800 homicide offenses.

18 (13) ICE Homeland Security Investigations
19 made 4,818 gang-related arrests in fiscal year 2017.

20 (14) ICE identified or rescued 904 sexually ex-
21 ploited children; Whereas ICE identified or rescued
22 518 victims of human trafficking; Whereas abol-
23 ishing ICE would mean that countless illegal aliens
24 who could pose a threat to public safety would be al-

1 lowed to roam free instead of being removed from
2 American soil.

3 (15) Abolishing ICE would mean more dan-
4 gerous illegal drugs flowing into our communities,
5 causing more Americans to needlessly suffer.

6 (16) ICE plays a critical role in combatting the
7 drug crisis facing our Nation.

8 (17) ICE seized more than 980,000 pounds of
9 narcotics in fiscal year 2017, including thousands of
10 pounds of the deadly drugs fueling the opioid crisis.

11 (18) ICE seized 2,370 pounds of fentanyl and
12 6,967 pounds of heroin in fiscal year 2017.

13 (19) ICE logged nearly 90,000 investigative
14 hours directed toward fentanyl in fiscal year 2017.

15 (20) Abolishing ICE would leave these drugs in
16 our communities to cause more devastation.

17 (21) Abolishing ICE would mean eliminating
18 the agency that deports aliens that pose a terrorist
19 threat to the United States.

20 (22) ICE was created in 2003 to better protect
21 national security and public safety after the 9/11
22 terrorists exploited immigration laws to gain entry
23 into the United States.

1 (23) The National Commission on Terrorist At-
2 tacks found that many of the 9/11 hijackers com-
3 mitted visa violations.

4 (24) ICE identifies dangerous individuals before
5 they enter our country and locates them as they vio-
6 late our immigration laws.

7 (25) Abolishing ICE would enable the hundreds
8 of thousands of foreign nationals who illegally over-
9 stay their visa each year to remain in the United
10 States indefinitely.

11 **SEC. 3. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) allowing illegal immigrants the right to vote
14 devalues the franchise and diminishes the voting
15 power of United States citizens; and

16 (2) Congress—

17 (A) supports all United States Immigra-
18 tion and Customs Enforcement (ICE) officers
19 and personnel who carry out the important mis-
20 sion of ICE;

21 (B) denounces calls for the abolishment of
22 ICE; and

23 (C) supports the efforts of all Federal
24 agencies, State law enforcement, and military

1 personnel who bring law and order to our Na-
2 tion’s borders.

3 **SEC. 4. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**
4 **IMMIGRATION LAW.**

5 (a) IN GENERAL.—Section 642 of the Illegal Immi-
6 gration Reform and Immigrant Responsibility Act of 1996
7 (8 U.S.C. 1373) is amended—

8 (1) by striking subsection (a) and inserting the
9 following:

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of Federal, State, or local law, no Federal, State,
12 or local government entity, and no individual, may prohibit
13 or in any way restrict, a Federal, State, or local govern-
14 ment entity, official, or other personnel from complying
15 with the immigration laws (as defined in section
16 101(a)(17) of the Immigration and Nationality Act (8
17 U.S.C. 1101(a)(17))), or from assisting or cooperating
18 with Federal law enforcement entities, officials, or other
19 personnel regarding the enforcement of these laws.”;

20 (2) by striking subsection (b) and inserting the
21 following:

22 “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-
23 standing any other provision of Federal, State, or local
24 law, no Federal, State, or local government entity, and no
25 individual, may prohibit, or in any way restrict, a Federal,

1 State, or local government entity, official, or other per-
2 sonnel from undertaking any of the following law enforce-
3 ment activities as they relate to information regarding the
4 citizenship or immigration status, lawful or unlawful, the
5 inadmissibility or deportability, or the custody status, of
6 any individual:

7 “(1) Making inquiries to any individual in order
8 to obtain such information regarding such individual
9 or any other individuals.

10 “(2) Notifying the Federal Government regard-
11 ing the presence of individuals who are encountered
12 by law enforcement officials or other personnel of a
13 State or political subdivision of a State.

14 “(3) Complying with requests for such informa-
15 tion from Federal law enforcement entities, officials,
16 or other personnel.”;

17 (3) in subsection (c), by striking “Immigration
18 and Naturalization Service” and inserting “Depart-
19 ment of Homeland Security”; and

20 (4) by adding at the end the following:

21 “(d) COMPLIANCE.—

22 “(1) ELIGIBILITY FOR CERTAIN GRANT PRO-
23 GRAMS.—A State, or a political subdivision of a
24 State, that is found not to be in compliance with
25 subsection (a) or (b) shall not be eligible to receive—

1 “(A) any of the funds that would otherwise
2 be allocated to the State or political subdivision
3 under section 241(i) of the Immigration and
4 Nationality Act (8 U.S.C. 1231(i)), the ‘Cops
5 on the Beat’ program under part Q of title I of
6 the Omnibus Crime Control and Safe Streets
7 Act of 1968 (42 U.S.C. 3796dd et seq.), or the
8 Edward Byrne Memorial Justice Assistance
9 Grant Program under subpart 1 of part E of
10 title I of the Omnibus Crime Control and Safe
11 Streets Act of 1968 (42 U.S.C. 3750 et seq.);
12 or

13 “(B) any other grant administered by the
14 Department of Justice or the Department of
15 Homeland Security that is substantially related
16 to law enforcement, terrorism, national security,
17 immigration, or naturalization.

18 “(2) EXCEPTION.—A political subdivision is not
19 found not to be in compliance with subsection (a) or
20 (b) as a consequence of being required to comply
21 with a statute or other legal requirement of a State
22 or another political subdivision with jurisdiction over
23 that political subdivision, and shall remain eligible to
24 receive grant funds described in paragraph (1). In
25 the case described in the previous sentence, the

1 State or political subdivision that enacted the statute
2 or other legal requirement shall not be eligible to re-
3 ceive such funds.

4 “(3) TRANSFER OF CUSTODY OF ALIENS PEND-
5 ING REMOVAL PROCEEDINGS.—The Secretary, at the
6 Secretary’s discretion, may decline to transfer an
7 alien in the custody of the Department of Homeland
8 Security to a State or political subdivision of a State
9 found not to be in compliance with subsection (a) or
10 (b), regardless of whether the State or political sub-
11 division of the State has issued a writ or warrant.

12 “(4) TRANSFER OF CUSTODY OF CERTAIN
13 ALIENS PROHIBITED.—The Secretary shall not
14 transfer an alien with a final order of removal pur-
15 suant to paragraph (1)(A) or (5) of section 241(a)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1231(a)) to a State or a political subdivision of a
18 State that is found not to be in compliance with sub-
19 section (a) or (b).

20 “(5) ANNUAL DETERMINATION.—The Secretary
21 shall determine for each calendar year which States
22 or political subdivision of States are not in compli-
23 ance with subsection (a) or (b) and shall report such
24 determinations to Congress by March 1 of each suc-
25 ceeding calendar year.

1 “(6) REPORTS.—The Secretary of Homeland
2 Security shall issue a report concerning the compli-
3 ance with subsections (a) and (b) of any particular
4 State or political subdivision of a State at the re-
5 quest of the House or the Senate Judiciary Com-
6 mittee. Any jurisdiction that is found not to be in
7 compliance shall be ineligible to receive Federal fi-
8 nancial assistance as provided in paragraph (1) for
9 a minimum period of 1 year, and shall only become
10 eligible again after the Secretary of Homeland Secu-
11 rity certifies that the jurisdiction has come into com-
12 pliance.

13 “(7) REALLOCATION.—Any funds that are not
14 allocated to a State or to a political subdivision of
15 a State due to the failure of the State or of the po-
16 litical subdivision of the State to comply with sub-
17 section (a) or (b) shall be reallocated to States or to
18 political subdivisions of States that comply with both
19 such subsections.

20 “(e) CONSTRUCTION.—Nothing in this section shall
21 require law enforcement officials from States, or from po-
22 litical subdivisions of States, to report or arrest victims
23 or witnesses of a criminal offense.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of the enactment

1 of this Act, except that subsection (d) of section 642 of
2 the Illegal Immigration Reform and Immigrant Responsi-
3 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
4 tion, shall apply only to prohibited acts committed on or
5 after the date of the enactment of this Act.

6 **SEC. 5. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

7 (a) IN GENERAL.—Section 287(d) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1357(d)) is amended
9 to read as follows:

10 “(d) DETAINDER OF INADMISSIBLE OR DEPORTABLE
11 ALIENS.—

12 “(1) IN GENERAL.—In the case of an individual
13 who is arrested by any Federal, State, or local law
14 enforcement official or other personnel for the al-
15 leged violation of any criminal or motor vehicle law,
16 the Secretary may issue a detainer regarding the in-
17 dividual to any Federal, State, or local law enforce-
18 ment entity, official, or other personnel if the Sec-
19 retary has probable cause to believe that the indi-
20 vidual is an inadmissible or deportable alien.

21 “(2) PROBABLE CAUSE.—Probable cause is
22 deemed to be established if—

23 “(A) the individual who is the subject of
24 the detainer matches, pursuant to biometric
25 confirmation or other Federal database records,

1 the identity of an alien who the Secretary has
2 reasonable grounds to believe to be inadmissible
3 or deportable;

4 “(B) the individual who is the subject of
5 the detainer is the subject of ongoing removal
6 proceedings, including matters where a charg-
7 ing document has already been served;

8 “(C) the individual who is the subject of
9 the detainer has previously been ordered re-
10 moved from the United States and such an
11 order is administratively final;

12 “(D) the individual who is the subject of
13 the detainer has made voluntary statements or
14 provided reliable evidence that indicate that
15 they are an inadmissible or deportable alien; or

16 “(E) the Secretary otherwise has reason-
17 able grounds to believe that the individual who
18 is the subject of the detainer is an inadmissible
19 or deportable alien.

20 “(3) TRANSFER OF CUSTODY.—If the Federal,
21 State, or local law enforcement entity, official, or
22 other personnel to whom a detainer is issued com-
23 plies with the detainer and detains for purposes of
24 transfer of custody to the Department of Homeland
25 Security the individual who is the subject of the de-

1 tainer, the Department may take custody of the in-
2 dividual within 48 hours (excluding weekends and
3 holidays), but in no instance more than 96 hours,
4 following the date that the individual is otherwise to
5 be released from the custody of the relevant Federal,
6 State, or local law enforcement entity.”.

7 (b) IMMUNITY.—

8 (1) IN GENERAL.—A State or a political sub-
9 division of a State (and the officials and personnel
10 of the State or subdivision acting in their official ca-
11 pacities), and a nongovernmental entity (and its per-
12 sonnel) contracted by the State or political subdivi-
13 sion for the purpose of providing detention, acting in
14 compliance with a Department of Homeland Secu-
15 rity detainer issued pursuant to this section who
16 temporarily holds an alien in its custody pursuant to
17 the terms of a detainer so that the alien may be
18 taken into the custody of the Department of Home-
19 land Security, shall be considered to be acting under
20 color of Federal authority for purposes of deter-
21 mining their liability and shall be held harmless for
22 their compliance with the detainer in any suit seek-
23 ing any punitive, compensatory, or other monetary
24 damages.

1 (2) FEDERAL GOVERNMENT AS DEFENDANT.—

2 In any civil action arising out of the compliance with
3 a Department of Homeland Security detainer by a
4 State or a political subdivision of a State (and the
5 officials and personnel of the State or subdivision
6 acting in their official capacities), or a nongovern-
7 mental entity (and its personnel) contracted by the
8 State or political subdivision for the purpose of pro-
9 viding detention, the United States Government
10 shall be the proper party named as the defendant in
11 the suit in regard to the detention resulting from
12 compliance with the detainer.

13 (3) BAD FAITH EXCEPTION.—Paragraphs (1)
14 and (2) shall not apply to any mistreatment of an
15 individual by a State or a political subdivision of a
16 State (and the officials and personnel of the State
17 or subdivision acting in their official capacities), or
18 a nongovernmental entity (and its personnel) con-
19 tracted by the State or political subdivision for the
20 purpose of providing detention.

21 (c) PRIVATE RIGHT OF ACTION.—

22 (1) CAUSE OF ACTION.—Any individual, or a
23 spouse, parent, or child of that individual (if the in-
24 dividual is deceased), who is the victim of a murder,
25 rape, or any felony, as defined by the State, for

1 which an alien (as defined in section 101(a)(3) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1101(a)(3))) has been convicted and sentenced to a
4 term of imprisonment of at least 1 year, may bring
5 an action against a State or political subdivision of
6 a State in the appropriate Federal or State court if
7 the State or political subdivision released the alien
8 from custody prior to the commission of such crime
9 as a consequence of the State or political subdivi-
10 sion's declining to honor a detainer issued pursuant
11 to section 287(d)(1) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1357(d)(1)).

13 (2) LIMITATION ON BRINGING ACTION.—An ac-
14 tion brought under this subsection may not be
15 brought later than 10 years following the occurrence
16 of the crime, or death of a person as a result of such
17 crime, whichever occurs later.

18 (3) ATTORNEY'S FEE AND OTHER COSTS.—In
19 any action or proceeding under this subsection the
20 court shall allow a prevailing plaintiff a reasonable
21 attorneys' fee as part of the costs, and include ex-
22 pert fees as part of the attorneys' fee.

23 **SEC. 6. SARAH AND GRANT'S LAW.**

24 (a) DETENTION OF ALIENS DURING REMOVAL PRO-
25 CEEDINGS.—

1 (1) CLERICAL AMENDMENTS.—(A) Section 236
2 of the Immigration and Nationality Act (8 U.S.C.
3 1226) is amended by striking “Attorney General”
4 each place it appears (except in the second place
5 that term appears in section 236(a)) and inserting
6 “Secretary of Homeland Security”.

7 (B) Section 236(a) of such Act (8 U.S.C.
8 1226(a)) is amended by inserting “the Secretary of
9 Homeland Security or” before “the Attorney Gen-
10 eral—”.

11 (C) Section 236(e) of such Act (8 U.S.C.
12 1226(e)) is amended by striking “Attorney Gen-
13 eral’s” and inserting “Secretary of Homeland Secu-
14 rity’s”.

15 (2) LENGTH OF DETENTION.—Section 236 of
16 such Act (8 U.S.C. 1226) is amended by adding at
17 the end the following:

18 “(f) LENGTH OF DETENTION.—

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of this section, an alien may be detained,
21 and for an alien described in subsection (c) shall be
22 detained, under this section without time limitation,
23 except as provided in subsection (h), during the
24 pendency of removal proceedings.

1 “(2) CONSTRUCTION.—The length of detention
2 under this section shall not affect detention under
3 section 241.”.

4 (3) DETENTION OF CRIMINAL ALIENS.—Section
5 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is
6 amended—

7 (A) in subparagraph (C), by striking “or”
8 at the end;

9 (B) by inserting after subparagraph (D)
10 the following:

11 “(E) is unlawfully present in the United
12 States and has been convicted for driving while
13 intoxicated (including a conviction for driving
14 while under the influence or impaired by alcohol
15 or drugs) without regard to whether the convic-
16 tion is classified as a misdemeanor or felony
17 under State law, or

18 “(F)(i)(I) is inadmissible under section
19 212(a)(6)(i),

20 “(II) is deportable by reason of a visa rev-
21 ocation under section 221(i), or

22 “(III) is deportable under section
23 237(a)(1)(C)(i), and

24 “(ii) has been arrested or charged with a
25 particularly serious crime or a crime resulting

1 in the death or serious bodily injury (as defined
2 in section 1365(h)(3) of title 18, United States
3 Code) of another person;” and

4 (C) by amending the matter following sub-
5 paragraph (F) (as added by subparagraph (B)
6 of this paragraph) to read as follows:

7 “any time after the alien is released, without regard
8 to whether an alien is released related to any activ-
9 ity, offense, or conviction described in this para-
10 graph; to whether the alien is released on parole, su-
11 pervised release, or probation; or to whether the
12 alien may be arrested or imprisoned again for the
13 same offense. If the activity described in this para-
14 graph does not result in the alien being taken into
15 custody by any person other than the Secretary,
16 then when the alien is brought to the attention of
17 the Secretary or when the Secretary determines it is
18 practical to take such alien into custody, the Sec-
19 retary shall take such alien into custody.”.

20 (4) ADMINISTRATIVE REVIEW.—Section 236 of
21 the Immigration and Nationality Act (8 U.S.C.
22 1226), as amended by paragraph (2), is further
23 amended by adding at the end the following:

24 “(g) ADMINISTRATIVE REVIEW.—The Attorney Gen-
25 eral’s review of the Secretary’s custody determinations

1 under subsection (a) for the following classes of aliens
2 shall be limited to whether the alien may be detained, re-
3 leased on bond (of at least \$1,500 with security approved
4 by the Secretary), or released with no bond:

5 “(1) Aliens in exclusion proceedings.

6 “(2) Aliens described in section 212(a)(3) or
7 237(a)(4).

8 “(3) Aliens described in subsection (c).

9 “(h) RELEASE ON BOND.—

10 “(1) IN GENERAL.—An alien detained under
11 subsection (a) may seek release on bond. No bond
12 may be granted except to an alien who establishes
13 by clear and convincing evidence that the alien is not
14 a flight risk or a danger to another person or the
15 community.

16 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
17 detained under subsection (c) may seek release on
18 bond.”.

19 (5) CLERICAL AMENDMENTS.—(A) Section
20 236(a)(2)(B) of the Immigration and Nationality
21 Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-
22 ing “conditional parole” and inserting “recog-
23 nizance”.

1 (B) Section 236(b) of such Act (8 U.S.C.
2 1226(b)) is amended by striking “parole” and in-
3 sserting “recognizance”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall take effect on the date of the enact-
6 ment of this Act and shall apply to any alien in detention
7 under the provisions of section 236 of the Immigration
8 and Nationality Act (8 U.S.C. 1226), as so amended, or
9 otherwise subject to the provisions of such section, on or
10 after such date.

11 **SEC. 7. ILLEGAL REENTRY.**

12 Section 276 of the Immigration and Nationality Act
13 (8 U.S.C. 1326) is amended to read as follows:

14 “REENTRY OF REMOVED ALIEN

15 “SEC. 276. (a) REENTRY AFTER REMOVAL.—

16 “(1) IN GENERAL.—Any alien who has been de-
17 nied admission, excluded, deported, or removed, or
18 who has departed the United States while an order
19 of exclusion, deportation, or removal is outstanding,
20 and subsequently enters, attempts to enter, crosses
21 the border to, attempts to cross the border to, or is
22 at any time found in the United States, shall be
23 fined under title 18, United States Code, imprisoned
24 not more than 2 years, or both.

25 “(2) EXCEPTION.—If an alien sought and re-
26 ceived the express consent of the Secretary to re-

1 apply for admission into the United States, or, with
2 respect to an alien previously denied admission and
3 removed, the alien was not required to obtain such
4 advance consent under the Immigration and Nation-
5 ality Act or any prior Act, the alien shall not be sub-
6 ject to the fine and imprisonment provided for in
7 paragraph (1).

8 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
9 withstanding the penalty provided in subsection (a), if an
10 alien described in that subsection was convicted before
11 such removal or departure—

12 “(1) for 3 or more misdemeanors or for a fel-
13 ony, the alien shall be fined under title 18, United
14 States Code, imprisoned not more than 10 years, or
15 both;

16 “(2) for a felony for which the alien was sen-
17 tenced to a term of imprisonment of not less than
18 30 months, the alien shall be fined under such title,
19 imprisoned not more than 15 years, or both;

20 “(3) for a felony for which the alien was sen-
21 tenced to a term of imprisonment of not less than
22 60 months, the alien shall be fined under such title,
23 imprisoned not more than 20 years, or both; or

24 “(4) for murder, rape, kidnapping, or a felony
25 offense described in chapter 77 (relating to peonage

1 and slavery) or 113B (relating to terrorism) of such
2 title, or for 3 or more felonies of any kind, the alien
3 shall be fined under such title, imprisoned not more
4 than 25 years, or both.

5 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
6 alien who has been denied admission, excluded, deported,
7 or removed 3 or more times and thereafter enters, at-
8 tempts to enter, crosses the border to, attempts to cross
9 the border to, or is at any time found in the United States,
10 shall be fined under title 18, United States Code, impris-
11 oned not more than 10 years, or both.

12 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
13 convictions described in subsection (b) are elements of the
14 crimes described, and the penalties in that subsection shall
15 apply only in cases in which the conviction or convictions
16 that form the basis for the additional penalty are—

17 “(1) alleged in the indictment or information;
18 and

19 “(2) proven beyond a reasonable doubt at trial
20 or admitted by the defendant.

21 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
22 firmative defense to a violation of this section that—

23 “(1) prior to the alleged violation, the alien had
24 sought and received the express consent of the Sec-

1 retary of Homeland Security to reapply for admis-
2 sion into the United States; or

3 “(2) with respect to an alien previously denied
4 admission and removed, the alien—

5 “(A) was not required to obtain such ad-
6 vance consent under the Immigration and Na-
7 tionality Act or any prior Act; and

8 “(B) had complied with all other laws and
9 regulations governing the alien’s admission into
10 the United States.

11 “(f) REENTRY OF ALIEN REMOVED PRIOR TO COM-
12 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
13 moved pursuant to section 241(a)(4) who enters, attempts
14 to enter, crosses the border to, attempts to cross the bor-
15 der to, or is at any time found in, the United States shall
16 be incarcerated for the remainder of the sentence of im-
17 prisonment which was pending at the time of deportation
18 without any reduction for parole or supervised release un-
19 less the alien affirmatively demonstrates that the Sec-
20 retary of Homeland Security has expressly consented to
21 the alien’s reentry. Such alien shall be subject to such
22 other penalties relating to the reentry of removed aliens
23 as may be available under this section or any other provi-
24 sion of law.

1 “(g) DEFINITIONS.—For purposes of this section and
2 section 275, the following definitions shall apply:

3 “(1) CROSSES THE BORDER TO THE UNITED
4 STATES.—The term ‘crosses the border’ refers to the
5 physical act of crossing the border, regardless of
6 whether the alien is free from official restraint.

7 “(2) FELONY.—The term ‘felony’ means any
8 criminal offense punishable by a term of imprison-
9 ment of more than 1 year under the laws of the
10 United States, any State, or a foreign government.

11 “(3) MISDEMEANOR.—The term ‘misdemeanor’
12 means any criminal offense punishable by a term of
13 imprisonment of not more than 1 year under the ap-
14 plicable laws of the United States, any State, or a
15 foreign government.

16 “(4) OFFICIAL RESTRAINT.—The term ‘official
17 restraint’ means any restraint known to the alien
18 that serves to deprive the alien of liberty and pre-
19 vents the alien from going at large into the United
20 States. Surveillance unbeknownst to the alien shall
21 not constitute official restraint.

22 “(5) REMOVAL.—The term ‘removal’ includes
23 any denial of admission, exclusion, deportation, or
24 removal, or any agreement by which an alien stipu-
25 lates or agrees to exclusion, deportation, or removal.

1 “(6) STATE.—The term ‘State’ means a State
2 of the United States, the District of Columbia, and
3 any commonwealth, territory, or possession of the
4 United States.”.

5 **SEC. 8. GROUNDS OF INADMISSIBILITY AND DEPORT-**
6 **ABILITY FOR ALIEN GANG MEMBERS.**

7 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)) is amended by adding at the end the following:

10 “(53) The term ‘criminal gang’ means an ongoing
11 group, club, organization, or association of 5 or more per-
12 sons that has as one of its primary purposes the commis-
13 sion of 1 or more of the following criminal offenses and
14 the members of which engage, or have engaged within the
15 past 5 years, in a continuing series of such offenses, or
16 that has been designated as a criminal gang by the Sec-
17 retary of Homeland Security, in consultation with the At-
18 torney General, as meeting these criteria. The offenses de-
19 scribed, whether in violation of Federal or State law or
20 foreign law and regardless of whether the offenses oc-
21 curred before, on, or after the date of the enactment of
22 this paragraph, are the following:

23 “(A) A ‘felony drug offense’ (as defined in sec-
24 tion 102 of the Controlled Substances Act (21
25 U.S.C. 802)).

1 “(B) An offense under section 274 (relating to
2 bringing in and harboring certain aliens), section
3 277 (relating to aiding or assisting certain aliens to
4 enter the United States), or section 278 (relating to
5 importation of alien for immoral purpose).

6 “(C) A crime of violence (as defined in section
7 16 of title 18, United States Code).

8 “(D) A crime involving obstruction of justice or
9 tampering with, or retaliating against, a witness, vic-
10 tim, or informant.

11 “(E) Any conduct punishable under sections
12 1028(a) and 1029 of title 18, United States Code
13 (relating to fraud and related activity in connection
14 with identification documents or access devices), sec-
15 tions 1581 through 1594 of such title (relating to
16 peonage, slavery, and trafficking in persons), section
17 1951 of such title (relating to interference with com-
18 merce by threats or violence), section 1952 of such
19 title (relating to interstate and foreign travel or
20 transportation in aid of racketeering enterprises),
21 section 1956 of such title (relating to the laundering
22 of monetary instruments), section 1957 of such title
23 (relating to engaging in monetary transactions in
24 property derived from specified unlawful activity), or
25 sections 2312 through 2315 of such title (relating to

1 interstate transportation of stolen motor vehicles or
2 stolen property).

3 “(F) A conspiracy to commit an offense de-
4 scribed in subparagraphs (A) through (E).”.

5 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
6 (8 U.S.C. 1182(a)(2)) is amended by adding at the end
7 the following:

8 “(J) ALIENS ASSOCIATED WITH CRIMINAL
9 GANGS.—Any alien is inadmissible who a con-
10 sular officer, the Secretary of Homeland Secu-
11 rity, or the Attorney General knows or has rea-
12 son to believe—

13 “(i) to be or to have been a member
14 of a criminal gang (as defined in section
15 101(a)(53)); or

16 “(ii) to have participated in the activi-
17 ties of a criminal gang (as defined in sec-
18 tion 101(a)(53)), knowing or having reason
19 to know that such activities will promote,
20 further, aid, or support the illegal activity
21 of the criminal gang.”.

22 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
23 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
24 amended by adding at the end the following:

1 “(G) ALIENS ASSOCIATED WITH CRIMINAL
2 GANGS.—Any alien is deportable who—

3 “(i) is or has been a member of a
4 criminal gang (as defined in section
5 101(a)(53)); or

6 “(ii) has participated in the activities
7 of a criminal gang (as so defined), knowing
8 or having reason to know that such activi-
9 ties will promote, further, aid, or support
10 the illegal activity of the criminal gang.”.

11 (d) DESIGNATION.—

12 (1) IN GENERAL.—Chapter 2 of title II of the
13 Immigration and Nationality Act (8 U.S.C. 1182) is
14 amended by inserting after section 219 the fol-
15 lowing:

16 “DESIGNATION OF CRIMINAL GANG

17 “SEC. 220. (a) DESIGNATION.—

18 “(1) IN GENERAL.—The Secretary of Homeland Se-
19 curity, in consultation with the Attorney General, may
20 designate a group, club, organization, or association of 5
21 or more persons as a criminal gang if the Secretary finds
22 that their conduct is described in section 101(a)(53).

23 “(2) PROCEDURE.—

24 “(A) NOTIFICATION.—Seven days before mak-
25 ing a designation under this subsection, the Sec-
26 retary shall, by classified communication, notify the

1 Speaker and Minority Leader of the House of Rep-
2 resentatives, the President pro tempore, Majority
3 Leader, and Minority Leader of the Senate, and the
4 members of the relevant committees of the House of
5 Representatives and the Senate, in writing, of the
6 intent to designate a group, club, organization, or
7 association of 5 or more persons under this sub-
8 section and the factual basis therefor.

9 “(B) PUBLICATION IN THE FEDERAL REG-
10 ISTER.—The Secretary shall publish the designation
11 in the Federal Register seven days after providing
12 the notification under subparagraph (A).

13 “(3) RECORD.—

14 “(A) IN GENERAL.—In making a designation
15 under this subsection, the Secretary shall create an
16 administrative record.

17 “(B) CLASSIFIED INFORMATION.—The Sec-
18 retary may consider classified information in making
19 a designation under this subsection. Classified infor-
20 mation shall not be subject to disclosure for such
21 time as it remains classified, except that such infor-
22 mation may be disclosed to a court ex parte and in
23 camera for purposes of judicial review under sub-
24 section (c).

25 “(4) PERIOD OF DESIGNATION.—

1 “(A) IN GENERAL.—A designation under this
2 subsection shall be effective for all purposes until re-
3 voked under paragraph (5) or (6) or set aside pursu-
4 ant to subsection (c).

5 “(B) REVIEW OF DESIGNATION UPON PETI-
6 TION.—

7 “(i) IN GENERAL.—The Secretary shall re-
8 view the designation of a criminal gang under
9 the procedures set forth in clauses (iii) and (iv)
10 if the designated group, club, organization, or
11 association of 5 or more persons files a petition
12 for revocation within the petition period de-
13 scribed in clause (ii).

14 “(ii) PETITION PERIOD.—For purposes of
15 clause (i)—

16 “(I) if the designated group, club, or-
17 ganization, or association of 5 or more per-
18 sons has not previously filed a petition for
19 revocation under this subparagraph, the
20 petition period begins 2 years after the
21 date on which the designation was made;
22 or

23 “(II) if the designated group, club, or-
24 ganization, or association of 5 or more per-
25 sons has previously filed a petition for rev-

1 ocation under this subparagraph, the peti-
2 tion period begins 2 years after the date of
3 the determination made under clause (iv)
4 on that petition.

5 “(iii) PROCEDURES.—Any group, club, or-
6 ganization, or association of 5 or more persons
7 that submits a petition for revocation under
8 this subparagraph of its designation as a crimi-
9 nal gang must provide evidence in that petition
10 that it is not described in section 101(a)(53).

11 “(iv) DETERMINATION.—

12 “(I) IN GENERAL.—Not later than
13 180 days after receiving a petition for rev-
14 ocation submitted under this subpara-
15 graph, the Secretary shall make a deter-
16 mination as to such revocation.

17 “(II) CLASSIFIED INFORMATION.—
18 The Secretary may consider classified in-
19 formation in making a determination in re-
20 sponse to a petition for revocation. Classi-
21 fied information shall not be subject to dis-
22 closure for such time as it remains classi-
23 fied, except that such information may be
24 disclosed to a court *ex parte* and *in camera*

1 for purposes of judicial review under sub-
2 section (c).

3 “(III) PUBLICATION OF DETERMINA-
4 TION.—A determination made by the Sec-
5 retary under this clause shall be published
6 in the Federal Register.

7 “(IV) PROCEDURES.—Any revocation
8 by the Secretary shall be made in accord-
9 ance with paragraph (6).

10 “(C) OTHER REVIEW OF DESIGNATION.—

11 “(i) IN GENERAL.—If in a 5-year period no
12 review has taken place under subparagraph (B),
13 the Secretary shall review the designation of the
14 criminal gang in order to determine whether
15 such designation should be revoked pursuant to
16 paragraph (6).

17 “(ii) PROCEDURES.—If a review does not
18 take place pursuant to subparagraph (B) in re-
19 sponse to a petition for revocation that is filed
20 in accordance with that subparagraph, then the
21 review shall be conducted pursuant to proce-
22 dures established by the Secretary. The results
23 of such review and the applicable procedures
24 shall not be reviewable in any court.

1 “(iii) PUBLICATION OF RESULTS OF RE-
2 VIEW.—The Secretary shall publish any deter-
3 mination made pursuant to this subparagraph
4 in the Federal Register.

5 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
6 gress, by an Act of Congress, may block or revoke a des-
7 ignation made under paragraph (1).

8 “(6) REVOCATION BASED ON CHANGE IN CIR-
9 CUMSTANCES.—

10 “(A) IN GENERAL.—The Secretary may revoke
11 a designation made under paragraph (1) at any
12 time, and shall revoke a designation upon completion
13 of a review conducted pursuant to subparagraphs
14 (B) and (C) of paragraph (4) if the Secretary finds
15 that—

16 “(i) the group, club, organization, or asso-
17 ciation of 5 or more persons that has been des-
18 ignated as a criminal gang is no longer de-
19 scribed in section 101(a)(53); or

20 “(ii) the national security or the law en-
21 forcement interests of the United States war-
22 rants a revocation.

23 “(B) PROCEDURE.—The procedural require-
24 ments of paragraphs (2) and (3) shall apply to a
25 revocation under this paragraph. Any revocation

1 shall take effect on the date specified in the revoca-
2 tion or upon publication in the Federal Register if
3 no effective date is specified.

4 “(7) EFFECT OF REVOCATION.—The revocation of a
5 designation under paragraph (5) or (6) shall not affect
6 any action or proceeding based on conduct committed
7 prior to the effective date of such revocation.

8 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
9 ING.—If a designation under this subsection has become
10 effective under paragraph (2) an alien in a removal pro-
11 ceeding shall not be permitted to raise any question con-
12 cerning the validity of the issuance of such designation
13 as a defense or an objection.

14 “(b) AMENDMENTS TO A DESIGNATION.—

15 “(1) IN GENERAL.—The Secretary may amend
16 a designation under this subsection if the Secretary
17 finds that the group, club, organization, or associa-
18 tion of 5 or more persons has changed its name,
19 adopted a new alias, dissolved and then reconsti-
20 tuted itself under a different name or names, or
21 merged with another group, club, organization, or
22 association of 5 or more persons.

23 “(2) PROCEDURE.—Amendments made to a
24 designation in accordance with paragraph (1) shall
25 be effective upon publication in the Federal Register.

1 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
2 section (a) shall also apply to an amended designa-
3 tion.

4 “(3) ADMINISTRATIVE RECORD.—The adminis-
5 trative record shall be corrected to include the
6 amendments as well as any additional relevant infor-
7 mation that supports those amendments.

8 “(4) CLASSIFIED INFORMATION.—The Sec-
9 retary may consider classified information in amend-
10 ing a designation in accordance with this subsection.
11 Classified information shall not be subject to disclo-
12 sure for such time as it remains classified, except
13 that such information may be disclosed to a court ex
14 parte and in camera for purposes of judicial review
15 under subsection (c) of this section.

16 “(c) JUDICIAL REVIEW OF DESIGNATION.—

17 “(1) IN GENERAL.—Not later than 30 days
18 after publication in the Federal Register of a des-
19 ignation, an amended designation, or a determina-
20 tion in response to a petition for revocation, the des-
21 ignated group, club, organization, or association of 5
22 or more persons may seek judicial review in the
23 United States Court of Appeals for the District of
24 Columbia Circuit.

1 “(2) BASIS OF REVIEW.—Review under this
2 subsection shall be based solely upon the administra-
3 tive record, except that the Government may submit,
4 for ex parte and in camera review, classified infor-
5 mation used in making the designation, amended
6 designation, or determination in response to a peti-
7 tion for revocation.

8 “(3) SCOPE OF REVIEW.—The Court shall hold
9 unlawful and set aside a designation, amended des-
10 igation, or determination in response to a petition
11 for revocation the court finds to be—

12 “(A) arbitrary, capricious, an abuse of dis-
13 cretion, or otherwise not in accordance with
14 law;

15 “(B) contrary to constitutional right,
16 power, privilege, or immunity;

17 “(C) in excess of statutory jurisdiction, au-
18 thority, or limitation, or short of statutory
19 right;

20 “(D) lacking substantial support in the ad-
21 ministrative record taken as a whole or in clas-
22 sified information submitted to the court under
23 paragraph (2); or

24 “(E) not in accord with the procedures re-
25 quired by law.

1 “(4) JUDICIAL REVIEW INVOKED.—The pend-
2 ency of an action for judicial review of a designation,
3 amended designation, or determination in response
4 to a petition for revocation shall not affect the appli-
5 cation of this section, unless the court issues a final
6 order setting aside the designation, amended des-
7 ignation, or determination in response to a petition
8 for revocation.

9 “(d) DEFINITIONS.—As used in this section—

10 “(1) the term ‘classified information’ has the
11 meaning given that term in section 1(a) of the Clas-
12 sified Information Procedures Act (18 U.S.C. App.);

13 “(2) the term ‘national security’ means the na-
14 tional defense, foreign relations, or economic inter-
15 ests of the United States;

16 “(3) the term ‘relevant committees’ means the
17 Committees on the Judiciary of the Senate and of
18 the House of Representatives; and

19 “(4) the term ‘Secretary’ means the Secretary
20 of Homeland Security, in consultation with the At-
21 torney General.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents for such Act is amended by inserting after the
24 item relating to section 219 the following:

“Sec. 220. Designation.”.

1 (e) MANDATORY DETENTION OF CRIMINAL GANG
2 MEMBERS.—

3 (1) IN GENERAL.—Section 236(c)(1) of the Im-
4 migration and Nationality Act (8 U.S.C. 1226(c)(1))
5 is amended—

6 (A) in subparagraph (C), by striking “or”
7 at the end;

8 (B) in subparagraph (D), by inserting
9 “or” at the end; and

10 (C) by inserting after subparagraph (D)
11 the following:

12 “(E) is inadmissible under section
13 212(a)(2)(J) or deportable under section
14 217(a)(2)(G),”.

15 (2) ANNUAL REPORT.—Not later than March 1
16 of each year (beginning 1 year after the date of the
17 enactment of this Act), the Secretary of Homeland
18 Security, after consultation with the appropriate
19 Federal agencies, shall submit a report to the Com-
20 mittees on the Judiciary of the House of Represent-
21 atives and of the Senate on the number of aliens de-
22 tained under the amendments made by paragraph
23 (1).

24 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
25 ATION.—

1 (1) INAPPLICABILITY OF RESTRICTION ON RE-
2 MOVAL TO CERTAIN COUNTRIES.—Section
3 241(b)(3)(B) of the Immigration and Nationality
4 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
5 matter preceding clause (i), by inserting “who is de-
6 scribed in section 212(a)(2)(J)(i) or section
7 237(a)(2)(G)(i) or who is” after “to an alien”.

8 (2) INELIGIBILITY FOR ASYLUM.—Section
9 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
10 (as amended by section 201 of this Act) is further
11 amended—

12 (A) in clause (v), by striking “or” at the
13 end;

14 (B) by redesignating clause (vi) as clause
15 (vii); and

16 (C) by inserting after clause (v) the fol-
17 lowing:

18 “(vi) the alien is described in section
19 212(a)(2)(J)(i) or section 237(a)(2)(G)(i);
20 or”.

21 (g) TEMPORARY PROTECTED STATUS.—Section 244
22 of such Act (8 U.S.C. 1254a) is amended—

23 (1) by striking “Attorney General” each place
24 it appears and inserting “Secretary of Homeland Se-
25 curity”;

1 (2) in subparagraph (e)(2)(B)—

2 (A) in clause (i), by striking “or” at the
3 end;

4 (B) in clause (ii), by striking the period
5 and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(iii) the alien is, or at any time has
8 been, described in section 212(a)(2)(J) or
9 section 237(a)(2)(G).”; and

10 (3) in subsection (d)—

11 (A) by striking paragraph (3); and

12 (B) in paragraph (4), by adding at the end
13 the following: “The Secretary of Homeland Se-
14 curity may detain an alien provided temporary
15 protected status under this section whenever
16 appropriate under any other provision of law.”.

17 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
18 101(a)(27)(J)(iii) of the Immigration and Nationality Act
19 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

20 (1) in subclause (I), by striking “and”;

21 (2) in subclause (II), by adding “and” at the
22 end; and

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

24 “(III) no alien who is, or at any
25 time has been, described in section

1 212(a)(2)(J) or section 237(a)(2)(G)
2 shall be eligible for any immigration
3 benefit under this subparagraph;”.

4 (i) PAROLE.—An alien described in section
5 212(a)(2)(J) of the Immigration and Nationality Act, as
6 added by subsection (b), shall not be eligible for parole
7 under section 212(d)(5)(A) of such Act unless—

8 (1) the alien is assisting or has assisted the
9 United States Government in a law enforcement
10 matter, including a criminal investigation; and

11 (2) the alien’s presence in the United States is
12 required by the Government with respect to such as-
13 sistance.

14 (j) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act and shall apply to acts that occur before, on,
17 or after the date of the enactment of this Act.

18 **SEC. 9. BORDER SECURITY FUNDING.**

19 (a) FUNDING.—In addition to amounts otherwise
20 made available by this Act or any other provision of law,
21 there is hereby appropriated to the “U.S. Customs and
22 Border Protection—Procurement, Construction, and Im-
23 provements” account, out of any amounts in the Treasury
24 not otherwise appropriated, \$23,400,000,000, to be avail-
25 able as described in subsections (b) and (c), of which—

1 (1) \$16,625,000,000 shall be for a border wall
2 system along the southern border of the United
3 States, including physical barriers and associated de-
4 tection technology, roads, and lighting; and

5 (2) \$6,775,000,000 shall be for infrastructure,
6 assets, operations, and technology to enhance border
7 security along the southern border of the United
8 States, including—

9 (A) border security technology, including
10 surveillance technology, at and between ports of
11 entry;

12 (B) new roads and improvements to exist-
13 ing roads;

14 (C) U.S. Border Patrol facilities and ports
15 of entry;

16 (D) aircraft, aircraft-based sensors and as-
17 sociated technology, vessels, spare parts, and
18 equipment to maintain such assets;

19 (E) a biometric entry and exit system; and

20 (F) family residential centers.

21 (b) AVAILABILITY OF BORDER WALL SYSTEM
22 FUNDS.—

23 (1) IN GENERAL.—Of the amount appropriated
24 in subsection (a)(1)—

1 (A) \$5,510,244,000 shall become available
2 October 1, 2018;

3 (B) \$1,715,000,000 shall become available
4 October 1, 2019;

5 (C) \$2,140,000,000 shall become available
6 October 1, 2020;

7 (D) \$1,735,000,000 shall become available
8 October 1, 2021;

9 (E) \$1,746,000,000 shall become available
10 October 1, 2022;

11 (F) \$1,776,000,000 shall become available
12 October 1, 2023; and

13 (G) \$2,002,756,000 shall become available
14 October 1, 2024.

15 (2) PERIOD OF AVAILABILITY.—An amount
16 made available under subparagraph (A), (B), (C),
17 (D), (E), (F), or (G) of paragraph (1) shall remain
18 available for five years after the date specified in
19 that subparagraph.

20 (c) AVAILABILITY OF BORDER SECURITY INVEST-
21 MENT FUNDS.—

22 (1) IN GENERAL.—Of the amount appropriated
23 in subsection (a)(2)—

24 (A) \$500,000,000 shall become available
25 October 1, 2018;

1 (B) \$1,850,000,000 shall become available
2 October 1, 2019;

3 (C) \$1,950,000,000 shall become available
4 October 1, 2020;

5 (D) \$1,925,000,000 shall become available
6 October 1, 2021; and

7 (E) \$550,000,000 shall become available
8 October 1, 2022.

9 (2) PERIOD OF AVAILABILITY.—An amount
10 made available under subparagraph (A), (B), (C),
11 (D), or (E) of paragraph (1) shall remain available
12 for five years after the date specified in that sub-
13 paragraph.

14 (3) TRANSFER AUTHORITY.—

15 (A) IN GENERAL.—Notwithstanding any
16 limitation on transfer authority in any other
17 provision of law and subject to the notification
18 requirement in subparagraph (B), the Secretary
19 of Homeland Security may transfer any
20 amounts made available under paragraph (1) to
21 the “U.S. Customs and Border Protection—Op-
22 erations and Support” account only to the ex-
23 tent necessary to carry out the purposes de-
24 scribed in subsection (a)(2).

1 (B) NOTIFICATION REQUIRED.—The Sec-
2 retary shall notify the Committees on Appro-
3 priations of the Senate and the House of Rep-
4 resentatives not later than 30 days before each
5 such transfer.

6 (d) MULTI-YEAR SPENDING PLAN.—The Secretary
7 of Homeland Security shall include in the budget justifica-
8 tion materials submitted in support of the President’s an-
9 nual budget request for fiscal year 2020 (as submitted
10 under section 1105(a) of title 31, United States Code) a
11 multi-year spending plan for the amounts made available
12 under subsection (a).

13 (e) EXPENDITURE PLAN.—Each amount that be-
14 comes available in accordance with subsection (b) or (c)
15 may not be obligated until the date that is 30 days after
16 the date on which the Committees on Appropriations of
17 the Senate and the House of Representatives receive a de-
18 tailed plan, prepared by the Commissioner of U.S. Cus-
19 toms and Border Protection, for the expenditure of such
20 amount.

21 (f) QUARTERLY BRIEFING REQUIREMENT.—Begin-
22 ning not later than 180 days after the date of the enact-
23 ment of this Act, and quarterly thereafter, the Commis-
24 sioner of U.S. Customs and Border Protection shall brief
25 the Committees on Appropriations of the Senate and the

1 House of Representatives regarding activities under and
2 progress made in carrying out this section.

3 (g) RULES OF CONSTRUCTION.—Nothing in this sec-
4 tion may be construed to limit the availability of funds
5 made available by any other provision of law for carrying
6 out the requirements of this Act or the amendments made
7 by this Act. Any reference in this section to an appropria-
8 tion account shall be construed to include any successor
9 accounts.

10 (h) DISCRETIONARY AMOUNTS.—Notwithstanding
11 any other provision of law, the amounts appropriated
12 under subsection (a) are discretionary appropriations (as
13 that term is defined in section 250(c)(7) of the Balanced
14 Budget and Emergency Deficit Control Act of 1985 (2
15 U.S.C. 900(c)(7)).

16 **SEC. 10. EXCLUSION FROM PAYGO SCORECARDS.**

17 The budgetary effects of this Act shall not be entered
18 on either PAYGO scorecard maintained pursuant to sec-
19 tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

○