

109TH CONGRESS
2D SESSION

S. 2391

To improve the security of the United States borders and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2006

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the security of the United States borders 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Border Operations Reform and Development of Elec-
6 tronic Remote Surveillance Act of 2006” or as the “BOR-
7 DERS Act of 2006”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Surveillance technologies programs.

- Sec. 5. Secure communication.
- Sec. 6. Expansion of detention capacity.
- Sec. 7. Detention standards.
- Sec. 8. Personnel of the Department of Homeland Security.
- Sec. 9. Personnel of the Department of Justice and other attorneys.
- Sec. 10. State Criminal Alien Assistance Program authorization of appropriations.
- Sec. 11. Reimbursement of States for indirect costs relating to the incarceration of illegal aliens.
- Sec. 12. Reimbursement of States for preconviction costs relating to the incarceration of illegal aliens.
- Sec. 13. Criminal gang activity.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The Government of the United States has
4 the duty to protect its citizens and to provide for
5 homeland security by securing its international bor-
6 ders.

7 (2) The Government of the United States has
8 failed to adequately secure its international borders,
9 which has facilitated the illegal entry of millions of
10 undocumented aliens into the United States.

11 (3) Illegal immigration poses national security
12 concerns, burdens all levels of Government with
13 extra costs, including imposing hundreds of millions
14 of dollars on States and localities in uncompensated
15 expenses for law enforcement, health care, and other
16 essential services, allows some aliens to gain access
17 to the United States before other aliens who have
18 lawfully waited in line, creates an underclass of
19 workers, and facilitates human trafficking, smug-
20 gling, and document fraud.

1 (4) One critical aspect of comprehensive immi-
2 gration reform is to find aggressive, practical, and
3 cost-effective methods to quickly secure the inter-
4 national borders of the United States. As the bipar-
5 tisan National Commission on Terrorist Attacks
6 Upon the United States concluded, “the United
7 States must be able to monitor and respond to en-
8 trances between our borders”.

9 (5) The Government of the United States
10 should make full use of integrated and automated
11 surveillance technology, including the use of un-
12 manned aerial vehicles, to create a “virtual fence”
13 around the Nation, which could be constructed much
14 more quickly than a physical fence. The Inspector
15 General of the Department recently suggested nu-
16 merous ways to use integrated surveillance tech-
17 nologies to achieve this critical security goal.

18 (6) The Government of the United States
19 should also increase detention facilities to detain
20 aliens who are apprehended sneaking into the
21 United States, as opposed to catching and releasing
22 such aliens and trusting that they will report for im-
23 migration proceedings.

24 (7) In order to reduce costs of detention and to
25 facilitate the process of removing aliens from the

1 United States fairly, the Secretary should establish
2 uniform detention standards and rules.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) DEPARTMENT.—Except as otherwise pro-
6 vided, the term “Department” means the Depart-
7 ment of Homeland Security.

8 (2) SECRETARY.—Except as otherwise provided,
9 the term “Secretary” means the Secretary of Home-
10 land Security.

11 (3) STATE.—Except as otherwise provided, the
12 term “State” has the meaning given that term in
13 section 101(a)(36) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1101 (a)(36)).

15 **SEC. 4. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

16 (a) AERIAL SURVEILLANCE PROGRAM.—

17 (1) IN GENERAL.—In conjunction with the bor-
18 der surveillance plan developed under section 5201
19 of the Intelligence Reform and Terrorism Prevention
20 Act of 2004 (Public Law 108–458; 8 U.S.C. 1701
21 note), the Secretary, not later than 90 days after the
22 date of enactment of this Act, shall develop and im-
23 plement a program to fully integrate and utilize aer-
24 ial surveillance technologies, including unmanned
25 aerial vehicles, to enhance the security of the inter-

1 national border between the United States and Can-
2 ada and the international border between the United
3 States and Mexico. The goal of the program shall be
4 to ensure continuous monitoring of each mile of each
5 such border.

6 (2) ASSESSMENT AND CONSULTATION REQUIRE-
7 MENTS.—In developing the program under this sub-
8 section, the Secretary shall—

9 (A) consider current and proposed aerial
10 surveillance technologies;

11 (B) assess the feasibility and advisability
12 of utilizing such technologies to address border
13 threats, including an assessment of the tech-
14 nologies considered best suited to address re-
15 spective threats;

16 (C) consult with the Secretary of Defense
17 regarding any technologies or equipment, which
18 the Secretary may deploy along an international
19 border of the United States; and

20 (D) consult with the Administrator of the
21 Federal Aviation Administration regarding safe-
22 ty, airspace coordination and regulation, and
23 any other issues necessary for implementation
24 of the program.

25 (3) ADDITIONAL REQUIREMENTS.—

1 (A) IN GENERAL.—The program developed
2 under this subsection shall include the use of a
3 variety of aerial surveillance technologies in a
4 variety of topographies and areas, including
5 populated and unpopulated areas located on or
6 near an international border of the United
7 States, in order to evaluate, for a range of cir-
8 cumstances—

9 (i) the significance of previous experi-
10 ences with such technologies in border se-
11 curity or critical infrastructure protection;

12 (ii) the cost and effectiveness of var-
13 ious technologies for border security, in-
14 cluding varying levels of technical com-
15 plexity; and

16 (iii) liability, safety, and privacy con-
17 cerns relating to the utilization of such
18 technologies for border security.

19 (4) CONTINUED USE OF AERIAL SURVEILLANCE
20 TECHNOLOGIES.—The Secretary may continue the
21 operation of aerial surveillance technologies while as-
22 sessing the effectiveness of the utilization of such
23 technologies.

24 (5) REPORT TO CONGRESS.—Not later than 1
25 year after implementing the program under this sub-

1 section, the Secretary shall submit a report to Con-
2 gress regarding the program developed under this
3 subsection. The Secretary shall include in the report
4 a description of the program together with such rec-
5 ommendations as the Secretary finds appropriate for
6 enhancing the program.

7 (6) AUTHORIZATION OF APPROPRIATIONS.—
8 There are authorized to be appropriated such sums
9 as may be necessary to carry out this subsection.

10 (b) INTEGRATED AND AUTOMATED SURVEILLANCE
11 PROGRAM.—

12 (1) REQUIREMENT FOR PROGRAM.—Subject to
13 the availability of appropriations, the Secretary shall
14 establish a program to procure additional unmanned
15 aerial vehicles, cameras, poles, sensors, satellites,
16 radar coverage, and other technologies necessary to
17 achieve operational control of the international bor-
18 ders of the United States and to establish a security
19 perimeter known as a “virtual fence” along such
20 international borders to provide a barrier to illegal
21 immigration. Such program shall be known as the
22 Integrated and Automated Surveillance Program.

23 (2) PROGRAM COMPONENTS.—The Secretary
24 shall ensure, to the maximum extent feasible, the In-

1 tegrated and Automated Surveillance Program is
2 carried out in a manner that—

3 (A) the technologies utilized in the Pro-
4 gram are integrated and function cohesively in
5 an automated fashion, including the integration
6 of motion sensor alerts and cameras, whereby a
7 sensor alert automatically activates a cor-
8 responding camera to pan and tilt in the direc-
9 tion of the triggered sensor;

10 (B) cameras utilized in the Program do
11 not have to be manually operated;

12 (C) such camera views and positions are
13 not fixed;

14 (D) surveillance video taken by such cam-
15 eras can be viewed at multiple designated com-
16 munications centers;

17 (E) a standard process is used to collect,
18 catalog, and report intrusion and response data
19 collected under the Program;

20 (F) future remote surveillance technology
21 investments and upgrades for the Program can
22 be integrated with existing systems;

23 (G) performance measures are developed
24 and applied that can evaluate whether the Pro-
25 gram is providing desired results and increasing

1 response effectiveness in monitoring and detect-
2 ing illegal intrusions along the international
3 borders of the United States;

4 (H) plans are developed under the Pro-
5 gram to streamline site selection, site valida-
6 tion, and environmental assessment processes to
7 minimize delays of installing surveillance tech-
8 nology infrastructure;

9 (I) standards are developed under the Pro-
10 gram to expand the shared use of existing pri-
11 vate and governmental structures to install re-
12 mote surveillance technology infrastructure
13 where possible; and

14 (J) standards are developed under the Pro-
15 gram to identify and deploy the use of non-
16 permanent or mobile surveillance platforms that
17 will increase the Secretary's mobility and ability
18 to identify illegal border intrusions.

19 (3) REPORT TO CONGRESS.—Not later than 1
20 year after the initial implementation of the Inte-
21 grated and Automated Surveillance Program, the
22 Secretary shall submit to Congress a report regard-
23 ing the Program. The Secretary shall include in the
24 report a description of the Program together with

1 any recommendation that the Secretary finds appro-
2 priate for enhancing the program.

3 (4) EVALUATION OF CONTRACTORS.—

4 (A) REQUIREMENT FOR STANDARDS.—The
5 Secretary shall set develop appropriate stand-
6 ards to evaluate the performance of any con-
7 tractor providing goods or services to carry out
8 the Integrated and Automated Surveillance
9 Program.

10 (B) REVIEW BY THE INSPECTOR GEN-
11 ERAL.—The Inspector General of the Depart-
12 ment shall timely review each new contract re-
13 lated to the Program that has a value of more
14 than \$5,000,000, to determine whether such
15 contract fully complies with applicable cost re-
16 quirements, performance objectives, program
17 milestones, and schedules. The Inspector Gen-
18 eral shall report the findings of such review to
19 the Secretary in a timely manner. Not later
20 than 30 days after the date the Secretary re-
21 ceives a report of findings from the Inspector
22 General, the Secretary shall submit to the Com-
23 mittee on Homeland Security and Govern-
24 mental Affairs of the Senate and the Committee
25 on Homeland Security of the House of Rep-

1 representatives a report of such findings and a de-
2 scription of any the steps that the Secretary
3 has taken or plans to take in response to such
4 findings.

5 (5) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this subsection.

8 **SEC. 5. SECURE COMMUNICATION.**

9 The Secretary shall, as expeditiously as practicable,
10 develop and implement a plan to ensure clear and secure
11 2-way communication capabilities, including the specific
12 use of satellite communications—

13 (1) among all Border Patrol agents conducting
14 operations between ports of entry;

15 (2) between Border Patrol agents and their re-
16 spective Border Patrol stations; and

17 (3) between all appropriate border security
18 agencies of the Department and State, local, and
19 tribal law enforcement agencies.

20 **SEC. 6. EXPANSION OF DETENTION CAPACITY.**

21 (a) INCREASING DETENTION BED SPACE.—Section
22 5204(a) of the Intelligence Reform and Terrorism Protec-
23 tion Act of 2004 (Public Law 108–458; 118 Stat. 3734)
24 is amended by striking “8,000” and inserting “20,000”.

1 (b) CONSTRUCTION OF OR ACQUISITION OF DETEN-
2 TION FACILITIES.—

3 (1) REQUIREMENT TO CONSTRUCT OR AC-
4 QUIRE.—The Secretary shall construct or acquire
5 additional detention facilities in the United States to
6 accommodate the detention beds required by section
7 5204(e) of the Intelligence Reform and Terrorism
8 Protection Act of 2004, as amended by subsection
9 (a).

10 (2) USE OF ALTERNATE DETENTION FACILI-
11 TIES.—Subject to the availability of appropriations,
12 the Secretary shall fully utilize all possible options to
13 cost effectively increase available detention capaci-
14 ties, and shall utilize detention facilities that are
15 owned and operated by the Federal Government if
16 the use of such facilities is cost effective.

17 (c) SECURE ALTERNATIVES TO DETENTION TO EN-
18 SURE COMPLIANCE WITH THE LAW.—The Secretary shall
19 implement demonstration programs in each State located
20 along the international border between the United States
21 and Canada or along the international border between the
22 United States and Mexico, and at select sites in the inte-
23 rior with significant numbers of alien detainees, to study
24 the effectiveness of alternatives to the detention of aliens,
25 including electronic monitoring devices, to ensure that

1 such aliens appear in immigration court proceedings and
2 comply with immigration appointments and removal or-
3 ders.

4 (d) **LEGAL REPRESENTATION.**—No alien shall be de-
5 tained by the Secretary in a location that limits the alien’s
6 reasonable access to visits and telephone calls by local
7 legal counsel and necessary legal materials. Upon active
8 or constructive notice that a detained alien is represented
9 by an attorney, the Secretary shall ensure that the alien
10 is not moved from the alien’s detention facility without
11 providing that alien and the alien’s attorney reasonable
12 notice in advance of such move.

13 (e) **ANNUAL REPORT TO CONGRESS.**—Not later than
14 1 year after the date of the enactment of this Act, and
15 annually thereafter, in consultation with the heads of
16 other appropriate Federal agencies, the Secretary shall
17 submit to Congress an assessment of the additional deten-
18 tion facilities and bed space needed to detain unlawful
19 aliens apprehended at the United States ports of entry or
20 along the international land borders of the United States.

21 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out this section.

1 **SEC. 7. DETENTION STANDARDS.**

2 (a) CODIFICATION OF DETENTION OPERATIONS.—In
3 order to ensure uniformity in the safety and security of
4 all facilities used or contracted by the Secretary to hold
5 alien detainees and to ensure the fair treatment and access
6 to counsel of all alien detainees, not later than 180 days
7 after the date of the enactment of this Act, the Secretary
8 shall issue the provisions of the Detention Operations
9 Manual of the Department, including all amendments
10 made to such Manual since it was issued in 2000, as regu-
11 lations for the Department. Such regulations shall be sub-
12 ject to the notice and comment requirements of subchapter
13 II of chapter 5 of title 5, United States Code (commonly
14 referred to as the Administrative Procedure Act) and shall
15 apply to all facilities used by the Secretary to hold detain-
16 ees for more than 72 hours.

17 (b) DETENTION STANDARDS FOR NUCLEAR FAMILY
18 UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all
19 facilities used or contracted by the Secretary to hold
20 aliens, the regulations described in subsection (a) shall—

21 (1) provide for sight and sound separation of
22 alien detainees without any criminal convictions
23 from criminal inmates and pretrial detainees facing
24 criminal prosecution; and

25 (2) establish specific standards for detaining
26 nuclear family units together and for detaining non-

1 criminal applicants for asylum, withholding of re-
2 moval, or protection under the Convention Against
3 Torture and Other Cruel, Inhuman or Degrading
4 Treatment or Punishment, done at New York De-
5 cember 10, 1984, in civilian facilities cognizant of
6 their special needs.

7 (c) **LEGAL ORIENTATION TO ENSURE EFFECTIVE**
8 **REMOVAL PROCESS.**—All alien detainees shall receive
9 legal orientation presentations from an independent non-
10 profit agency as implemented by the Executive Office for
11 Immigration Review of the Department of Justice in order
12 to both maximize the efficiency and effectiveness of re-
13 moval proceedings and to reduce detention costs.

14 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out this section.

17 **SEC. 8. PERSONNEL OF THE DEPARTMENT OF HOMELAND**
18 **SECURITY.**

19 (a) **CUSTOMS AND BORDER PROTECTION OFFI-**
20 **CERS.**—During each of the fiscal years 2007 through
21 2011, the Secretary shall, subject to the availability of ap-
22 propriations for such purpose, increase by not less than
23 1,500 the number of positions for full-time active duty of-
24 ficers of the Bureau of Customs and Border Protection
25 of the Department for such fiscal year.

1 (b) BORDER PATROL AGENTS.—During each of the
2 fiscal years 2007 through 2011, the Secretary shall, sub-
3 ject to the availability of appropriations for such purpose,
4 increase by not less than 4,000 the number of border pa-
5 trol agents for such fiscal year.

6 (c) IMMIGRATION AND CUSTOMS ENFORCEMENT IN-
7 VESTIGATORS.—Section 5203 of the Intelligence Reform
8 and Terrorism Prevention Act of 2004 (Public Law 108–
9 458; 118 Stat. 3734) is amended by striking “800” and
10 inserting “1600”.

11 (d) DETENTION AND REMOVAL OFFICERS.—During
12 each of the fiscal years 2007 through 2011, the Secretary
13 shall, subject to the availability of appropriations for such
14 purposes, designate a Detention and Removal officer to
15 be placed in each Department field office whose sole re-
16 sponsibility will be to ensure safety and security at a de-
17 tention facility and that each detention facility compliance
18 with the standards and regulations set forth in section 7.

19 (e) INVESTIGATIVE PERSONNEL.—In addition to the
20 positions authorized under section 5203 of the Intelligence
21 Reform and Terrorism Prevention Act of 2004, as amend-
22 ed by subsection (c), during each of the fiscal years 2007
23 through 2011, the Secretary shall, subject to the avail-
24 ability of appropriations for such purpose, increase by not
25 less than 200 the number of positions for investigative

1 personnel within the Department to investigate alien
2 smuggling and immigration status violations for such fis-
3 cal year.

4 (f) LEGAL PERSONNEL.—During each of the fiscal
5 years 2007 through 2011, the Secretary shall, subject to
6 the availability of appropriations for such purpose, in-
7 crease by not less than 200 the number of positions for
8 attorneys in the Office of General Counsel of the Depart-
9 ment who represent the Department in immigration mat-
10 ters for such fiscal year.

11 (g) DIRECTORATE OF POLICY.—The Secretary shall
12 in consultation, with the Director of Policy of the Direc-
13 torate of Policy, add at least 3 additional positions at the
14 Directorate of Policy that—

15 (1) shall be a position at GS-15 of the General
16 Schedule;

17 (2) are solely responsible for formulating and
18 executing the policy and regulations pertaining to
19 vulnerable detained populations including unaccom-
20 panied alien children, victims of torture, trafficking
21 or other serious harms, the elderly, the mentally dis-
22 abled, and the infirm; and

23 (3) require background and expertise working
24 directly with such vulnerable populations.

1 (h) TRAINING.—The Secretary shall provide appro-
2 priate training for the agents, officers, inspectors, and as-
3 sociated support staff of the Department on an ongoing
4 basis to utilize new technologies and techniques, to iden-
5 tify and detect fraudulent travel documents, and to ensure
6 that the proficiency levels of such personnel are acceptable
7 to protect the international borders of the United States.
8 Training to detect fraudulent travel documents shall be
9 developed in consultation with the Forensic Document
10 Laboratory of Immigration and Customs Enforcement.

11 (i) ENHANCED PROTECTIONS FOR VULNERABLE UN-
12 ACCOMPANIED ALIEN CHILDREN.—

13 (1) MANDATORY TRAINING.—The Secretary
14 shall mandate the training of all personnel who come
15 into contact with unaccompanied alien children in all
16 relevant legal authorities, policies, and procedures
17 pertaining to this vulnerable population in consulta-
18 tion with the head of the Office of Refugee Resettle-
19 ment of the Department of Health and Human
20 Services and independent child welfare experts.

21 (2) DELEGATION TO THE OFFICE OF REFUGEE
22 RESETTLEMENT.—Notwithstanding any other provi-
23 sion of law, the Secretary shall delegate the author-
24 ity and responsibility granted to the Secretary by the
25 Homeland Security Act of 2002 (Public Law 107–

1 296; 116 Stat. 2135) for transporting unaccom-
2 panied alien children who will undergo removal pro-
3 ceedings from Department custody to the custody
4 and care of the Office of Refugee Resettlement and
5 provide sufficient reimbursement to the head of such
6 Office to undertake this critical function. The Sec-
7 retary shall immediately notify such Office of an un-
8 accompanied alien child in the custody of the De-
9 partment and ensure that the child is transferred to
10 the custody of such Office as soon as practicable,
11 but not later than 72 hours after the child is taken
12 into the custody of the Department.

13 (3) OTHER POLICIES AND PROCEDURES.—The
14 Secretary shall further adopt important policies and
15 procedures—

16 (A) for reliable age-determinations of chil-
17 dren which exclude the use of fallible forensic
18 testing of children’s bones and teeth in con-
19 sultation with medical and child welfare ex-
20 perts;

21 (B) to ensure the privacy and confiden-
22 tiality of unaccompanied alien children’s
23 records, including psychological and medical re-
24 ports, so that the information is not used ad-

1 versely against the child in removal proceedings
2 or for any other immigration action; and

3 (C) in close consultation with the Secretary
4 of State and the head of the Office of Refugee
5 Resettlement, to ensure the safe and secure re-
6 patriation of unaccompanied alien children to
7 their home countries including through arrang-
8 ing placements of children with their families or
9 other sponsoring agencies and to utilize all legal
10 authorities to defer the child's removal if the
11 child faces a clear risk of life-threatening harm
12 upon return.

13 (j) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary for
15 each of fiscal years 2007 through 2011, such sums as may
16 be necessary to carry out this section, including the hiring
17 of necessary support staff.

18 **SEC. 9. PERSONNEL OF THE DEPARTMENT OF JUSTICE**
19 **AND OTHER ATTORNEYS.**

20 (a) LITIGATION ATTORNEYS.—During each of the
21 fiscal years 2007 through 2011, the Attorney General
22 shall, subject to the availability of appropriations for such
23 purpose, increase by not less than 50 the number of posi-
24 tions for attorneys in the Office of Immigration Litigation
25 of the Department of Justice for such fiscal year.

1 (b) UNITED STATES ATTORNEYS.—During each of
2 the fiscal years 2007 through 2011, the Attorney General
3 shall, subject to the availability of appropriations for such
4 purpose, increase by not less than 50 the number of
5 United States Attorneys to litigate immigration cases in
6 the Federal courts for such fiscal year.

7 (c) UNITED STATES MARSHALS.—During each of the
8 fiscal years 2007 through 2011, the Attorney General
9 shall, subject to the availability of appropriations for such
10 purpose, increase by not less than 200 the number of Dep-
11 uty United States Marshals to investigate criminal immi-
12 gration matters.

13 (d) IMMIGRATION JUDGES.—During each of fiscal
14 years 2007 through 2011, the Attorney General shall, sub-
15 ject to the availability of appropriations for such purpose,
16 increase by not less than 50 the number of immigration
17 judges for such fiscal year.

18 (e) DEFENSE ATTORNEYS.—During each of the fiscal
19 years 2007 through 2011, the Director of the Administra-
20 tive Office of the United States Courts shall, subject to
21 the availability of appropriations for such purpose, in-
22 crease by not less than 200 the number of attorneys in
23 the Federal Defenders Program for such fiscal year. The
24 Attorney General shall also take all necessary and reason-

1 able steps to ensure that alien detainees receive appro-
2 priate pro bono representation in immigration matters.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Attorney General
5 for each of fiscal years 2007 through 2011 such sums as
6 may be necessary to carry out this section, including the
7 hiring of necessary support staff.

8 **SEC. 10. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
9 **AUTHORIZATION OF APPROPRIATIONS.**

10 Section 241(i) of the Immigration and Nationality
11 Act (8 U.S.C. 1231(i)) is amended by striking paragraphs
12 (5) and (6) and inserting the following:

13 “(5) AUTHORIZATION OF APPROPRIATIONS.—

14 “(A) IN GENERAL.—There are authorized
15 to be appropriated to carry out this subsection
16 \$950,000,000 for each of the fiscal years 2007
17 through 2011.

18 “(B) LIMITATION ON USE OF FUNDS.—
19 Amounts appropriated pursuant to subpara-
20 graph (A) that are distributed to a State or po-
21 litical subdivision of a State, including a mu-
22 nicipality, may be used only for correctional
23 purposes.”.

1 **SEC. 11. REIMBURSEMENT OF STATES FOR INDIRECT**
 2 **COSTS RELATING TO THE INCARCERATION**
 3 **OF ILLEGAL ALIENS.**

4 Section 501 of the Immigration Reform and Control
 5 Act of 1986 (8 U.S.C. 1365) is amended—

6 (1) in subsection (a)—

7 (A) by striking “for the costs” and insert-
 8 ing the following: “for—

9 “(1) the costs”; and

10 (B) by striking “such State.” and inserting
 11 the following: “such State; and

12 “(2) the indirect costs related to the imprison-
 13 ment described in paragraph (1).”; and

14 (2) by striking subsections (d) through (e) and
 15 inserting the following:

16 “(d) **MANNER OF ALLOTMENT OF REIMBURSE-**
 17 **MENTS.**—Reimbursements under this section shall be al-
 18 lotted in a manner that gives special consideration for any
 19 State that—

20 “(1) shares a border with Mexico or Canada; or

21 “(2) includes within the State an area in which
 22 a large number of undocumented aliens reside rel-
 23 ative to the general population of that area.

24 “(e) **DEFINITIONS.**—As used in this section:

25 “(1) **INDIRECT COSTS.**—The term ‘indirect
 26 costs’ includes—

1 “(A) court costs, county attorney costs, de-
2 tention costs, and criminal proceedings expendi-
3 tures that do not involve going to trial;

4 “(B) indigent defense costs; and

5 “(C) unsupervised probation costs.

6 “(2) STATE.—The term ‘State’ has the mean-
7 ing given such term in section 101(a)(36) of the Im-
8 migration and Nationality Act.

9 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated \$200,000,000 for each
11 of the fiscal years 2007 through 2011 to carry out this
12 section.”.

13 **SEC. 12. REIMBURSEMENT OF STATES FOR**
14 **PRECONVICTION COSTS RELATING TO THE**
15 **INCARCERATION OF ILLEGAL ALIENS.**

16 Section 241(i)(3)(A) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1231(i)(3)(a)) is amended by inserting
18 “charged with or” before “convicted.”

19 **SEC. 13. CRIMINAL GANG ACTIVITY.**

20 Section 212(a)(2) of the Immigration and Nationality
21 Act (8 U.S.C. 1182(a)(2)) is amended by adding at the
22 end the following:

23 “(J) CRIMINAL GANG ACTIVITY.—

24 “(i) IN GENERAL.—Any alien who a
25 consular officer or the Attorney General

1 knows, or has reasonable grounds to be-
2 lieve, seeks to enter the United States to
3 engage, solely, principally, or incidentally
4 in a criminal street gang located in the
5 United States is inadmissible.

6 “(ii) DEFINITION.—In this subpara-
7 graph, the term ‘criminal street gang’
8 means an ongoing group, club, organiza-
9 tion, or association of 5 or more individ-
10 uals that commits a violation of Federal or
11 State law that is punishable by imprison-
12 ment of 1 year or more.”.

○