

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5316

To secure the border between the United States and Mexico.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2014

Mr. STOCKMAN 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 Foreign Affairs, 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 secure the border between the United States and Mexico.

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 “Safely Exacting Cau-  
5        tious Useful Rules for Immigration This Year (SECU-  
6        RITY) Act”.

7        **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

8        (a) The Congress finds that:

1           (1) An estimated 11,800,000 aliens reside in  
2 the United States in contravention of Federal immi-  
3 gration law.

4           (2) The construction of a double-layered fence  
5 along the entire Southern Border reduces illegal im-  
6 migration, decreases cross-border smuggling, and en-  
7 ables the effective deployment of manpower, as dem-  
8 onstrated by the San Diego sector where a fence was  
9 built in 2004.

10           (3) Aliens, such as the El Salvadoran national  
11 and MS-13 gang members Kevin Fabricio Claros  
12 Cantarero and Julio Martinez, have attempted to  
13 use applications for asylum in order to reside in the  
14 United States.

15           (4) The closing of Border Patrol stations, such  
16 as in June 2011, and failure to deploy the National  
17 Guard to assist the Border Patrol, such as during  
18 the border crisis of June 2014, impaired the ability  
19 of law enforcement to secure the border.

20           (5) The backlog of immigration cases, in which  
21 87 percent of cases where ICE filed Notices to Ap-  
22 pear between 2009 to 2014 are still pending in  
23 2014, could be addressed if Congress knew the num-  
24 ber of judges needed in immigration courts.

1           (6) Illegal aliens, despite being ineligible, re-  
2           ceived \$4.2 billion in additional child tax credits  
3           from the United States Treasury in 2010 by apply-  
4           ing with an individual taxpayer identification num-  
5           ber.

6           (7) Aliens have been applying for and receiving  
7           public benefits from Federal, State, and local gov-  
8           ernments in substantially burdensome levels, such as  
9           \$791.6 million covered by California taxpayers in  
10          2013.

11          (b) The Congress further finds and declares that it  
12         serves a compelling government interest of the United  
13         States to—

14                 (1) establish and regularly evaluate the security  
15                 at United States borders using the same metric;

16                 (2) construct a double-layered fence along the  
17                 entire Southern Border of the United States;

18                 (3) provide adequate manpower for enforcement  
19                 of immigration laws, sufficient judges to address the  
20                 backlog in immigration courts, and the appropriate  
21                 number of beds and facilities to meet immigration  
22                 detention needs;

23                 (4) end the release of dangerous criminal aliens  
24                 and the likelihood of foreign gang members using

1       refugee and asylee status to reside in the United  
2       States; and

3               (5) remove incentives for illegal immigration  
4       provided by the availability of public benefits.

5       **SEC. 3. ACHIEVING AND MAINTAINING OPERATIONAL CON-**  
6                               **TROL OF THE BORDER.**

7       (a) PLAN.—Not later than 180 days of the date of  
8       enactment of this Act, the Secretary of Homeland Security  
9       shall develop and submit to the Committee on Homeland  
10      Security of the House of Representatives and the Com-  
11      mittee on Homeland Security and Governmental Affairs  
12      of the Senate a plan to achieve and maintain operational  
13      control of the entire international land and maritime bor-  
14      ders of the United States. The Secretary shall begin imple-  
15      menting the plan immediately following its submission.

16      (b) DEFINITION OF OPERATIONAL CONTROL OF THE  
17      BORDER.—For purposes of this Act, the term “oper-  
18      ational control” means the prevention of all unlawful en-  
19      tries into the United States, including entries by terror-  
20      ists, other unlawful aliens, instruments of terrorism, nar-  
21      cotics, and other contraband. Any changes to the defini-  
22      tion of “operational control” as defined in this Act must  
23      be approved by Congress.

24      (c) REPORT AND CERTIFICATION.—

1           (1) Not later than one year after the date of  
2           enactment of this Act and annually thereafter, the  
3           Secretary shall submit to the Committee on Home-  
4           land Security of the House of Representatives and  
5           the Committee on Homeland Security and Govern-  
6           mental Affairs of the Senate a report on the  
7           progress made toward achieving and maintaining  
8           operational control of the entire international land  
9           and maritime borders of the United States. Such re-  
10          port shall contain an analysis of the reason why, if  
11          any, operational control has not been achieved or  
12          maintained, and steps the Department will take to  
13          meet its goal of operational control.

14          (2) Within 30 days of receiving the report, the  
15          respective committees in subsection (1) must certify  
16          whether operational control has been met.

17          (d) **FAILURE TO ACHIEVE OPERATIONAL CON-**  
18 **TROL.**—If the Department of Homeland Security fails to  
19 achieve or maintain operational control, then twenty-five  
20 percent of the Department’s Under Secretary for Manage-  
21 ment’s budget will be cut and redistributed to Customs  
22 and Border Protection to go toward surveillance and inter-  
23 diction activities.

1 **SEC. 4. CONSTRUCTION AND COMPLETION OF REIN-**  
2 **FORCED DOUBLE-LAYERED FENCING ALONG**  
3 **THE SOUTHERN BORDER.**

4 (a) Section 564 of division E of the Consolidated Ap-  
5 propriations Act of 2008 (Public Law 110–161) is hereby  
6 repealed.

7 (b) PLAN.—The Secretary of Homeland Security  
8 shall establish a plan to construct double-layered rein-  
9 forced fencing as required under section 3 of the Secure  
10 Fence Act of 2006 (Public Law 109–367). Such plan must  
11 be submitted by the Secretary within 180 days of enact-  
12 ment of this Act to the Committee on Homeland Security  
13 of the House of Representatives and the Committee on  
14 Homeland Security and Governmental Affairs of the Sen-  
15 ate. The plan shall include annual deadlines to complete  
16 a proportion of the total construction of the fence, with  
17 the entirety of the fence to be completed no later than  
18 10 years from the date of the submission of the plan.

19 (c) REPORT.—Not later than one year after the date  
20 of the enactment of this Act, and annually thereafter, the  
21 Secretary of Homeland Security shall submit a report on  
22 the progress of the fence to the Committee on Homeland  
23 Security of the House of Representatives and the Com-  
24 mittee on Homeland Security and Governmental Affairs  
25 of the Senate. The report shall include whether planned  
26 objectives have been achieved by the Secretary’s proposed

1 deadline, and detailed reasons why such deadline, if any,  
2 has not been met.

3 (d) If the Secretary of Homeland Security does not  
4 submit a plan or fencing progress reports as required by  
5 subsections (b) and (c) of this section, the budget of the  
6 Secretary of Homeland Security shall be reduced by twen-  
7 ty-five percent and redistributed to Customs and Border  
8 Protection operations along the border where the fence has  
9 not yet been constructed.

10 **SEC. 5. USE OF NATIONAL GUARD TO SUPPORT DEPART-**  
11 **MENT OF HOMELAND SECURITY BORDER**  
12 **CONTROL ACTIVITIES.**

13 (a) DEPLOYMENT.—In addition to the members of  
14 the National Guard deployed along the Southern Border  
15 as of the date of the enactment of this Act, the Secretary  
16 of Defense shall provide for the deployment of not less  
17 than an additional 10,000 members of the National Guard  
18 to be made available to border State Governors along the  
19 Southern Border until the date on which the Secretary  
20 of Homeland Security certifies that the Federal Govern-  
21 ment has achieved operational control of the Southern  
22 Border as defined in section 2 of this Act.

23 (1) ADDITIONAL DEPLOYMENTS.—The Sec-  
24 retary of Defense may exceed the number specified  
25 in this section at the request of a Governor of a

1 State along the Southern Border if operational con-  
2 trol of the Southern Border has not been achieved.

3 (2) DEPLOYMENT AUTHORITIES.—Members of  
4 the National Guard required to be deployed under  
5 this section may be deployed under section 502(f) of  
6 title 32, United States Code, pursuant to a State  
7 border control activities plan approved under section  
8 112a of such title, as added by this section, or pur-  
9 suant to the order of the Secretary of Defense under  
10 any other provision of law.

11 (b) EXEMPTION FROM END STRENGTHS AND OTHER  
12 LIMITATIONS.—Members of the National Guard deployed  
13 pursuant to this section shall not be included in the cal-  
14 culation to determine compliance with—

15 (1) limits on end strength; or

16 (2) limits on the number of National Guard  
17 personnel that may be placed on active duty for  
18 operational support.

19 (c) FEDERAL ASSISTANCE FOR STATE BORDER CON-  
20 TROL ACTIVITIES PLANS.—Title 32, United States Code,  
21 is amended by adding after section 115, section 116:

22 **“§ 116. Assisting States in securing the border**

23 “(a) FUNDING ASSISTANCE.—The Secretary of De-  
24 fense shall provide funds to the Governor of a State who  
25 submits to the Secretary a State border control activities



1 plan satisfying the requirements of subsection (c). Such  
2 funds shall be used for the following:

3           “(1) The pay, allowances, clothing, subsistence,  
4 gratuities, travel, and related expenses, as author-  
5 ized by State law, of personnel of the National  
6 Guard of that State used, while not in Federal serv-  
7 ice, for the purpose of border control activities.

8           “(2) The operation and maintenance of the  
9 equipment and facilities of the National Guard of  
10 that State used for the purpose of border control ac-  
11 tivities.

12           “(3) The procurement of services and equip-  
13 ment, and the leasing of equipment, for the National  
14 Guard of that State used for the purpose of border  
15 control activities. However, the use of such funds for  
16 the procurement of equipment may not exceed  
17 \$10,000 per item, unless approval for procurement  
18 of equipment in excess of that amount is granted in  
19 advance by the Secretary of Defense.

20           “(b) USE OF PERSONNEL PERFORMING FULL-TIME  
21 NATIONAL GUARD DUTY.—

22           “(1) Under regulations prescribed by the Sec-  
23 retary of Defense, personnel of the National Guard  
24 of a State may, in accordance with the State border  
25 control activities plan referred to in subsection (c),

1 be ordered to perform full-time National Guard duty  
2 under section 502(f) of this title for the purpose of  
3 carrying out border control activities.

4 “(2) A member of the National Guard serving  
5 full-time National Guard duty under orders author-  
6 ized under paragraph (1) shall participate in the  
7 training required under section 502(a) of this title  
8 in addition to the duty performed for the purpose  
9 authorized under that paragraph. The pay, allow-  
10 ances, and other benefits of the member while par-  
11 ticipating in the training shall be the same as those  
12 to which the member is entitled while performing  
13 duty for the purpose of carrying out border control  
14 activities. The member is not entitled to additional  
15 pay, allowances, or other benefits for participation in  
16 training required under section 502(a)(1) of this  
17 title.

18 “(3) Appropriations available for the Depart-  
19 ment of Defense for homeland defense may be used  
20 for paying costs associated with a member’s partici-  
21 pation in training described in this section. Appro-  
22 priations available for paying those costs shall be  
23 available for making the reimbursements.

24 “(c) To ensure that the use of units and personnel  
25 of the National Guard of a State pursuant to a State bor-

1 der control activities plan does not degrade the training  
2 and readiness of such units and personnel, the following  
3 requirements shall apply in determining the border control  
4 activities that units and personnel of the National Guard  
5 of a State may perform:

6           “(1) The performance of the activities may not  
7 adversely affect the quality of that training or other-  
8 wise interfere with the ability of a member or unit  
9 of the National Guard to perform the military func-  
10 tions of the member or unit.

11           “(2) National Guard personnel will not degrade  
12 their military skills as a result of performing the ac-  
13 tivities.

14           “(3) The performance of the activities will not  
15 result in a significant increase in the cost of train-  
16 ing.

17           “(4) In the case of border control activities per-  
18 formed by a unit organized to serve as a unit, the  
19 activities will support valid unit training require-  
20 ments.

21           “(d) PLAN REQUIREMENTS.—A State border control  
22 activities plan shall—

23           “(1) specify how personnel of the National  
24 Guard of that State are to be used in border control  
25 activities in support of the mission of the United

1 States Customs and Border Protection of the De-  
2 partment of Homeland Security;

3 “(2) certify that those operations are to be con-  
4 ducted at a time when the personnel involved are not  
5 in Federal service;

6 “(3) certify that participation by National  
7 Guard personnel in those operations is service in ad-  
8 dition to training required under section 502 of this  
9 title;

10 “(4) certify that any engineer-type activities (as  
11 defined by the Secretary of Defense) under the plan  
12 will be performed only by units and members of the  
13 National Guard;

14 “(5) include a certification by the Attorney  
15 General of the State (or, in the case of a State with  
16 no position of Attorney General, a civilian official of  
17 the State equivalent to a State attorney general)  
18 that the use of the National Guard of the State for  
19 the activities proposed under the plan is authorized  
20 by, and is consistent with, State law; and

21 “(6) certify that the Governor of the State or  
22 a civilian law enforcement official of the State des-  
23 ignated by the Governor has determined that any ac-  
24 tivities included in the plan that are carried out in

1 conjunction with Federal law enforcement agencies  
2 serve a State law enforcement purpose.

3 “(e) EXAMINATION OF PLAN.—Before funds are pro-  
4 vided to the Governor of a State under this section and  
5 before members of the National Guard of that State are  
6 ordered to full-time National Guard duty as authorized in  
7 subsection (b), the Secretary of Defense shall, in consulta-  
8 tion with the Secretary of Homeland Security, examine the  
9 adequacy of the plan submitted by the Governor under  
10 subsection (c). The plan as approved by the Secretary of  
11 Defense may provide for the use of personnel and equip-  
12 ment of the National Guard of that State to assist United  
13 States Customs and Border Protection in the transpor-  
14 tation of aliens who have violated a Federal immigration  
15 law.

16 “(f) ANNUAL REPORT.—The Secretary of Defense  
17 shall submit to Congress within 180 days an annual report  
18 regarding assistance provided and activities carried out  
19 under this section during the preceding fiscal year. The  
20 report shall include the following:

21 “(1) The number of members of the National  
22 Guard deployed along the border.

23 “(2) A description of the border control activi-  
24 ties conducted by the National Guard along the bor-  
25 der.

1           “(3) An accounting of the amount of funds pro-  
2           vided to each State.

3           “(4) A description of the effect on military  
4           training and readiness of using units and personnel  
5           of the National Guard to perform activities under  
6           the State border control activities plans.

7           “(g) STATUTORY CONSTRUCTION.—Nothing in this  
8           section shall be construed as a limitation on the authority  
9           of any unit of the National Guard of a State, when such  
10          unit is not in Federal service, to perform law enforcement  
11          functions authorized to be performed by the National  
12          Guard by the laws of the State concerned.

13          “(h) BORDER CONTROL ACTIVITIES DEFINED.—The  
14          term ‘border control activities’, with respect to the Na-  
15          tional Guard of a State, means the use of National Guard  
16          personnel in border control activities authorized by the law  
17          of the State and requested by the Governor of the State  
18          in support of the mission of the United States Customs  
19          and Border Protection of the Department of Homeland  
20          Security, including activities as follows:

21                  “(1) Armed vehicle and foot patrols along the  
22                  international border between the United States and  
23                  Mexico.

24                  “(2) Interdiction of a vehicle, vessel, aircraft or  
25                  other similar activity.

1           “(3) Search, seizure, and detention of suspects.

2           “(4) Construction of roads, fences, and vehicle  
3 barriers.

4           “(5) Search and rescue operations.

5           “(6) Intelligence gathering, surveillance, and re-  
6 connaissance.

7           “(7) Aviation support.”.

8 **SEC. 6. KEEPING CRIMINAL ALIENS OFF OF THE STREETS.**

9           (a) DETENTION, RELEASE, AND REMOVAL OF  
10 ALIENS ORDERED REMOVED.—

11           (1) In section 241(a)(1)(A) of the Immigration  
12 and Nationality Act, strike “Attorney General” and  
13 insert “Secretary of Homeland Security”.

14           (2) In section 241(a)(1)(B) of the Immigration  
15 and Nationality Act, strike “following:” and insert  
16 “following, if the alien is in the custody of the Sec-  
17 retary on the date in question, and if the alien is not  
18 yet in the custody of the Secretary, then the removal  
19 period will start on the day the alien is taken into  
20 custody of the Secretary after the latest of the fol-  
21 lowing:”.

22           (3) Strike section 241(a)(1)(C) of the Immigra-  
23 tion and Nationality Act, and replace with:

24           “(C) SUSPENSION OF PERIOD.—The re-  
25 moval period shall be extended beyond a period

1 of 90 days and the alien may remain in deten-  
2 tion during such extended period if:

3 “(i) The alien fails or refuses to make  
4 timely application in good faith for travel  
5 or other documents necessary to the alien’s  
6 departure or conspires or acts to prevent  
7 the alien’s removal subject to an order of  
8 removal, or in any other way fails or re-  
9 fuses to fully cooperate with the Secretary  
10 of Homeland Security’s efforts to carry out  
11 the removal order.

12 “(ii) Any court, immigration judge or  
13 the Board of Immigration Appeals orders a  
14 stay of the alien’s removal.

15 “(iii) Another agency takes custody of  
16 the alien.”.

17 (4) In section 241(a)(1)(2) of the Immigration  
18 and Nationality Act, strike “Attorney General” each  
19 time it appears and replace with “Secretary of  
20 Homeland Security”.

21 (5) Strike section 241(a)(3) of the Immigration  
22 and Nationality Act and replace with:

23 “SUPERVISION AFTER 90-DAY PERIOD.—If the  
24 alien does not leave or is not removed within the re-  
25 moval period, or is not detained pursuant to para-



1 graph (8) of this subsection, the alien pending re-  
2 moval shall be subject to supervision under regula-  
3 tions prescribed by the Secretary of Homeland Secu-  
4 rity. The regulations shall include provisions:

5 “(A) Requiring the alien—

6 “(i) to appear before an immigration  
7 officer monthly for identification, and to be  
8 eligible for placement in detention again if  
9 an appearance is missed;

10 “(ii) to give information under oath  
11 about the alien’s nationality, cir-  
12 cumstances, habits, associations, and ac-  
13 tivities, and other information the Sec-  
14 retary of Homeland Security considers ap-  
15 propriate; and

16 “(iii) to obey reasonable restrictions  
17 on the alien’s conduct or activities that the  
18 Secretary of Homeland Security prescribes  
19 for the alien through regulations.

20 “(B) The Secretary of Homeland Security  
21 must ensure—

22 “(i) that the alien’s whereabouts are  
23 continually monitored electronically to pre-  
24 vent the alien absconding;

1           “(ii) that local law enforcement are  
2 notified upon the alien’s settlement in a  
3 community of the alien’s arrival and  
4 known criminal history; and

5           “(iii) that any other reasonable pre-  
6 cautions in light of the alien’s cir-  
7 cumstances of release are taken for the  
8 protection of the community, at the Fed-  
9 eral Government’s expense.”.

10           (6) In section 241(a)(4) of the Immigration and  
11 Nationality Act, strike “Attorney General” each  
12 time it appears and replace with “Secretary of  
13 Homeland Security”.

14           (7) In section 241(a)(6) of the Immigration and  
15 Nationality Act, insert following “comply with the  
16 order of removal”, “, in accordance with the proce-  
17 dures in paragraph (8)”.

18           (8) Insert after paragraph (7):

19           “(8) DETENTION OF ALIENS FROM COUNTRIES  
20 REFUSING REPATRIATION.—The Secretary of Home-  
21 land Security shall establish an administrative re-  
22 view process through the rulemaking process, avail-  
23 able only to those aliens who are not otherwise sub-  
24 ject to mandatory detention, to determine whether  
25 and how to release those aliens who have received a

1 final order of removal, and have made all reasonable  
2 efforts to comply, including fully cooperating with  
3 the Secretary of Homeland Security, but the United  
4 States has been unable to return to the alien's coun-  
5 try of origin.

6 “(A) The Secretary will have the authority  
7 to detain the alien for 90 days beyond the re-  
8 moval period even if this review process is not  
9 instituted.

10 “(B) At the end of the removal period, the  
11 Secretary shall indicate in writing if the review  
12 process should be initiated.

13 “(C) The first hearing to determine wheth-  
14 er the alien should be released shall be held  
15 within 90 days after the Secretary indicates the  
16 review process shall be initiated.

17 “(D) Both the Secretary and the alien  
18 shall be able to present evidence during this re-  
19 view process.

20 “(E) There will be further hearings every  
21 180 days to determine whether the alien should  
22 remain in detention or, if released, be again de-  
23 tained, until the alien is removed from the  
24 United States or otherwise leaves the country.

1           “(F) During the review process, the alien  
2           may continue to be detained, or, if released,  
3           shall be detained again, if evidence is presented  
4           at the first or subsequent hearing that—

5                   “(i) there is still any significant likeli-  
6                   hood the alien may be removed,

7                   “(ii) the alien has a highly contagious  
8                   disease that poses a threat to public safety,

9                   “(iii) the Secretary of State says re-  
10                  lease would have adverse foreign policy  
11                  consequences,

12                  “(iv) there is reason to believe based  
13                  on classified information that releasing the  
14                  alien would threaten the security of the  
15                  United States,

16                  “(v) the release of the alien would  
17                  threaten the safety of the community or  
18                  any individual,

19                  “(vi) conditions of release cannot be  
20                  expected to ensure the safety of the com-  
21                  munity,

22                  “(vii) the alien has committed any ag-  
23                  gravated felonies as defined in section  
24                  101(a)(43)(A) of this Act, or a crime of vi-  
25                  olence as defined in 16 U.S.C. 18, or

1           “(viii) because of a mental condition  
2           the alien is likely to commit a crime of vio-  
3           lence or threaten the safety of himself or  
4           any other person.

5           “(G) The review will allow one administra-  
6           tive appeal of the outcome of the hearing. After  
7           the alien has exhausted his administrative rem-  
8           edies, review of the outcome will only be avail-  
9           able through habeas corpus proceedings under  
10          the U.S. District Court for the District of Co-  
11          lumbia.

12          “(H) If the review determines that the  
13          alien should be released, the Secretary of  
14          Homeland Security shall provide notice to the  
15          chief law enforcement officers of the State and  
16          local jurisdiction in which the alien is released  
17          of the identity of the alien and the cir-  
18          cumstances which under which he or she was  
19          not able to be removed or detained, and will de-  
20          scribe what sanctions, if any, have been applied  
21          to the alien’s country, if the alien has not been  
22          removed because that country has refused to  
23          accept the alien.”.

1 (b) Strike section 243(d) of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1253(d)) and replace with the fol-  
3 lowing:

4 “(d) SANCTIONS ON COUNTRIES WHICH DENY OR  
5 DELAY ACCEPTING ALIENS.—

6 “(1) COUNTRIES REFUSING OR UNREASONABLY  
7 DELAYING REPATRIATION.—If a country for more  
8 than 60 days after receiving a request from an offi-  
9 cial of the United States who is authorized to make  
10 such a request refuses to accept an alien who is a  
11 citizen, national, subject, or resident, that country  
12 will be considered to be refusing or unreasonably de-  
13 laying repatriation.

14 “(2) REPORT.—

15 “(A) Within 90 days after the date of the  
16 enactment of this Act, the Secretary of Home-  
17 land Security shall prepare, publish publicly to  
18 the Department of Homeland Security Website,  
19 and submit to Congress a report listing for each  
20 month the following:

21 “(i) The number of aliens without  
22 lawful status or presence released from the  
23 custody of the Department of Homeland  
24 Security with criminal convictions or ar-  
25 rests, including a list of the crimes for

1           which each alien was convicted or arrested,  
2           the reason for the release from custody,  
3           and the detention status of each alien.

4           “(ii) The number of aliens without  
5           lawful status or presence that come from a  
6           country, which, in the previous six months,  
7           refused or unreasonably delaying repa-  
8           triating its citizens, nationals, subjects, or  
9           residents, and will include the total number  
10          of aliens from each country that has re-  
11          fused or delayed repatriation, the detention  
12          status of each of these aliens, and the  
13          criminal record of each of these aliens.

14          “(B) Following the first report, the Sec-  
15          retary shall submit subsequent reports annu-  
16          ally. If the Secretary of Homeland Security  
17          misses the deadline for submitting one of these  
18          reports by more than 90 days, any American  
19          citizen has a cause of action in the United  
20          States District Court against the Secretary to  
21          compel the Secretary to publish the late report.

22          “(3) VISAS.—Not later than 60 days after the  
23          first report has been submitted, and for each report  
24          thereafter, the Secretary of State may not issue a  
25          visa to any citizen, national, subject, or resident of

1 a country listed in the report. This subsection will  
2 apply to the country until a report pursuant to sub-  
3 section (2) of this section is submitted to Congress  
4 or the Secretary of Homeland Security otherwise  
5 certifies that the country no longer meets the re-  
6 quirements to be listed in the report, and the coun-  
7 try has issued appropriate travel documents to and  
8 accepted every alien listed in a report that they have  
9 refused. If the State Department should issue a visa  
10 to a citizen, national, subject, or resident when it is  
11 not legal to do so under this section, that visa shall  
12 be null and void under law. If a State Department  
13 issues a visa when it is not legal to do so under this  
14 section, employees of the State Department shall no  
15 longer be eligible for bonuses or salary increases  
16 until it has revoked all such unlawful visas and  
17 stopped issuing such visas.

18 “(4) TRADE.—If a country listed in the report  
19 has any favored or preferred status in a trade agree-  
20 ment with the United States, the country will lose  
21 that status. This sanction will apply to the country  
22 until another report is submitted to Congress or the  
23 Secretary of Homeland Security otherwise certifies  
24 that the country no longer meets the requirements  
25 to be listed in the report, and the country has issued



1 appropriate travel documents to and accepted every  
2 alien listed in a report that they have refused.

3 “(5) FOREIGN AID.—If a country listed in the  
4 report receives any money from the United States in  
5 foreign aid, the United States will discontinue all  
6 such aid. This sanction will apply to the country  
7 until another report is submitted to Congress or the  
8 Secretary of Homeland Security otherwise certifies  
9 that the country no longer meets the requirements  
10 to be listed in the report, and the country has issued  
11 appropriate travel documents to and accepted every  
12 alien listed in a report that they have refused.”.

13 (c) SEVERABILITY.—If any of the provisions of this  
14 Act is held to be invalid for any reason, the remainder  
15 of the Act shall not be affected by such holding.

16 **SEC. 7. GROUNDS OF INADMISSIBILITY AND DEPORT-**  
17 **ABILITY FOR ALIEN GANG MEMBERS.**

18 (a) DEFINITION OF GANG MEMBER.—Section 101(a)  
19 of the Immigration and Nationality Act (8 U.S.C.  
20 1101(a)) is amended by adding at the end the following:

21 “(53)(A) The term ‘criminal gang’ means an  
22 ongoing group, club, organization, or association of  
23 5 or more persons that has as one of its primary  
24 purposes the commission of 1 or more of the fol-  
25 lowing criminal offenses and the members of which

1 engage, or have engaged within the past 5 years, in  
2 a continuing series of such offenses, or that has been  
3 designated as a criminal gang by the Secretary of  
4 Homeland Security, in consultation with the Attor-  
5 ney General, as meeting these criteria. The offenses  
6 described, whether in violation of Federal or State  
7 law or foreign law and regardless of whether the of-  
8 fenses occurred before, on, or after the date of the  
9 enactment of this paragraph, are the following:

10 “(i) A ‘felony drug offense’ (as defined in  
11 section 102 of the Controlled Substances Act  
12 (21 U.S.C. 802)).

13 “(ii) An offense under section 274 (related  
14 to bringing in and harboring certain aliens),  
15 section 277 (relating to aiding or assisting cer-  
16 tain aliens to enter the United States), or sec-  
17 tion 278 (relating to importation of alien for  
18 immoral purpose).

19 “(iii) A crime of violence (as defined in  
20 section 16 of title 18, United States Code).

21 “(iv) A crime involving obstruction of jus-  
22 tice, tampering with or retaliating against a  
23 witness, victim, or informant, or burglary.

24 “(v) Any conduct punishable under sec-  
25 tions 1028 and 1029 of title 18, United States

1 Code (relating to fraud and related activity in  
2 connection with identification documents or ac-  
3 cess devices), sections 1581 through 1594 of  
4 such title (relating to peonage, slavery and traf-  
5 ficking in persons), section 1952 of such title  
6 (relating to interstate and foreign travel or  
7 transportation in aid of racketeering enter-  
8 prises), section 1956 of such title (relating to  
9 the laundering of monetary instruments), sec-  
10 tion 1957 of such title (relating to engaging in  
11 monetary transactions in property derived from  
12 specified unlawful activity), or sections 2312  
13 through 2315 of such title (relating to inter-  
14 state transportation of stolen motor vehicles or  
15 stolen property).

16 “(vi) A conspiracy to commit an offense  
17 described in clauses (i) through (v).

18 “(B) Notwithstanding any other provision of  
19 law (including any effective date), the term applies  
20 regardless of whether the conduct occurred before,  
21 on, or after the date of enactment of this para-  
22 graph.”.

23 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act  
24 (8 U.S.C. 1182(a)(2)), is amended by adding at the end  
25 the following:

1           “(J) ALIENS ASSOCIATED WITH CRIMINAL  
2 GANGS.—Any alien is inadmissible who a con-  
3 sular officer, the Secretary of Homeland Secu-  
4 rity, or the Attorney General knows or has rea-  
5 son to believe—

6                   “(i) to be or to have been a member  
7 of a criminal gang (as defined in section  
8 101(a)(53)); or

9                   “(ii) to have participated in the activi-  
10 ties of a criminal gang (as defined in sec-  
11 tion 101(a)(53)), knowing or having reason  
12 to know that such activities will promote,  
13 further, aid, or support the illegal activity  
14 of the criminal gang.”.

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

18           “(G) ALIENS ASSOCIATED WITH CRIMINAL  
19 GANGS.—Any alien is deportable who the Sec-  
20 retary of Homeland Security or the Attorney  
21 General knows or has reason to believe—

22                   “(i) is or has been a member of a  
23 criminal gang (as defined in section  
24 101(a)(53)); or

1                   “(ii) has participated in the activities  
2                   of a criminal gang (as so defined), knowing  
3                   or having reason to know that such activi-  
4                   ties will promote, further, aid, or support  
5                   the illegal activity of the criminal gang.”.

6           (d) DESIGNATION.—

7                   (1) IN GENERAL.—The Immigration and Na-  
8                   tionality Act (8 U.S.C. 1182) is amended by insert-  
9                   ing after section 219 the following:

10   **“SEC. 220. DESIGNATION OF CRIMINAL STREET GANG.**

11           “(a) DESIGNATION.—The Secretary of Homeland Se-  
12           curity, in consultation with the Attorney General and the  
13           Secretary of State, may designate a group or association  
14           as a criminal street gang if its conduct is described in sec-  
15           tion 101(a)(53) or if the group or association conduct  
16           poses a significant risk that threatens the security and the  
17           public safety, national security, homeland security, foreign  
18           policy, or economy of the United States.

19           “(b) EFFECTIVE DATE.—Designations under sub-  
20           section (a) shall remain in effect until the designation is  
21           revoked after consultation between the Secretary of Home-  
22           land Security, the Attorney General, and the Secretary of  
23           State or is terminated in accordance with Federal law.  
24           The Secretary shall notify the Senate Judiciary Com-  
25           mittee and the House Judiciary Committee of any revoca-

1 tion of designation at least 30 days before the revocation  
2 takes effect.”.

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

“Sec. 220. Designation of criminal street gang.”.

6 (e) MANDATORY DETENTION.—

7 (1) IN GENERAL.—Section 236(c)(1)(D) of the  
8 Immigration and Nationality Act (8 U.S.C.  
9 1226(c)(1)(D)) is amended—

10 (A) by inserting “or 212(a)(2)(J),” after  
11 “212(a)(3)(B)”; and

12 (B) by inserting “or 237(a)(2)(G),” before  
13 “237(a)(4)(B)”.

14 (2) ANNUAL REPORT.—Not later than 180 days  
15 after the end of each fiscal year, the Secretary of  
16 Homeland Security, after consultation with the De-  
17 partment of Justice, shall submit a report to the  
18 Committees on the Judiciary of the House of Rep-  
19 resentatives and of the Senate on the number of  
20 aliens detained under the amendments made by  
21 paragraph (1).

22 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-  
23 ATION.—

24 (1) INAPPLICABILITY OF RESTRICTION ON RE-  
25 MOVAL TO CERTAIN COUNTRIES.—Section

1       241(b)(3)(B) of the Immigration and Nationality  
2       Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the  
3       matter preceding clause (i), by inserting “who is de-  
4       scribed in section 212(a)(2)(J)(i) or section  
5       237(a)(2)(G)(i) or who is” following “to an alien”.

6           (2) INELIGIBILITY FOR ASYLUM.—Section  
7       208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))  
8       is amended—

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

11          (B) by redesignating clause (vi) as clause  
12       (vii); and

13          (C) by inserting after clause (v) the fol-  
14       lowing:

15           “(vi) the alien is described in section  
16           212(a)(2)(J)(i) or section 237(a)(2)(G)(i)  
17           (relating to participation in criminal street  
18           gangs); or”.

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

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

24           (2) in subparagraph (c)(2)(B), by adding at the  
25       end the following:

1                   “(iii) the alien is, or at any time after  
2                   admission has been, a member of a crimi-  
3                   nal gang (as defined in section  
4                   101(a)(53)).”; and

5                   (3) in subsection (d)—

6                   (A) by striking paragraph (3) and redesignig-  
7                   nating paragraph (4) as paragraph (3); and

8                   (B) in paragraph (3), as redesignated, by  
9                   adding at the end the following: “The Secretary  
10                  of Homeland Security may detain an alien pro-  
11                  vided temporary protected status under this  
12                  section whenever appropriate under any other  
13                  provision of law.”.

14               (h) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **SEC. 8. ADDITIONAL JUDGES.**

18               (a) **EVALUATION.**—Not later than 30 days after the  
19 enactment of this Act, the Attorney General, in consulta-  
20 tion with the Secretary of Homeland Security, shall sub-  
21 mit to Congress a report indicating the number, if any,  
22 of additional immigration judges that are needed to proc-  
23 ess the backlog of removal cases.

24               (b) **REPORTING.**—Following the initial report, the  
25 Attorney General, in consultation with the Secretary of



1 Homeland Security, shall thereafter submit a report annu-  
2 ally to the Committee on the Judiciary in the Senate and  
3 the Committee on the Judiciary in the House, indicating  
4 the number of immigration judges needed for the following  
5 fiscal year.

6 **SEC. 9. ADDITIONAL DETENTION SPACE.**

7 (a) **ADDITIONAL DETENTION SPACE NEEDED TO**  
8 **HOUSE UNLAWFUL ENTRANTS.**—Not later than 30 days  
9 of enactment, the Secretary of Homeland Security shall  
10 submit to Congress a request for additional beds and de-  
11 tention space needed to hold criminal aliens and aliens  
12 without lawful presence or lawful status.

13 (b) **REPORTING.**—The Secretary of Homeland Secu-  
14 rity shall submit to Congress annually a report indicating  
15 the number, if any, of additional detention beds and deten-  
16 tion space needed to hold criminal aliens and aliens with-  
17 out lawful presence or lawful status.

18 (c) **FUNDING.**—Such requests are hereby authorized  
19 to be funded.

20 **SEC. 10. OFFSETS.**

21 (a) **CLOSING THE ADDITIONAL CHILD TAX CREDIT**  
22 **LOOPHOLE.**—

23 (1) **IN GENERAL.**—Subsection (e) of section 24  
24 of the Internal Revenue Code of 1986 is amended by  
25 striking “under this section to a taxpayer” and all

1 that follows and inserting “under this section to any  
2 taxpayer unless—

3 “(A) such taxpayer includes the taxpayer’s  
4 valid identification number (as defined in sec-  
5 tion 6428(h)(2)) on the return of tax for the  
6 taxable year, and

7 “(B) with respect to any qualifying child,  
8 the taxpayer includes the name and taxpayer  
9 identification number of such qualifying child  
10 on such return of tax.”.

11 (2) EFFECTIVE DATE.—The amendment made  
12 by this section shall apply to the first full taxable  
13 year and all subsequent years following the date of  
14 enactment of this Act.

15 (b) SECTION 1641 OF TITLE 8 OF THE UNITED  
16 STATES CODE IS AMENDED BY ADDING.—

17 (1) LIMITATION ON BENEFITS FOR PREVIOUSLY  
18 UNLAWFUL ALIENS.—

19 “(d) LIMITATION ON BENEFITS FOR PREVIOUSLY  
20 UNLAWFUL ALIENS.—Any alien in violation of section  
21 212(a)(6) or section 212(a)(7) of the Immigration and  
22 Nationality Act who gains lawful status pursuant to an  
23 Act of Congress, or lawful status or lawful presence pursu-  
24 ant to an order or policy directive by the Executive

1 Branch, is hereby not qualified for public benefits under  
2 this section.”.

3 (2) EFFECTIVE DATE.—This provision shall be  
4 effective upon enactment of this Act.

5 (c) FOREIGN REMITTANCE TAX.—

6 (1) IN GENERAL.—Section 1073 of Public Law  
7 111–203 is amended by adding:

8 “TAXATION OF REMITTANCES.— All monetary remit-  
9 tances sent from senders in the United States to recipients  
10 in any of the top ten remittance recipient nations shall  
11 be taxed at the rate of ten percent (10%) of the trans-  
12 mitted amount, provided however that the transmitters  
13 shall not be required to provide to the Internal Revenue  
14 Service information with respect to each individual trans-  
15 mission. The top ten remittance recipients are defined as  
16 those ten nations with the greatest money transfers from  
17 the United States, from reported data required in Public  
18 Law 111–203.”.

19 (2) EFFECTIVE DATE.—This provision shall be  
20 effective upon enactment of this Act.

1 **SEC. 11. LIMITATION ON DEFERRED ACTION FOR CHILD-**  
2 **HOOD ARRIVALS; RESTRICTIONS ON EMPLOY-**  
3 **MENT AUTHORIZATION FOR ALIENS NOT IN**  
4 **LAWFUL STATUS.**

5 No agency or instrumentality of the Federal Govern-  
6 ment may use Federal funding or resources—

7 (1) to consider or adjudicate any new or pre-  
8 viously denied application of any alien requesting  
9 consideration of deferred action for childhood arriv-  
10 als, as authorized by Executive memorandum on Au-  
11 gust 15, 2012; or

12 (2) to authorize any alien to work in the United  
13 States if such alien—

14 (A) was not lawfully admitted into the  
15 United States in compliance with the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1101 et  
17 seq.); and

18 (B) is not in lawful status in the United  
19 States on the date of the enactment of this Act.

○